

Change Sheet

Regional Water Quality Control Board
North Coast Region

Executive Officer's Summary Report
Thursday, April 18, 2019
Regional Water Board Office
Santa Rosa, California

ITEM: 9

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)

The following ~~strikeout~~ and underlined changes shown in **blue text** are proposed changes to the version of Order No. R1-2019-0001 posted on the Regional Water Board website on April 3, 2019; the ~~strikeout~~ and underlined changes shown in **red text** were reflected in the April 3, 2019 version of the Proposed Order.

General Waste Discharge Requirements for Dairies in the North Coast Region (GWDR) Finding 11 (pages 3-4)

Large concentrated animal feeding operations (CAFO)¹, as defined by federal regulations, include dairies with 700 or more mature dairy cows. Dairies defined as large CAFOs that discharge stormwater from cropland where manure, litter, or process wastewater has been applied must be implementing an NMP upon enrollment under this Order. Such discharges can qualify as "agricultural stormwater discharges," not subject to NPDES permitting, if manure and wastewater are applied to the land in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater (40 CFR section 122.23(e)). Large CAFOs that discharge such stormwater without an NMP are in violation of the federal Clean Water Act (CWA) and may be fined for the discharge and/or required to enroll under an NPDES permit. This Order does not authorize discharges to surface water that would otherwise require a NPDES permit. Dairies that have a discharge requiring a NPDES permit must obtain coverage under NPDES Permit for Concentrated Animal Feeding Operations Within the North Coast Region, Order No. R1- 2012-0001, or subsequently adopted NPDES permit.

¹ 40 CFR section 122.23 (b)(4) defines a large CAFO as an operation that stables or confines as many as, or more than, 700 mature dairy cows, whether milked or dry, 10,000 sheep or lambs or 500 horses. The size thresholds for all animal sectors are listed in 40 CFR 122.23(b) and (c).

GWDR Finding 22 (pages 5-6)

Since 2012, the Regional Water Board has adopted the following Orders regulating waste discharges associated with dairy operations in the North Coast Region:

- a. Order No. R1-2012-0001 National Pollutant Discharge Elimination System for Concentrated Animal Feeding Operations within the North Coast Region, General NPDES No. CAG011001;
- b. Order No. R1-2012-0002 General Waste Discharge Requirements for Existing Cow Dairies in the North Coast Region;
- c. Order No. R1-2012-0003 Conditional Waiver of Waste Discharge Requirements for Existing Cow Dairies in the North Coast Region;
- d. Order No. R1-2015-0051 Conditional Waiver of Waste Discharge Requirements for Mello 3/Llano Oaks Dairy; and
- e. Order R1-2016-0045 Renewal of the Conditional Waiver of Waste Discharge Requirements for Existing Dairies.

Upon adoption, this Order will supersede these previously adopted Orders [except for Order No. R1-2012-0001](#) and they will be rescinded [except for enforcement purposes](#).

GWDR Conditions

J. REQUIRED REPORTS AND NOTICES

3. Nutrient Management Plan (NMP) (page 29)

If solid or liquid manure or other fertilizer is applied to the dairy land, or dairy animals graze the dairy land for more than 30 days annually, then an NMP must be completed and implemented consistent with the technical standards specified in Attachment D - Appendix 2, by **November 30, 2020**. [The NMP must be submitted to the Regional Water Board by December 31, 2020 or within 30 days of completion. Subsequent revisions to the NMP must be submitted to the Regional Water Board within 30 days of final revision.](#) Dairies with a previous NMP may need to update the NMP by this date to address new NMP requirements of this Order. In the case of newly enrolling dairies, the NMP is due to be completed and implemented within two years of enrollment under this Order. Dischargers may develop their own NMP with the assistance of a qualified professional as defined in the NMP. Large CAFOs (700 mature cows or more, etc. see Definitions - Attachment C) must implement an NMP prior to enrolling under this Order. [Appendix 2](#)

contains a questionnaire to be filled out and submitted by dairies to the Regional Water Board by **November 30, 2021**, to show the dairy meets the NMP requirements.

K. APPLICATION REQUIREMENTS (Page 32)

1. Existing cow dairies previously covered by Orders R1-2012-0002, R1-2012-0003, R1-2015-0051, or R1-2016-0045, shall apply for coverage under this Order by submitting a completed NOI ~~within 90 days of board adoption of this Order by **October 1, 2019**~~. No application fee is necessary.
2. Goat, sheep, and water buffalo dairy facilities commercially milking at the time of adoption of this Order shall apply for coverage under this Order by submitting a completed NOI ~~within 90 days of board adoption of this Order by **October 1, 2019**~~, along with the appropriate application fee.

