

California Regional Water Quality Control Board
Conditional Waiver of Waste Discharge Requirements
Order No. R1-2012-0003
for Existing Cow Dairies
In the North Coast Region

The California Regional Water Quality Control Board, North Coast Region, (hereinafter Regional Water Board) finds that:

1. Order No. R1-2012-0003 (hereafter, "Order") serves as a Conditional Waiver of Waste Discharge Requirements (Waiver) for existing cow dairies in the North Coast Region that meet the requirements established in this Order. For purposes of this Order, "existing dairies" are defined as cow dairies that are constructed and operating as of the effective date of this Order, and which have subsequently undergone no expansion in size of their physical facilities. This Order does not cover dairies that expand the size of their physical facilities beyond the dairy's maximum capacity at the time of adoption of this Order. Also, this Order does not cover facilities that were not operating as dairies at the time of adoption of this Order. New or expanding dairies must apply for an individual waste discharge permit or individual waiver of waste discharge requirements from the Regional Water Board.
2. The North Coast Region contains approximately 150 dairies, housing about 50,000 cows. The owner and/or operator of a dairy is/are hereinafter identified jointly and severably as "Discharger."
3. Dairy operations can cause degradation of water quality of surface and groundwater as a result of waste discharges and activities that result in soil erosion and destruction of riparian habitat.
4. This Order covers the management of process water, manure, and other organic materials at dairy operations including the application of such materials to cropland. Other wastes such as medicines, pesticides, chemicals, and fertilizers must be disposed at appropriately permitted facilities.

LEGAL AND REGULATORY FRAMEWORK

5. California Water Code (CWC) Section 13260 (a) requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the state, other than into a community sewer system, must file with the appropriate regional water board a report of waste discharge (ROWD) containing such information and data as may be required.

6. Pursuant to CWC Section 13260, regional water boards prescribe waste discharge requirements (WDRs) except when it finds, pursuant to CWC Section 13269, that a waiver of WDRs for a specific type of discharge is in the public interest.
7. CWC Section 13263(i) authorizes the Regional Water Board to prescribe general WDRs and/or waivers of WDRs for a category of discharges if the discharges are produced by the same or similar operations, involve the same or similar types of waste, require the same or similar treatment standards, and are more appropriately regulated under general WDRs or waivers than individual WDRs.
8. Pursuant to CWC Section 13269, waivers of WDRs shall not exceed five (5) years in duration. Enrollment in this Order (a) is conditional, (b) may be terminated at any time, (c) does not permit an illegal activity, (d) does not preclude the need for permits which may be required by other local or governmental agencies, and (e) does not preclude the Regional Water Board from administering enforcement remedies (including civil penalties) pursuant to the CWC and other applicable law.
9. Any person may be liable for penalties if that person violates a condition of a waiver or WDR, discharges waste, or causes waste to be deposited where it is discharged, into the waters of the state and creates a condition of pollution or nuisance.
10. This Order shall not create a vested right, and all discharges covered by it shall be considered a privilege, not a right, as provided under CWC Section 13263.
11. This Order does not address the cleanup of existing degraded surface and groundwater from past dairy operations. Any required cleanup actions are handled under separate authority under the CWC.
12. This Order applies to dairies that pose a low or insignificant risk to surface water or to groundwater. Dairies that are Concentrated Animal Feeding Operations (CAFOs) and discharge to waters of the United States are required to obtain coverage under a National Pollutant Discharge Elimination System (NPDES) permit (e.g., Order No. R1-2012-0001). Dairies that potentially pose a significant threat to water quality may be regulated by General Waste Discharge Requirements (e.g., Order No. R1-2012-0002).
13. This Order does not cover discharges associated with activities that are not described in this Order. For example, it does not cover discharges of hazardous material, human waste, or mining waste. Discharges of waste not specifically covered under this Order are prohibited, except in compliance with the CWC.
14. Point source discharges to waters of the United States, as defined by federal law, are not authorized under this Order. Point source is defined as any discernible,

confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, CAFO, or vessel or other floating craft, from which pollutants are or may be discharged (reference federal Clean Water Act (CWA) Section 502(14)). CAFOs, as defined in 40 Code of Federal Regulations (CFR) 122.23(b) or designated in accordance with 40 CFR 122.23(c), are point sources. Nonpoint discharges include agricultural stormwater discharges and return flows from irrigated agriculture. The State Water Resources Control Board's (SWRCB's) 2004 Policy for the Implementation and Enforcement of the Nonpoint Source Pollution Control Program (NPS Policy) requires that nonpoint source discharges of waste be regulated by WDRs, waiver of WDRs, or prohibitions to ensure compliance with Regional Water Board Water Quality Control Plans.

15. Pursuant to the Water Quality Control Plan for the North Coast Region (Basin Plan) and SWRCB plans and policies, including SWRCB Resolution No. 88-63, and consistent with the CWA, the existing and potential beneficial uses of waters in the North Coast Region include one or more of the following:
 - a. Municipal and Domestic Supply (MUN)
 - b. Agricultural Supply (AGR)
 - c. Industrial Service Supply (IND)
 - d. Industrial Process Supply (PRO)
 - e. Groundwater Recharge (GWR)
 - f. Freshwater Replenishment (FRSH)
 - g. Navigation (NAV)
 - h. Hydropower Generation (POW)
 - i. Water Contact Recreation (REC-1)
 - j. Non-Contact Water Recreation (REC-2)
 - k. Commercial and Sport Fishing (COMM)
 - l. Cold Freshwater Habitat (COLD)
 - m. Warm Freshwater Habitat (WARM)
 - n. Wildlife Habitat (WILD)
 - o. Preservation of Areas of Special Biological Significance (ASBS)
 - p. Preservation of Areas of Special Rare, Threatened, or Endangered Species (RARE)
 - q. Marine Habitat (MAR)
 - r. Migration of Aquatic Organisms (MIGR)
 - s. Spawning, Reproduction, and/or Early Development (SPWN)
 - t. Shellfish Harvesting (SHELL)
 - u. Estuarine Habitat (EST)
 - v. Aquaculture (AQUA)
 - w. Native American Culture (CUL)
 - x. Flood Peak Attenuation/Flood Water Storage (FLD)
 - y. Wetland Habitat (WET)
 - z. Water Quality Enhancement (WQE)
 - aa. Subsistence Fishing (FISH)
 - bb. Inland Saline Water Habitat (SAL)

16. The Basin Plan contains water quality objectives, prohibitions, and policies developed to protect the above-listed beneficial uses of water. Economics were considered as required by law during the development of these objectives, prohibitions and policies. Prohibitions, provisions, policies, and other specifications contained in this Order implement the Basin Plan and the CWC. Compliance with applicable water quality objectives, prohibitions, and policies will protect the listed beneficial uses above.

