

Regional Water Quality Control Board
North Coast Region

Executive Officer's Summary Report
Thursday, August 15, 2019
Regional Water Board Office
Santa Rosa, California

ITEM: 4

SUBJECT: Public Hearing to consider adoption of Order No. R1-2019-0001, General Waste Discharge Requirements for Dairies in the North Coast Region (Cherie Blatt)

BOARD ACTION: Consider adoption of Order No. R1-2019-0001

BACKGROUND: Within the past eight years, the North Coast Regional Water Quality Control Board (Regional Water Board) adopted the following Orders to regulate discharges from dairies and other animal feeding operations:

- Order No. R1-2012-0001, General National Pollutant Discharge Elimination System (NPDES) No. CAG011001 for Concentrated Animal Feeding Operations;
- Order No. R1-2012-0002, General Waste Discharge Requirements for Existing Dairies;
- Order No. R1-2012-0003, Conditional Waiver of Waste Discharge Requirements for Existing Dairies;
- Order No. R1-2015-0051, Mello 3/Llano Oaks Dairy Waiver of Waste Discharge Requirements; and
- Order No. R1-2016-0045, Renewal of Conditional Waiver of Waste Discharge Requirements for Existing Dairies.

Most cow dairies (about 120) in the North Coast Region are covered by the Conditional Waiver which was renewed in 2016 as listed above. No animal facilities have been enrolled under the NPDES permit. Waivers expire every five years, so it was time to consider a more long-term permit for dairies and to incorporate new regulations that have been developed since 2012. Also, a mechanism was needed to cover new dairies, expanding dairies, and re-opening of previously inactive dairies, and to cover the growing number of goat, sheep, and water buffalo dairies in the North Coast.

In 2018-2019, Regional Water Board staff developed the draft General Waste Discharge Requirements for Dairies in the North Coast Region (draft GWDR), and an Initial Study/Mitigated Negative Declaration (IS/MND) to meet California Environmental Quality Act (CEQA) requirements. Upon adoption, the GWDR will replace the 2012 GWDR and 2012 Conditional Waiver. Changes from the 2012 Waiver include:

- Expansion of surface water and groundwater monitoring parameters, requirements, and timing of sampling;
- Required Nutrient Management Plan for all dairies with manure or other fertilizer application to land, or for dairies which graze for more than 30 days annually;
- Required Riparian Area Management Plan to enhance protection of streams and watercourses from grazing impacts;
- Required Tribal Cultural Resource protections pursuant to Assembly Bill 52 (Gatto 2015); and

- New dairies, expanding dairies, and reopening of previously inactive dairies must meet the requirements of the GWDR and the IS/MND prior to permit coverage.

DISCUSSION: On November 1, 2018, a public notice was distributed announcing:

- the release and availability of the draft GWDR and IS/MND for public review;
- the public workshop on the draft Order for November 14, 2018; and
- a public hearing to consider adoption of the draft Order as announced in the Regional Water Board agenda.

The November 1, 2018, public notice was:

- Posted on the Regional Water Board's webpage;
- Distributed through the Regional Water Board's Dairy Lyris email subscription list;
- Printed in five regional newspapers; and
- Sent to the State Clearinghouse for agency distribution.

The public comment period for the draft Order began November 1, 2018 and ended on January 3, 2019. Comments from 12 organizations or individuals were received during the public comment period.

All the changes were considered for adoption by the Regional Water Board at the April 18, 2019 Regional Water Board hearing. At the conclusion of the hearing, Regional Water Board members directed Staff to provide another 30-day public comment period on all proposed changes to the draft GWDR since November 1, 2018.

On May 14, 2019, a public notice was issued: all proposed changes to the draft GWDR (since November 1, 2018) were distributed for public comment; public stakeholder meetings were held in Santa Rosa on May 31, 2019 and Fortuna on June 5, 2019; and the public comment period closed on June 14, 2019. Copies of all the written public comment letters received during this period are included in the Board member agenda packages. Also, the letters have been posted to the Regional Water Board website since June 25, 2019. Here is that link:

https://www.waterboards.ca.gov/northcoast/water_issues/programs/dairies/pdf/190625/Public%20comments%20on%20May%202014,%202019%20new%20Draft%20Order%20package.pdf

Regional Water Board staff revised the April 18, 2019 draft Order and produced a Response to Comments document in response to substantive comments from interested stakeholders. The August 15th Proposed Order retains the same overall framework as the November 1, 2018 draft Order. Revisions include editorial changes; changes intended to improve clarity but do not change requirements; and some substantive changes.

Based on the 12 comment letters received by June 14, 2019, the following is a brief list of staff's substantive revisions to the April 18, 2019 Proposed Order (also referred to here as the GWDR or Proposed Order) that are now included in the Proposed Order for the August 15, 2019 Board hearing:

- Added allowances for group monitoring to be considered by the Executive Officer under certain conditions;
- Additional experts are now allowed to develop Work Plans for dairies with greater than 5 mg/L nitrate in groundwater;

- Bacteria monitoring will now be required every year only within watersheds or subwatersheds that are listed on the Federal Clean Water Act section 303(d) List for pathogens or fecal indicator bacteria;
- Any dairies that have a breach of a manure pond and a discharge to surface waters must contact the Regional Water Board and are required to collect bacteria samples and other sampling parameters as soon as safely possible;
- Wording has been added to the Monitoring and Reporting Program (MRP) to explain the importance of collecting surface water samples on or near the rising limb of the stream hydrograph during storm events;
- Changes to the MRP and Nutrient Management Plan (NMP) include removal of the requirement for dairies to submit their individual NMPs. In addition, subsequent revisions to the NMP are no longer required to be submitted to the Regional Water Board within 30 days. GWDR documents now state that the NMP must be submitted to the Regional Water Board upon request;
- The Work Sheet previously located at the end of Appendix 2 – NMP has been removed. Current nutrient management planning information has been added to the Annual Report instead;
- Questions regarding nutrient management have been added to Appendix 3 - Annual Report. Answers to the questions will help document current nutrient budgeting and assure that manure and fertilizers are protective of water quality;
- The deadline for submittal of the Notice of Intent (NOI) has been changed from October 1, 2019 to November 30, 2019;
- The deadline for submittal of the Water Quality Plan (WQP) has been changed from October 1, 2020 to November 30, 2020; and
- Non-substantive changes have been made to the Proposed Order and attachments including the addition of minor clarifying language and correction of typographical errors.

Revisions made in response to comments received are noted in staff's Response to Comments document grouped by subject. Changes are shown in the underline/strikeout version of the Proposed Order. Regional Water Board staff maintain that the Proposed Order is supported by the entire record and is necessary to support beneficial uses and meet water quality objectives.

RECOMMENDATION: Adopt Order No. R1-2019-0001 as proposed.

SUPPORTING DOCUMENTS:

1. Proposed Order R1-2019-0001 GWDR, strikethrough/underline version
 - Attachment A - Notice of Intent (NOI)
 - Attachment B - Title 27 of the California Code of Regulations, sections 22560-22565
 - Attachment C - Definitions
 - Attachment D - Monitoring and Reporting Program (MRP) No. R1-2019-0001
 - Appendix 1 - Water Quality Plan (WQP) –contains Riparian Management Plan
 - Appendix 2 - Nutrient Management Plan (NMP)
 - Appendix 3 - Annual Report
 - Attachment E – Tribal Cultural Resources Mitigation Program
 - Attachment F - Initial Study and Mitigated Negative Declaration
2. Response to Comments
3. Comment letters received
4. Public Notice, May 14, 2019