GWDR Conditions (page 34)

~~L. **This Except for enforcement purposes, this Order hereby rescinds** the following Orders are hereby rescinded effective on December 31, 2019:~~

1. ~~National Pollutant Discharge Elimination System (NPDES) for Concentrated Animal Feeding Operations Within the North Coast Region, Order No. R1-2012-001 (expired March 17, 2017);~~
2. General Waste Discharge Requirements for Existing Cow Dairies in the North Coast Region, Order No. R1-2012-0002;
3. Conditional Waiver of Waste Discharge Requirements for Existing Cow Dairies in the North Coast Region, Order No. R1-2012-0003;
4. Conditional Waiver of Waste Discharge Requirements for Mello 3/Llano Oaks Dairy, Order No. R1-2015-0051; and
5. Order No. R1-2016-0045 which is the renewal of the expired Conditional Waiver of Waste Discharge Requirements for Existing Cow Dairies in the North Coast Region, Order No. R1-2012-0003.

Monitoring and Reporting Program (Attachment D – MRP)

Section I.B.1. (MRP page 5)

Each year sampling shall take place during or directly following each of three (3) major storm events after at least one (1) inch of rain per 24 hours. Sampling shall occur within 18 hours of the first inch of rainfall, as measured by the closest real-time publicly available rain gauge. Sampling will occur in the wet season, which generally begins in October and ends in April, with the first samples to be collected starting the first winter after dairy coverage under this Order. Sampling events shall be at least 14 days apart. Sampling shall be done when conditions are safe to do so.

Section I.B.5. (MRP page 14)**Group Sampling**

One option for fulfilling monitoring requirements is to form a representative monitoring group to develop and/or administer a local watershed-based surface water and/or groundwater monitoring program. When approved by the Executive Officer, the Discharger may use data gathered from the representative monitoring program to substitute for some or all of the required monitoring of individual dairies, if the Discharger can demonstrate that the data are valid and representative of the water quality at the **participating** dairies. All **groups group monitoring programs** must be pre-approved by the Executive Officer prior to representing any dairies. Any abnormal results observed during field sampling will be reported immediately to the dairy operator for remediation and follow-up. Water quality problem sites and discharge violations must be reported to the Regional Water Board (see Noncompliance Reporting on page 11).

Group monitoring programs must include a Quality Assurance Plan that meets the requirements of the Order, including this MRP and all sampling protocols. Group samples collected must be representative of water quality above, and discharges below, the dairies participating in the group monitoring program. Sample locations should represent the integrity of waste management facilities and represent the effectiveness of stormwater best management practices.

If any water quality results show higher than normal values, then the group must immediately determine which dairy may be responsible, contact the dairy to control any discharge, and discuss best management practices (BMPs) the dairy can implement to mitigate future possible discharges and ensure compliance with Order conditions. The dairy shall follow Noncompliance Reporting protocols in the MRP as appropriate.

Section III.C. (MRP page 18)

C. Nutrient Management Plan (NMP) – see MRP Appendix 2. For existing dairies, the NMP must be completed by **November 30, 2020**, if the dairy doesn't already have an NMP. The NMP must be submitted to the Regional Water Board by December 31, 2020 or within 30 days of completion. Subsequent revisions to the NMP must be submitted to the Regional Water Board within 30 days of final revision. If existing dairies already have an NMP from before adoption of this Order, then the NMP must be updated to meet the requirements in Appendix 2 by November 30, 2020. For re-opening, new, or expanding dairies, the NMP must be completed within two (2) years of dairy enrollment in the GWDR. The NMP must be kept at the dairy facility and made available to Regional Water Board staff during inspections, and submitted to the Regional Water Board if requested. **Appendix 2 contains an NMP worksheet questionnaire to be filled out and submitted by**

dairies to the Regional Water Board by **November 30, 2021**, to show the dairy meets the NMP requirements.

Nutrient Management Plan (MRP-Appendix 2)

A. NMP Purpose and Implementation (page 2)

The most current version of the NMP must be kept at the dairy and must be made available for review by Regional Water Board staff during inspections. The NMP shall be submitted to the Regional Water Board upon request by December 31, 2020 or within 30 days of completion. Subsequent revisions to the NMP must be submitted to the Regional Water Board within 30 days of final revision.

H. Manifests and Third-Party Agreements (page 11)

Manifests are required to be kept onsite to record transfer of waste outside facilities and must be kept as part of the NMP. The application of manure or process water to lands not owned, leased, or controlled by the Discharger without written permission from the landowner is prohibited. The Discharger shall have a written agreement with each third-party that receives waste or process wastewater from the Discharger for its own use. The written agreement(s) shall be effective until the third-party is covered under the waste discharge requirements or a waiver of waste discharge requirements. The written agreement may serve as the manifest, and shall:

1. Clearly identify:
 - a. The Discharger and Dairy from which the waste or process wastewater originates,
 - b. The third-party that will control the application of the waste or process wastewater to cropland,
 - c. The Assessor's Parcel Number(s) and the acreage(s) of the cropland where the waste or process wastewater will be applied, and
2. Include an agreement by the third-party to:
 - a. Use the waste or process wastewater at agronomic rates for the crops to be grown, and,
 - b. Prevent the runoff to surface waters of wastewater, stormwater, or irrigation supply water that has come into contact with manure or is blended with wastewater