17. Populations of several species of anadromous salmonids listed as threatened or endangered under both the federal Endangered Species Act or the California Endangered Species Act have declined significantly during the past half century in the majority of waterbodies in the North Coast Region. Degradation of freshwater habitat by land use activities is an important contributing factor to the decline in populations.
18. SWRCB Resolution 68-16, entitled "Statement of Policy with Respect to Maintaining High Quality of Waters in California," requires that whenever the existing quality of water is better than the quality established in policies as of the date on which such policies become effective, such existing high quality must be maintained. Resolution 68-16 only allows change in the existing high quality if it has been demonstrated to the Regional Water Board that the change is consistent with maximum benefit to the people of the state, will not unreasonably affect present and anticipated beneficial use of such water, and will not result in water quality less than that prescribed in policies. Resolution 68-16 further requires that discharges meet WDRs which will result in the best practicable treatment or control of the discharge necessary to assure that pollution or nuisance will not occur and that the highest water quality consistent with maximum benefit to the people of the state will be maintained.
19. Resolution No. 68-16 incorporates the federal antidegradation policy (reference 40 CFR §131.12). Both Resolution 68-16 and the federal antidegradation policy require that where surface waters are of higher quality than necessary to protect the designated beneficial uses, the high quality of those waters be maintained unless certain findings be made before any adverse change to water quality is allowed.
20. Resolution 68-16 and the federal antidegradation policy acknowledge that an activity that results in an incrementally small decrease of water quality can result in degradation through cumulative effects; especially when a waste that is a cumulative, persistent, or bioaccumulative pollutant is discharged. This Order is consistent with Resolution No. 68-16 and the federal antidegradation policy.
21. California regulations governing discharges from confined animal facilities are contained in Title 27 of the California Code of Regulations (CCR), Division 2, Subdivision 1, Chapter 7, Subchapter 2, Article 1 (Attachment B of this Order). Sections 22560-22565 of those regulations require containment of manure, wash water, and storm water runoff from animal confinement areas. This Order is consistent with Title 27 regulations for confined animal facilities.
22. Numerous North Coast streams are listed as impaired for sediment and temperature, and some are impaired for nutrients and indicator bacteria pursuant

to CWA Section 303(d). To date, the United States Environmental Protection Agency (EPA) has established Total Maximum Daily Loads (TMDLs) for 26 impaired stream segments in the North Coast Region. Compliance with this Order is a key component for compliance with TMDLs.

23. Dairies are no longer covered by Regional Water Board Order No. R1-2007-0098 "Policy for Waiving Waste Discharge Requirements for Specific Types of Waste Discharges." That Order applied to confined animal facilities in the region that did not require a NPDES discharge permit.
24. This Order requires Dischargers to prepare and implement a Water Quality Plan (WQP) (Monitoring and Reporting Program, MRP, Appendix 1) by November 30, 2012. The WQP is intended to help ensure that the dairy is designed, constructed, operated and maintained so that nutrients and wastes generated are managed to prevent conditions of nuisance or adverse impacts to groundwater and surface water.
25. Large CAFOs (700 or more mature dairy cows) that are not point sources and want to enroll under this Order must be implementing a Nutrient Management Plan (NMP) (MRP Appendix 2) upon enrollment if they will discharge stormwater from cropland where manure, litter, or process wastewater has been applied (40 CFR §§ 122.23(e), and 122.42(e)(1)(vi)–(ix)). Large CAFOs that discharge such stormwater without a NMP are in violation of the CWA and may be fined for the discharge and/or required to enroll under a NPDES permit (e.g., R1-2012-0001). Dairies with less than 700 mature dairy cows are encouraged and recommended to prepare and implement a NMP.
26. Medium Animal Feeding Operations (AFOs) (200-699 mature dairy cows) and small AFOs (less than 200 mature dairy cows) may be designated as CAFOs by the Regional Water Board if the dairy discharges wastes to waters of the United States. Such designated CAFOs would then be required to develop a NMP and apply for coverage under a NPDES permit. A CAFO means an AFO which is defined as a Large CAFO or Medium CAFO by 40 CFR §§ 122.23 (4) and (6), or that is designated as a CAFO by the United States Environmental Protection Agency (USEPA) or the Regional Water Board.
27. Pursuant to CWC Section 13267, a MRP is attached to this Order. Monitoring must be consistent with the dairy's WQP and NMP. The Discharger shall submit all reports as specified in the MRP. Noncompliance reporting, cleanup, and violations are discussed in the MRP. The MRP requires routine individual facility sampling (or group sampling) of stormwater runoff and/or surface waters on or near the dairy. The MRP also requires sampling of existing domestic and agricultural wells. One option for fulfilling these monitoring requirements is to form a representative monitoring group in order to develop and/or administer a local, watershed-based surface or groundwater monitoring program. If the group of

Dischargers can demonstrate that group monitoring will result in meaningful, valid monitoring data, Regional Water Board staff may allow the Discharger group to use data gathered from the representative monitoring program to substitute for some or all of the required monitoring of individual dairies. Approval of the group monitoring plan by Regional Water Board staff is required.

28. Reporting of efforts implemented to achieve sustained water quality protection is required in an Annual Report (MRP Appendix 3) that is due to the Regional Water Board by November 30 each year. The Annual Report shall assess if Best Management Practices (BMPs) for waste containment and nutrient application to land at agronomic rates are effective in preventing discharges to surface water and groundwater for the past year (November 1 of the last year through October 31 of the current year). The Annual Report shall include the results of sampling required in the MRP and the photo documentation described in the MRP. Sampling results are not required to be submitted by individuals if the dairy is in group monitoring. However, Dischargers in a group monitoring plan must indicate the associated group on page 4 of the Annual Report. Regional Water Board staff will review the Annual Report and provide comments if necessary for the dairy facility to meet the Waiver requirements.

CEQA AND ADDITIONAL FINDINGS

29. The Regional Water Board is the lead agency for purposes of complying with the California Environmental Quality Act (CEQA) Public Resources Code sections 21100-21177. Pursuant to CEQA Guidelines section 15301, this action to adopt Waivers for existing dairies is exempt from the provisions of CEQA under Exemption 1 for "Existing Facilities." CEQA Guidelines section 15301 applies to "...the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination..." This Order involves the permitting of existing dairy facilities, which are defined as cow dairies that are fully constructed and operating as of January 19, 2012, and which have subsequently undergone no expansion in size of their physical facilities. Accordingly, because this Order allows for no expansion in use beyond their existing physical facilities, this Order is exempt from CEQA pursuant to CEQA Guidelines section 15301.
30. Any facility that is a "new source," as that term is defined in CWA Section 306 and CFR, Title 40, Sections 122.2 and 122.29, must demonstrate that it is an "existing facility" under CEQA Guidelines Exemption 1 for Existing Facilities (CCR, Title 14, §15301) before coverage under this Order can be issued for the project. New sources that do not qualify for the Existing Facilities categorical exemption will be required to submit an application for Individual WDRs. Action on Individual WDRs requires separate CEQA compliance.

31. Two additional CEQA categorical exemptions are also applicable to this action. CEQA Guidelines Exemption 2 for Replacement of Existing Structures (Cal. Code of Regs., tit. 14, §15302) exempts “replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced.” Consistent with the categorical exemption for Replacement of Existing Structures, this Order may require covered CAFOs to replace or reconstruct ponds or other structures on the facility to ensure proper function in compliance with this Order. CEQA Guidelines Exemption 4 for Minor Alterations (Cal. Code of Regs., tit. 14, §15304) exempts “minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes...” Consistent with the categorical exemption for Minor Alterations, this Order may require covered CAFOs to make improvements to their facilities that will result in minor alterations to land, water, and/or vegetation.
32. Food and Agricultural Code section 33487 exempts state agencies from any requirement to prepare a CEQA environmental impact report for CAFOs under the following circumstances: (1) when the CAFO will be constructed and operated in accordance with the minimum standards in Chapter 5 of the Food and Agricultural Code; (2) where the applicable local agencies have completed all necessary reviews and approvals including that required by CEQA; and (3) where a permit for construction was issued by a local agency on or after the effective date of Food and Agricultural Code section 33487 and construction has begun.
33. The Regional Water Board conducted a public hearing on January 18 & 19, 2012, in Santa Rosa, California, and considered all evidence concerning this matter and adopted the CEQA Notice of Exemption.
34. The Regional Water Board has reviewed the contents of this Order, related CEQA Notice of Exemption, written public comments, and testimony provided after the notice and hearing, and hereby finds that the adoption of this Order is consistent with the Basin Plan, and is in the public interest.

THEREFORE, the Regional Water Board hereby approves and adopts the “CEQA Notice of Exemption” prepared on this Order, and directs the Executive Officer to file all appropriate notices; and

IT IS HEREBY ORDERED that this Order is issued for existing cow dairies in the North Coast Region that involve no expansion of their physical facilities from the date of the adoption of this Order. Physical facilities include the roofed structures, such as stall barns, that limit the size of the dairy cow herd (see Definitions Attachment C). The following conditions apply to dairies covered by this Order:

1. This Order contains a schedule of compliance to complete and submit: (a) a Notice of Intent (NOI), (b) a WQP, and (c) Annual Reports. Large CAFOs must meet Federal CAFO requirements upon enrollment under this Order. BMPs must be in place as needed to avoid pollutant discharges to surface waters and groundwater.
2. New waste storage facilities constructed after adoption of this Order must meet all applicable federal, state, and local laws and regulations. Waste storage facilities should be located outside of floodplains; however, if site restrictions require location within a floodplain, they shall be protected from inundation or damage from a 100-year flood event, or larger if required by laws, rules and regulations.
3. New manure ponds constructed after adoption of this Order must comply with Natural Resources Conservation Service (NRCS) Waste Storage Facility Code 313 including a maximum specific discharge (unit seepage rate) of 1×10^{-6} cm/sec.
4. Existing manure pond liners must meet or exceed the Title 27 requirements for a minimum of 10% clay and not more than 10% gravel, or the liner must be constructed of artificial materials of equivalent or greater impermeability.
5. To qualify for the Order, large animal facility operations of 700 or more mature dairy cows are by definition designated Concentrated Animal Facility Operations (CAFOs) (Per federal regulations, to designate a medium AFO as a CAFO, see requirements at 122.23(c) or a medium AFO can be defined a CAFO pursuant to 122.23(b)(6)(ii).). CAFOs must meet specific requirements listed in the NMP (MRP Appendix 2). Medium AFOs (200-699 mature dairy cows) and small AFOs (less than 200 mature dairy cows) may be designated as CAFOs by the Regional Water Board if the facility discharges waste. The federal NPDES regulations state at 40 CFR 122.23(e)(1) that for unpermitted large CAFOs, a precipitation-related discharge of manure, litter, or process wastewater from land areas under the control of a CAFO shall be considered an agricultural stormwater discharge only where the manure, litter, or process wastewater has been land applied in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater, as specified in § 122.42(e)(1)(vi) through (ix). Agricultural stormwater is exempt from NPDES permitting requirements. To qualify for this Order, Large CAFOs must implement a NMP at the time of enrollment (40 CFR Sections 122.23(e) and 122.42 (e)(1)(vi)-(ix)). Large CAFOs without a NPDES permit are only afforded the agricultural stormwater exemption if the NMP requirements have been met at § 122.42(e)(1)(vi) through (ix).
6. This Order, and any enrollment under this order: 1) is conditional, 2) may be terminated at any time, 3) does not permit any illegal activity, 4) does not preclude the need for permits which may be required by other federal, state or local

governmental agencies, and 5) does not preclude the Regional Water Board from administering enforcement remedies (including civil liability) pursuant to the CWC.

7. All discharges from a dairy enrolled under this Order must comply with the lawful requirements of all municipalities, counties, drainage districts, and other local agencies regarding discharges of stormwater to storm drain systems or to other watercourses under their jurisdiction that are no less stringent than the requirements of this Order.
8. The Discharger shall comply with all federal, State, county, and local laws and regulations pertaining to the discharge of wastes from the dairy that are no less stringent than the requirements of this Order.
9. The requirements prescribed herein do not authorize the commission of any act causing injury to the property of another, nor protect the Discharger from liabilities under federal, state, county, or local laws, nor guarantee the Discharger a capacity right in receiving waters.
10. In addition to the requirements of this Order, the Discharger shall take all other reasonable steps to minimize or prevent any discharge that has a reasonable likelihood to adversely affect human health or the environment.
11. This Order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code Sections 2050 to 2097) or the Federal Endangered Species Act (16 United States Code (U.S.C.) Sections 1531 to 1544). Dischargers shall be responsible for meeting all requirements of the applicable Endangered Species Act. A discharge which is deleterious to fish, plant life, mammals, or bird life or otherwise in violation of California Fish and Game Code Section 5650 is not a discharge which is authorized nor in compliance with the terms and conditions of this Order. The Discharger shall obtain permits as necessary, and comply with permit conditions and all other applicable federal, state, county, and local, laws and regulations.
12. This Order may be re-opened for modifications, revoked and reissued, or terminated.
13. The discharge of waste from a dairy shall not cause the underlying groundwater to exceed water quality objectives or background quality standards; nor cause a condition of pollution or nuisance.
14. Regional Water Board staff acceptance of dairy enrollment under this Order can provide a basis for rescinding permit coverage for that dairy under an Individual WDR or the Industrial Stormwater NPDES permit if the Discharger requests, in

writing, termination of that coverage. A written termination request should be submitted to the Regional Water Board at the time of submission of the NOI for coverage under this Order. A request for termination of coverage under the Industrial Stormwater Permit shall include a completed Notice of Termination (NOT) form.

15. Activities conducted under this Order must be in compliance with water quality requirements, the Basin Plan, and amendments thereto.
16. Violations of this Order are subject to enforcement to the extent allowed by law.

MONITORING AND REPORTING PROGRAM (MRP)

17. Pursuant to CWC Section 13267, a MRP is included with this Order. This Order requires the Discharger to prepare and implement a WQP as described in Finding 24.
18. Preparation and implementation of a NMP is encouraged and recommended, but not required for most dairies. However, large CAFOs as defined above must be implementing a NMP upon enrollment in this Order. Progress in NMP development and implementation shall be reported in the Annual Report. The services of a professional with the required experience in that field shall be used where required by the WQP and NMP.
19. If the Discharger identifies deficiencies, defects, and/or impending failures in any process water conveyance, control structure, and/or retention structure, the Discharger must notify the Regional Water Board within 24 hours of identifying the deficiency and take immediate action to prevent any unauthorized release of waste. The Discharger must notify the Regional Board when corrective actions are completed and must document the corrections in the Annual Report.
20. Other reporting, cleanup, and violations are discussed in the MRP. If noncompliance is being reported, the reasons for such noncompliance shall be submitted in writing to the Regional Water Board with an estimate of the date when the Discharger will be in compliance. The Discharger shall notify the Regional Water Board by letter when it returns to compliance. Violations may result in enforcement action, including Regional Water Board or court orders requiring corrective action or imposing civil monetary liability, or in terminating the applicability of this Order to a specific facility or Discharger.
21. If the Regional Water Board Executive Officer notifies the Discharger that his/her WQP, NMP, Annual Report, sampling results, or other associated documents are not consistent with this Order, then the Discharger shall submit the revisions or proof of the corrections to the Regional Water Board within 30 days of notification, unless otherwise instructed in writing by the Regional Water Board.

PROHIBITIONS

22. The collection, treatment, storage, discharge, or disposal of wastes at an existing dairy that results in (1) discharge of waste constituents in a manner which could cause degradation of surface water or groundwater except as allowed by this Order, (2) contamination or pollution of surface water or groundwater, (3) a condition of nuisance (as defined by the California Water Code Section 13050), or (4) exceedence of groundwater and surface water quality objectives due to the discharge of manure, production area wash water, or dairy feeding and housing area wash water, is prohibited.
23. The discharge of wastes not disclosed by the Discharger, or not within the reasonable contemplation of the Regional Water Board, is prohibited.
24. Discharges of manure, process water, or other wastes to surface waters or groundwater, or discharges that do not comply with the requirements in this Order are prohibited.
25. The discharge of stormwater that has come in contact with manure, process water, or other wastes from the production or animal housing areas is prohibited.
26. The discharge of waste to surface water via tile drain lines or irrigation return flow (tailwater) is prohibited.
27. The direct discharge of wastes into groundwater via backflow through water supply or irrigation supply wells is prohibited.
28. Irrigation supply water that comes into contact with manure or process water shall be considered process water, and its discharge to surface water is prohibited.
29. A discharge of stormwater to surface water from the land application area where manure or process water has been applied is prohibited unless specific management practices have been implemented. These management practices must be consistent with a WQP, NMP or, if the WQP and NMP have not yet been required to be implemented, then land application areas must be managed consistent with BMPs, as described in this Order.
30. The disposal of dead animals in any liquid manure or process water system is prohibited. The Discharger must dispose of dead animals in compliance with all applicable federal, state, county, and local laws and regulations. Adverse impacts to surface water or groundwater quality as a result of dead animal disposal is prohibited.

31. In accordance with Attachment B, the Discharger shall prevent animals at their facility from entering any surface water within the confinement areas.
32. The application of waste to lands not owned, leased, or controlled by the Discharger without written permission from the landowner or in a manner not approved by the Regional Water Board, is prohibited.
33. Discharges of manure, litter, or process water from the land application area that do not comply with the requirements in the WQP, NMP, or MRP, and the Statewide Water Quality Regulations for Confined Animal Facilities, are prohibited. The application of manure or process water to a land application area in a manner that results in the discharge of wastes is prohibited.

ENROLLMENT PROCESS

34. If the dairy operation meets the conditions of this Order, then the Discharger shall apply for coverage by submitting a completed Notice of Intent (NOI) Form (Attachment A) on or before April 30, 2012 or upon notification from the Regional Water Board to comply with this Order. If the Discharger becomes aware that a relevant fact was omitted in an NOI, or incorrect information was submitted in a NOI or in any report to the Regional Water Board, it shall promptly submit the correct facts or information. A dairy is covered under this Order upon Regional Water Board approval of a completed NOI to the Regional Water Board. Completed forms shall be sent to the Regional Water Board at the following address:

North Coast Regional Water Quality Control Board
5550 Skylane Boulevard, Suite A
Santa Rosa, CA 95403

35. No fees are currently required to apply for this Order.
36. The Regional Water Board shall determine compliance with the terms of this Order based on the following:
 - a. Periodic inspections by Regional Board staff and/or contractors;
 - b. Evaluation of the completed Annual Report and required information submitted according to the MRP;
 - c. Review of progress on the dairy WQP and any NMP; and
 - d. Any other information deemed necessary by the Regional Water Board.
37. The Regional Water Board staff may require, as appropriate, additional management practices and/or monitoring on a site specific or watershed basis. Future management practices and/or monitoring requirements may also be imposed by Regional Water Board staff.

38. The Regional Water Board may give special TMDL nutrient offset dairy projects an alternative schedule for enrollment and submittal of associated documents for a maximum of two years past the due dates in this Order. These TMDL nutrient offset dairy projects must provide temporary best management practices of equivalent or greater water quality protection in the interim. Also, these projects must be of long-term water quality benefit to the watershed.
39. The Discharger shall maintain a copy of this Order, the MRP, and the WQP, and NMP and make them available at all times to site-operating personnel. The Discharger shall ensure that all site-operating personnel are familiar with the content of these documents and help to carry out the water quality protection measures.
40. The Regional Water Board and other authorized representatives shall be allowed:
 - a. Entry upon premises where a regulated facility or activity is located or conducted, or where records are kept under the conditions of this Order;
 - b. To review or to copy any records that are kept under the conditions of this Order;
 - c. To inspect any facility, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and
 - d. To photograph, sample, and monitor for the purpose of assuring compliance with this Order.

RECORD-KEEPING REQUIREMENTS

41. The Discharger shall create, maintain for five years, and make available to the Regional Water Board during inspections and upon request by the Regional Water Board staff, any reports or records required by this Order including those required under the MRP, WQP, or NMP.
42. A manifest is required to record transfer of waste to outside facilities.

TRANSFERS

43. The Discharger must notify the Executive Officer in writing at least 30 days in advance of any proposed transfer of responsibility and coverage under this Order to a new Discharger (dairy owner). The notice must include a new NOI for the proposed Discharger, a Notice of Termination (NOT) for the existing Discharger, and a specific date for the transfer of responsibility for complying with this Order. This notification shall include an acknowledgment that the existing Discharger is liable for compliance with this Order and for all violations up to the transfer date,

and that the new Discharger is liable for compliance with this Order after the transfer date.

PERMIT REOPENING, REVISION, REVOCATION, AND RE-ISSUANCE

44. The Regional Water Board will review this Order periodically and may revise requirements when necessary for reasons including, but not limited to:
 - Adoption of more stringent applicable water quality standards in the Basin Plan;
 - Changes in state plans, policies, or regulations that would affect the requirements for the discharges.
45. The Regional Water Board may revoke coverage under this Order at any time and require the Discharger to submit a Report of Waste Discharge or equivalent document and to obtain a GWDR, an individual WDR, a NPDES permit, or other permit.
46. The provisions of this Order are severable; and, if any provision of this Order, or the application of any provision of this Order to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this Order shall not be affected thereby.

TERMINATION

47. In the event of closure or change in land use of the dairy, the Discharger shall file a NOT with the Regional Water Board to terminate coverage under the Order. Upon cessation of dairy facility operation, all manure and animal waste-impacted soil is to be treated and stored appropriately so as not to pose a threat to surface water or groundwater quality or create a condition of nuisance.
48. The Regional Water Board staff shall review the NOT and determine its appropriateness. The review may include a field staff inspection to verify project completion and water quality protection. The Executive Officer shall notify the Discharger regarding approval or disapproval of the NOT.
49. The Discharger shall, within 30 days of receiving notice from the Regional Water Board that its facility no longer qualifies for coverage under this Order for failure to comply with its terms and conditions, file an updated ROWD or equivalent document for coverage under another permit type. Discharges that could affect the quality of the waters of the state may commence only in accordance with CWC Section 13264(a).
50. Dischargers who fail to comply with the terms and conditions of this Order shall be subject to appropriate enforcement action or may be required to enroll under another dairy permit type. Discharges that could affect the quality of the waters of

the state may commence only in accordance with CWC Section 13264(a). The Regional Water Board Executive Officer reserves the right to terminate a discharger's coverage under this Order. The Regional Water Board staff can require coverage under another permit such as the conditional Waiver, NPDES, or Individual Waste Discharge Requirements, after proper notice and hearing (CWC Section 13263).

51. Regional Water Board shall terminate the applicability of this Order to any dairy activities at any time when such termination is in the public interest and/or the activities could affect the quality of beneficial uses of the waters of the state.

Certification:

I, Catherine Kuhlman, Executive Officer do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, North Coast Region, on January 19, 2012.

Catherine Kuhlman
Executive Officer

ATTACHMENTS

Attachment A – Notice of Intent

Attachment B – Statewide Water Quality Regulations for Confined Animal Facilities
(Title 27)

Attachment C – Definitions

Monitoring and Reporting Program (MRP)

Appendix 1 – Water Quality Plan (WQP)

Appendix 2 – Nutrient Management Plan (NMP)

Appendix 3 – Annual Report

| | | |
|--|---|--|
| <p>D. Landowner:</p> <p>Landowner Name: _____</p> <p>Address: _____</p> <p>Contact Person: _____</p> <p>Phone: _____</p> | <p>E. Maximum Size of Herd without expanding infrastructure:</p> <p>Maximum design capacity of current facility. Report in # of dairy cows (milking + dry): _____</p> <p>Maximum # of other dairy cattle: _____</p> | |
|--|---|--|

SECTION III. BILLING ADDRESS

| |
|---|
| <p>Name: _____</p> <p>Address: _____</p> <p>City, State, Zip: _____</p> <p>Contact Person: _____ Phone: _____</p> |
|---|

SECTION IV. RECEIVING WATER INFORMATION

| |
|---|
| <p>What watershed and subwatershed is the facility located in? _____</p> <p>_____</p> |
|---|

SECTION V. IMPLEMENTATION OF WAIVER CONDITIONS

| |
|---|
| <p>A. STATEWIDE MINIMUM STANDARDS FOR CONFINED ANIMAL FACILITIES (<i>check if true</i>)</p> <p><input type="checkbox"/> Facility will be operating in compliance with Statewide Minimum Standards for Discharges of Animal Waste (Title 27 see Attachment B)</p> <p><input type="checkbox"/> Facility will be operating in compliance with 40 Code of Federal Regulations Sections 122.23(e) and 122.42 (e)(1) (vi)-(IX) that states that Large Concentrated Animal Facilities with 700 or more dairy cows (milking + dry) must have a Nutrient Management Plan. (See Monitoring and Reporting Program - Appendix 2).</p> |
| <p>B. FACILITY / OPERATION MANAGEMENT (<i>check if true</i>)</p> <p><input type="checkbox"/> All prohibitions in the Waiver will be complied with while this dairy is covered under the Waiver.</p> <p><input type="checkbox"/> Manure ponds and manure containment facilities will be managed in accordance with the Waiver.</p> <p><input type="checkbox"/> All non-manure wastes such as silage, leachate, dead animals, waste milk, veterinary medical waste, spoiled feed, bedding, etc., will be contained and managed in accordance with the Waiver.</p> |

C. MONITORING PROGRAM (check if true)

The Monitoring and Reporting Program will be reviewed and all tasks will be conducted as required.

Please check one regarding required surface water sampling:

The dairy will participate in group surface water monitoring.

The dairy will perform individual surface water monitoring.

D. Is your dairy California Dairy Quality Assurance Program (CDQAP) certified? Yes / No

SECTION VI. CERTIFICATION

"I certify under penalty of law that this document and all attachments were prepared under my direction and supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. In addition, I certify that the provisions of the GWDR, including the implementation of a Monitoring Program Plan, will be complied with."

Printed Name: _____

Signature: _____

Title: _____

Date: _____

ATTACHMENT B

Conditional Waiver of Waste Discharge Requirements Order No. R1-2012-0003

Regulations: Title 27, Environmental Protection--Division 2, Solid Waste

Chapter 7. Special Treatment, Storage, and Disposal Units

Subchapter 2. Confined Animals

Article 1. SWRCB - Confined Animal Facilities

[Note: Regulations in this article were promulgated by the State Water Resources Control Board (SWRCB), are administered by the appropriate Regional Water Quality Control Board (RWQCB) through the issuance of waste discharge requirements (WDRs), and are applicable to the owner or operator of a waste management unit (Unit) for the treatment, storage, or disposal of animal waste at confined animal facilities.]

22560. SWRCB - Applicability. (Ch-15: Section 2560)

(a) **General** — This article prescribes statewide minimum standards for discharges of animal waste at confined animal facilities. These standards shall either be implemented in any WDRs issued for a particular animal waste facility or shall be made a condition to the waiver of such requirements.

(b) **ROWD** — A discharger required to submit a report of waste discharge shall provide the following general information and shall report any material changes as defined in Section 2210 of Title 23 of this code:

- (1) average daily volume of facility wastewater and volume or weight of manure;
- (2) total animal population at the facility, and types of animals;
- (3) location and size of use or disposal fields and retention ponds, including animal capacity; and
- (4) animal capacity of the facility.

(c) **Regulations Are Minimum Standards** — The RWQCB shall impose additional requirements, if such additional requirements are necessary to prevent degradation of water quality or impairment of beneficial uses of waters of the state.

Note:

Authority cited:

Section 1058, Water Code.

Reference:

Sections 13140-13147, 13260 and 13263, Water Code; Section 43103, [Public Resources Code](#).

22561. SWRCB - General Standard For Surface Water. (Ch-15: Section 2561)

The discharger shall prevent animals at a confined animal facility from entering any surface water within the confined area.

Note:

Authority cited:

Section 1058, Water Code.

Reference:

Sections 13140-13147, 13260 and 13263, Water Code; Section 43103, [Public Resources Code](#).

22562. SWRCB - Wastewater Management. (Ch-15: Section 2562)

(a) **Design Storm (for Run-On/Run-Off Control)** — Confined animal facilities shall be designed and constructed to retain all facility wastewater generated, together with all precipitation on, and drainage through, manured areas during a 25-year, 24-hour storm.

(b) **Manured Area Run-On Exclusion** — All precipitation and surface drainage outside of manured areas, including that collected from roofed areas, and runoff from tributary areas during the storm events described in (a), shall be diverted away from manured areas, unless such drainage is fully retained. RWQCBs can waive application of such requirements only in specific instances where upstream land use changes have altered surface drainage patterns such that retention of flood flows is not feasible.

(c) **Design Storm (for Flood Protection).**

(1) Retention ponds and manured areas at confined animal facilities in operation on or after November 27, 1984, shall be protected from inundation or washout by overflow from any stream channel during 20-year peak stream flows.

(2) Existing facilities that were in operation on-or-before November 27, 1984, and that are protected against 100-year peak stream flows must continue to provide such protection. Facilities, or portions thereof, which begin operating after November 27, 1984, shall be protected against 100-year peak stream flows.

(3) The determination of peak stream flows shall be from data provided by a recognized federal, state, local, or other agency.

(d) **Retention Pond Design** — Retention ponds shall be lined with, or underlain by, soils which contain at least 10 percent clay and not more than 10 percent gravel or artificial materials of equivalent impermeability.

(e) **Discharge To Disposal/Use Fields** — The RWQCB shall allow the discharge of facility wastewater and of collected precipitation and drainage waters to use or disposal fields only if such discharge is in accordance with section 22563. Absent an NPDES permit for discharge to surface waters, the only other allowable discharge is to wastewater treatment facilities approved by the RWQCB.

Note:

Authority cited:

Section 1058, Water Code.

Reference:

Sections 13172, Water Code; Section 43103, [Public Resources Code](#).

22563. SWRCB - Use or Disposal Field Management. (Ch-15: Section 2563)

(a) **Reasonable Soil Amendment Rate** — Application of manure and wastewater to disposal fields or crop lands shall be at rates which are reasonable for the crop, soil, climate, special local situations, management system, and type of manure.

(b) **Run-Off & Percolation** — Discharges of facility wastewater to disposal fields shall not result in surface runoff from disposal fields and shall be managed to minimize percolation to ground water.

Note:

Authority cited:

Section 1058, Water Code.

Reference:

Section 13172, Water Code; Section 43103, [Public Resources Code](#).

22564. SWRCB - Management of Manured Areas. (Ch-15: Section 2564)

Manured areas shall be managed to minimize infiltration of water into underlying soils.

Note:

Authority cited:

Section 1058, Water Code.

Reference:

Section 13172, Water Code; Section 43103, [Public Resources Code](#).

22565. SWRCB - Monitoring. (Ch-15: Section 2565)

The RWQCB can require confined animal facility operations to undertake a monitoring program as a condition to the issuance or waiver of WDRs.

Note:

Authority cited:

Section 1058, Water Code.

Reference:

Sections 13172 and 13267, Water Code.

Source: <http://www.calrecycle.ca.gov/laws/regulations/Title27/>
8/17/11

ATTACHMENT C

Conditional Waiver of Waste Discharge Requirements Order No. R1-2012-0003

Definitions

25-year, 24-hour rainfall event means precipitation events with a probable recurrence interval of once in twenty five years as defined by the National Weather Service in Technical Paper No. 40, "Rainfall Frequency Atlas of the United States," May 1961, or equivalent regional or State rainfall probability information developed from this source.

Agronomic rates: is the land application of irrigation water and nutrients (which may include animal manure, bedding, litter, or process wastewater) at rates of application in accordance with a nutrient management plan that will enhance soil productivity and provide the crop or forage with needed nutrients for optimum health and growth.

Aquifer: is ground water that occurs in a saturated geologic unit that contains sufficient permeability and thickness to yield significant quantities of water to wells or springs.

Artificial recharge area: an area where the addition of water to an aquifer is by human activity, such as putting surface water into dug or constructed spreading basins or injecting water through wells.

Bioaccumulative pollutants are those substances taken up by an organism from its surrounding medium or from food, and is subsequently concentrated and retained in the body of the organism.

Carcinogenic pollutants are substances that are known to cause cancer in living organisms.

Catastrophic rainfall event: means a rainfall event greater than the 25-year, 24-hour rainfall event, and includes events like tornadoes, hurricanes or other catastrophic conditions that would cause an overflow.

Confined area: is the area where cows are confined within the production area.

Cropland: is the land application area where dry or solid manure and/or process wastewater is recycled for the purpose of beneficially using the nutrient value of the manure and/or process wastewater for crop production.

Degradation: is any measurable adverse change in water quality.

Design volume for a liquid storage structure includes allowances for the volume of manure, process wastewater, and other wastes accumulated during the storage period; volume of "normal precipitation" minus evaporation; volume of runoff from the facility's drainage area during normal rainfall events; volume of precipitation from the 25-yr, 24-hr storm event on the storage structure area; volume of runoff from the facility's drainage area for the 25-yr, 24-hr storm event; volume of solids; necessary freeboard

requirements; and any additional storage requirements, such as to meet management goals, or the minimum treatment volume for anaerobic lagoons.

Discharge: is the discharge or release of waste to land, surface water, or ground water. The Federal Pollution Control Act states that “**discharge**” includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping;

Discharger: is the property owner and/or the operator of an existing milk cow dairy subject to this Order.

Enclosed Bays means indentations along the coast that enclose an area of oceanic water within distinct headlands or harbor works. Enclosed bays include all bays where the narrowest distance between the headlands or outermost harbor works is less than 75 percent of the greatest dimension of the enclosed portion of the bay. Enclosed bays include, but are not limited to, Humboldt Bay and Bodega Harbor. Enclosed bays do not include inland surface waters or ocean waters.

Estuaries means waters, including coastal lagoons, located at the mouths of streams that serve as areas of mixing for fresh and ocean waters. Coastal lagoons and mouths of streams that are temporarily separated from the ocean by sandbars shall be considered estuaries. Estuarine waters shall be considered to extend from a bay or the open ocean to a point upstream where there is no significant mixing of fresh water and seawater. Estuarine waters included, but are not limited to, the Sacramento-San Joaquin Delta, as defined in Water Code section 12220, Suisun Bay, Carquinez Strait downstream to the Carquinez Bridge, and appropriate areas of the Smith, Mad, Eel, Noyo, Russian, Klamath, San Diego, and Otay rivers. Estuaries do not include inland surface waters or ocean waters.

Existing Cow Dairy or Existing Facility: is a cow dairy that is constructed and operating as of January 19, 2012, and which has subsequently undergone no expansion in size of its physical facilities. Physical facilities include the roofed structures, such as stall barns, that limit the size of the dairy cow herd

Facility: is the property identified as such in the Order.

Fecal coliform: means the bacterial count (Parameter 1) at 40 CFR 136.3 in Table 1A which also cites the approved methods of analysis.

Field moisture capacity: is the upper limit of storable water in the soil once free drainage has occurred after irrigation or precipitation.

Freeboard: is the elevation difference between the process wastewater (liquid) level in a pond and the lowest point of the pond embankment before it can overflow.

Groundwater: is water stored underground in rock crevices and in the pores of geologic materials that make up the Earth's crust; and water that flows downward and

saturates soil or rock, supplying wells and springs. The upper surface of the saturated zone is called the water table.

Incorporation into soil: is the complete infiltration of process wastewater into the soil, the disking or rotary tiller mixing of manure into the soil, shank injection of slurries into soil, or other equally effective methods.

Inland Surface Waters: are all surface waters of the State that do not include the ocean, enclosed bays, or estuaries.

Irrigation return flow: has the same meaning as return flow from irrigated agriculture in Section 502 (14) of the federal Clean Water Act, and for purposes of this Order is defined as surface and subsurface water that leaves a field following application of irrigation water, where the irrigation water is not a wastewater and where such irrigation water has been applied in accordance with a site specific nutrient management plan. "Tailwater" may be considered an irrigation return flow if it meets the conditions in this paragraph.

Irrigation water: is water that is applied to fields to grow crops.

Land application: means the application of manure, litter, or process wastewater onto or incorporated into the soil.

Land application area: is land under control of the cow dairy owner or operator, whether it is owned, rented, or leased, to which manure or process wastewater from the production area is or may be applied for nutrient recycling.

Liquid manure handling system: means a system that collects and transports or moves waste material with the use of water, such as in washing of pens and flushing of confinement facilities. This would include the use of water impoundments for manure and/or wastewater treatment.

Manure: is the fecal and urinary excretion of livestock and other commingled materials. Manure may include litter, bedding, compost, raw materials, and waste feed.

Manured solids: is manure that has sufficient solids content such that it will stack with little or no seepage.

Mature dairy cow: For the purposes of this Order, 'mature dairy cow' is a dairy cow that has produced milk at any time during her life (milking + dry).

Maximum Daily Effluent Limitation (MDEL) means the highest allowable daily discharge of a pollutant, over a calendar day (or 24-hour period). For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed

in other units of measurement, the daily discharge is calculated as the arithmetic mean measurement of the pollutant over the day.

Method Detection Limit (MDL): is the minimum concentration of a substance that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero, as defined in: Title 40 of the Code of Federal Regulations, Part 136, Attachment B, revised as of July 3, 1999.

Minimum Level (ML): is the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method specified sample weights, volumes, and processing steps have been followed.

Mixing Zone: is a limited volume of receiving water that is allocated for mixing with a wastewater discharge where water quality criteria can be exceeded without causing adverse effects to the overall water body.

Multi-year Phosphorus Application: means phosphorus applied to a field in excess of the crop needs for that year. In multi-year phosphorus applications, no additional manure, litter, or process wastewater is applied to the same land in subsequent years until the applied phosphorus has been removed from the field via harvest and crop removal.

Negligible Expansion: the annual average number of mature dairy cows in the herd may not expand more than 15% beyond the maximum number declared in the Notice of Intent (Attachment A).

Not Detected (ND): are those sample results less than the laboratory's MDL.

Notice of Intent (NOI): is a form submitted by the owner/operator applying for coverage under a general permit. It requires the applicant to submit the information necessary for adequate program implementation, including, at a minimum, the legal name and address of the owner or operator, the facility name and address, type of facility or discharges, and the receiving stream(s). See Order Attachment A.

New Source: is defined in the federal regulations as *“any building, structure, facility, or installation from which there is or may be a ‘discharge of pollutants,’ the construction of which commenced: (a) After promulgation of standards of performance under section 306 of CWA which are applicable to such source, or (b) After proposal of standards of performance in accordance with section 306 of CWA which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal.”* (40 C.F.R. § 122.2) Further, a facility is a “new source” if (1) the facility is constructed at a site where no other facility is located, (2) the facility totally replaces the process or production equipment that causes the discharge of

pollutants at the existing facility, or (3) the facility process is substantially independent of an existing facility at the same site. (40 C.F.R. §122.29 (b)).

Normal Precipitation: is the long-term average precipitation based on monthly averages over the time that data has been collected at a particular weather station. Normal precipitation is usually taken from data averaged over a 30-year period (e.g. 1971 to 2000) if such data is available.

Nuisance: is defined in section 13050 of the Porter-Cologne Water Quality Control Act as “...*anything which meets all of the following requirements:*

(1) Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

(2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

(3) Occur during, or as a result of, the treatment or disposal of wastes.”

Nutrient: is any element taken in by a plant which is essential to its growth and which is used by the plant in elaboration of its food and tissue.

Nutrient Management Plan (NMP): is a description of site-specific nutrient management practices that ensure appropriate agricultural utilization of manure, litter, or process water, as specified in this Order. See MRP, Appendix 2, NMP.

Nutrient recycling: is the application of nutrients at agronomic rates for crop production.

Ocean Waters are the territorial marine waters of the State as defined by California law to the extent these waters are outside of enclosed bays, estuaries, and coastal lagoons. Discharges to ocean waters are regulated in accordance with the State Water Board’s California Ocean Plan.

Off-property discharge: is the discharge or release of waste beyond the boundaries of the property of the dairy’s production area or the land application area or to water bodies that run through the production area or land application area.

Open tile line intake structure: is an air vent for a subsurface (tile) drain system.

Order: is the Waiver of Waste Discharge Requirements Order.

Overflow: means the discharge of manure or process wastewater resulting from the filling of wastewater or manure storage structures beyond the point at which no more manure, process wastewater, or storm water can be contained by the structure.

Persistent pollutants: are substances for which degradation or decomposition in the environment is nonexistent or very slow.

Physical facility: is defined as the roofed structure, such as the stall barn, that limits the size of the dairy herd (milking + dry cows). No expansion of the physical facility (roofed structure that houses the cows, such as the stall barn) is allowed under this permit. If roofed structures need replacing/repair during permit coverage, it must be similar size and location. Limited alterations are allowed, such as converting corrals to freestalls, as long as these alterations do not increase the capacity of the physical facilities.

Pollutant: is defined in Title 40 Code of Federal Regulations Section 122.2 as *“...dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.”*

Pollution: is defined in Section 13050(l)(1) of the Porter-Cologne Water Quality Control Act as *“...an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either of the following: (A) The waters for beneficial uses. (B) Facilities which serve these beneficial uses.”* "Pollution" may include "contamination".

Pollutant Minimization Program (PMP): means waste minimization and pollution prevention actions that include, but are not limited to, product substitution, waste stream recycling, alternative waste management methods, and education of the public and businesses. The goal of the PMP shall be to reduce all potential sources of a priority pollutant(s) through pollutant minimization (control) strategies, including pollution prevention measures as appropriate, to maintain the effluent concentration at or below the water quality-based effluent limitation. Pollution prevention measures may be particularly appropriate for persistent bioaccumulative priority pollutants where there is evidence that beneficial uses are being impacted. The Regional Water Board may consider cost effectiveness when establishing the requirements of a PMP. The completion and implementation of a Pollution Prevention Plan, if required pursuant to Water Code section 13263.3(d), shall be considered to fulfill the PMP requirements.

Pollution Prevention: means any action that causes a net reduction in the use or generation of a hazardous substance or other pollutant that is discharged into water and includes, but is not limited to, input change, operational improvement, production process change, and product reformulation (as defined in Water Code section 13263.3). Pollution prevention does not include actions that merely shift a pollutant in wastewater from one environmental medium to another environmental medium, unless clear environmental benefits of such an approach are identified to the satisfaction of the State or Regional Water Board.

Pond: is defined as retention ponds, storage ponds, settling ponds, or any structures used for the treatment, storage, disposal, and recycling of process wastewater. Ponds are differentiated from sumps, which are structures in a conveyance system used for the installation and operation of a pump.

Process wastewater: is water directly or indirectly used in the operation of a cow dairy for any or all of the following: spillage or overflow from animal watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other dairy facilities; washing or spray cooling of animals; or dust control, and includes any water or precipitation and precipitation runoff which comes into contact with any raw materials, products, or byproducts including manure, feed, milk, or bedding.

Propose to Discharge: is defined as a dairy facility being designed, constructed, operated, or maintained such that a discharge to waters of the United States will occur.

Production area: is that part of a cow dairy that includes the animal confinement area, the manure storage area, wastewater, litter, waste containment area, the raw materials storage area such as feed, silage, and bedding materials. The animal containment area includes but is not limited to open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The waste containment area includes but is not limited to settling basins, and areas within berms and diversions which separate uncontaminated storm water. The raw materials storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. Also included in the definition of production area is any area used in the storage, handling, treatment, or disposal of mortalities.

Salt: is defined as the sodium chloride and any added minerals (such as calcium, phosphorus, potassium, sulfur, iron, selenium, copper, zinc, or manganese) in the animal ration. Salts commonly break up into cations (sodium, calcium, etc.) and anions (chloride, sulfate, etc.) when dissolved in water. Total dissolved solids is generally measured as an indication of the amount of salts in a water or wastewater.

Setback means a specified distance from waters of the United States or potential conduits to waters of the United States where manure, litter, and process wastewater may not be land applied. Examples of conduits to surface waters include but are not limited to: Open drainage ditches, tile drainage lines, intake structures, sinkholes, and agricultural well heads.

Significant quantity: is the volume, concentrations, or mass of a pollutant that can cause or threaten to cause pollution, contamination, or nuisance; adversely impact human health or the environment; and/or cause or contribute to a violation of any applicable water quality standards for the receiving water.

Significant storm event: is a precipitation event that results in continuous runoff of storm water for a minimum of one hour, or intermittent discharge of runoff for a minimum of three hours in a 12-hour period.

Sole-source aquifer: is an aquifer that supplies 50 percent or more of the drinking water of an area.

Source of Drinking Water: any water designated or potentially suitable as municipal or domestic supply (MUN) in the Water Quality Control Plan for the North Coast Basin (Basin Plan).

State: the State of California.

State Water Board: the State Water Resources Control Board.

Storm water: storm water runoff, snowmelt runoff, and storm water surface runoff and drainage.

Subsurface (tile) drainage: water generated by installing and operating drainage systems to lower the water table below irrigated lands. Subsurface drainage systems, deep open drainage ditches, or drainage wells can generate this drainage.

Surface water: includes essentially all water that is on the Earth's surface, such as in a stream, lake, river, reservoir, or ocean. Surface waters include waters of the United States and their tributaries such as interstate waters and their tributaries, intrastate waters, all impoundments of these waters, and all wetlands hydrologically connected to lakes, streams, or rivers. Manure ponds are not considered surface waters in the context of this Regional Water Board Order.

Tailwater: the runoff of irrigation water from an irrigated field.

Toxicity Reduction Evaluation (TRE): a study conducted in a step-wise process designed to identify the causative agents of effluent or ambient toxicity, isolate the sources of toxicity, evaluate the effectiveness of toxicity control options, and then confirm the reduction in toxicity. The first steps of the TRE consist of the collection of data relevant to the toxicity, including additional toxicity testing, and an evaluation of facility operations and maintenance practices, and best management practices. A Toxicity Identification Evaluation (TIE) may be required as part of the TRE, if appropriate. (A TIE is a set of procedures to identify the specific chemical(s) responsible for toxicity. These procedures are performed in three phases (characterization, identification, and confirmation) using aquatic organism toxicity tests).

Vegetated buffer: a narrow, permanent strip of dense perennial vegetation established parallel to the contours of and perpendicular to the dominant slope of the field for the purposes of slowing water runoff, enhancing water infiltration, and minimizing the risk of

any potential nutrients or pollutants from leaving the field and reaching waters of the United States.

Waste: is set forth in Water Code Section 13050(d), and includes manure, leachate, process wastewater and any water, precipitation or rainfall runoff that came into contact with raw materials, products, or byproducts such as manure, compost piles, feed, silage, milk, or bedding. The Basin Plan states that “waste” includes sewage and any and all other substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation of whatever nature, including such waste placed within containers of whatever nature prior to, and for purposes of, disposal.

Wastewater: is the same as “process wastewater” as defined above.

Waters of the state: is defined in Section 13050 of the California Water Code as “...any surface water or groundwater, including saline waters, within the boundaries of the state.” Note this includes isolated wetlands.

Waters of the United States: is defined in 40 CFR § 122.2 as (a) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; (b) All interstate waters, including interstate “wetlands;” (c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, “wetlands,” sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters: (1) Which are or could be used by interstate or foreign travelers for recreational or other purposes; (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or (3) Which are used or could be used for industrial purposes by industries in interstate commerce; (d) All impoundments of waters otherwise defined as waters of the United States under this definition; (e) Tributaries of waters identified in paragraphs (a) through (d) of this definition; (f) The territorial sea; and (g) “Wetlands” adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR § 423.11(m) which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the United States (such as disposal area in wetlands) nor resulted from the impoundment of waters of the United States. Waters of the United States do not include prior converted cropland.

Wetland: For regulatory purposes under the Clean Water Act, the term wetlands means "those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas."

Wet season: is the period of time between October 1 and April 30 of each year.

12_0003_Waiver_AttachC_Definitions