

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION**

**ORDER NO. R2-2016-0031**

**GENERAL WASTE DISCHARGE REQUIREMENTS  
FOR CONFINED ANIMAL FACILITIES  
WITHIN THE SAN FRANCISCO BAY REGION**

WHEREAS, the California Regional Water Quality Control Board, San Francisco Bay Region (Water Board), finds that:

**Scope of Coverage**

1. Order No. R2-2016-0031 (hereafter, Order) serves as general waste discharge requirements (WDRs) for discharges of waste from confined animal facilities (CAFs)<sup>1</sup> that meet the terms and conditions of this Order.
2. This Order covers the management of process water, manure, and other organic materials at CAFs, including the application of such materials to land. Other wastes, such as medicines, pesticides, chemicals, and fertilizers must be disposed at appropriately permitted facilities.
3. Owners and operators of CAFs discharging, or proposing to discharge, waste from a CAF in any manner that could affect the quality of the waters of the State within the San Francisco Bay Region (Region) and who have been designated by the Water Board are hereinafter defined as “Dischargers” and are subject to the terms and conditions of this Order.
4. This Order applies to commercial CAFs<sup>2</sup> including:
  - a. All existing operating dairies;
  - b. Existing CAFs located within water quality-impaired watersheds and identified as a categorical pollutant source in Chapter 7 of the Basin Plan;
  - c. Other, existing CAFs, that the Water Board determines need coverage under this Order due to threat to water quality;
  - d. CAFs (as described above in 4. a.-c.) that are inactive as of the adoption date of this Order but are subsequently re-opened as a CAF; and
  - e. New or expanded CAFs<sup>3</sup> that demonstrate compliance with the provisions of the California Environmental Quality Act (CEQA) in the form of a certified Environmental Impact Report, Mitigated Negative Declaration, or Negative Declaration.

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<sup>1</sup> Title 27 of the California Code of Regulations, section 20164, defines a CAF as “... *any place where cattle, calves, sheep, swine, horses, mules, goats, fowl, or other domestic animals are corralled, penned, tethered, or otherwise enclosed or held and where feeding is by means other than grazing.*”

<sup>2</sup> The term “commercial CAFs” refers to any non-residential CAF that conducts activities onsite that require a local business license.

<sup>3</sup> New CAFs are new structural facilities not in existence as of the date of Order adoption. An expanded CAF is a facility that requires newly constructed facilities to accommodate an increase in herd size.

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5. Dischargers may be eligible for an exemption from this Order if the facility is in compliance with this Order, meets certain special operational and/or physical criteria, and is determined to be an insignificant threat to water quality (see Section H.3.).
6. This Order includes three tiers that are based on CAF type and threat to water quality. The tiers are defined as follows:
  - a. **Tier 1** applies to CAFs that do not utilize liquid waste retention ponds. Operators must be able to comply with the discharge prohibitions in this Order at the time of enrollment. Dischargers must certify that their facility is structurally and operationally in compliance with all terms and conditions of this Order within two years of submittal of a Notice of Intent.
  - b. **Tier 2** applies to CAFs that utilize liquid waste retention ponds, such as cow dairies or large-scale poultry facilities. Dairies previously enrolled under the Conditional Waiver must be able to comply with the terms and conditions of this Order at the time of enrollment and must certify that their facility is structurally and operationally in compliance with the prohibitions and waste discharge specifications in this Order. New Dischargers must certify that their facility is structurally and operationally in compliance with all terms and conditions of this Order within two years of submittal of a Notice of Intent.
  - c. **Tier 3** applies to any type of CAF that the Dischargers cannot certify in the Notice of Intent (Attachment F) or Annual Report (Attachment A, Appendix 1) meets the requirements of this Order, or that the Executive Officer determines is a threat to water quality or is contributing to adverse water quality impacts.
7. Dischargers who discharge or propose to discharge pollutants to the waters of the United States are required to obtain coverage under a National Pollutant Discharge Elimination System (NPDES) permit and are not required to seek coverage under this Order<sup>4</sup>.
8. CAFs that are defined by federal regulations as a large concentrated animal feeding operation (CAFO)<sup>5</sup> must separately address any stormwater-related discharges from land application areas. 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)).
9. Large CAFOs that discharge stormwater from cropland where manure, litter, or process wastewater has been applied may enroll under this Order if they are implementing a Nutrient Management Plan upon enrollment under this Order. Large CAFOs that discharge such stormwater without a Nutrient Management Plan are in violation of the federal Clean Water

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<sup>4</sup> 40 CFR section 122.23 (d)(1) requires only facilities that discharge to waters of the United States to seek NPDES permit coverage. A facility proposes to discharge if, based on an objective assessment, it is designed, constructed, operated, or maintained such that a pollutant discharge will occur.

<sup>5</sup> 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).

Act (CWA) and may be fined for the discharge and/or required to enroll under an NPDES permit.

10. This Order applies to the disposal of waste generated by CAFs and related food-processing activities. Food-processing activities, such as cheese-making, that generate additional waste and/or wastewater, which may be co-mingled with the animal production waste stream, must be included in the facility's Ranch Water Quality Plan (required for facilities without liquid waste retention ponds) or Waste Management Plan (required for facilities with liquid waste retention ponds), consistent with the technical standards specified in Attachment B or C.
11. This Order **does not apply** to other types of waste, including, but not limited to, wastes such as cannery waste, septage, municipal or industrial sludge and/or biosolids, or similar types of waste generated onsite or brought onto the facility for disposal or nutrient recycling. Dischargers must apply for coverage under applicable general or individual WDRs as determined by the Water Board prior to receiving and/or discharging such wastes.
12. This Order does not address the cleanup of existing degraded surface and groundwater from past CAF operations. Any required cleanup actions are handled under separate authority under the California Water Code (CWC).

### **Water Quality Concerns**

13. Pursuant to the CWC, Division 7, the Water Board regulates the discharge of wastes that could affect the quality of the waters of the State to ensure protection of the beneficial uses of both surface water and groundwater and the prevention of nuisances. CAFs, as described herein, represent a significant source of waste discharges in the Region.
14. CAFs are operations where animals are confined and fed in an area that has a roof or is devoid of vegetation, generating solid and liquid manure wastes that are collected and disposed of on land (crops and pastures) or offsite. Within the Region, the primary types of CAFs are cow dairies, horse facilities, a few goat and sheep dairies, and a few egg, chicken, turkey, and/or swine production facilities. The majority of animal waste is produced by cow dairies within the counties of Marin and Sonoma. There are approximately 46 cow dairies currently operating within the Region, with total herd sizes ranging from 100 to 2200, and averaging 200-300 head.
15. CAFs generate wastes that include, but are not limited to, manure, process wastewater, animal wash water, and any water, precipitation, or rainfall runoff that contacts animal confinement areas and/or raw materials, products, or byproducts such as manure, compost piles, feed, bedding materials, silage, eggs, or milk. Wastewaters may also contain certain chemicals such as detergents, disinfectants, and biocides. Waste from such facilities can contain significant amounts of pathogens, oxygen-depleting organic matter, sediment, nitrogen compounds, and other suspended and dissolved solids that can impact both groundwater and surface water if not properly managed. Daily 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.

16. CAF wastes are stored in retention ponds, in corrals, and/or in waste piles. These wastes are then applied to onsite cropland or pastures or transported offsite. The applied wastes are a source of nutrients to crops and pastures but, if improperly managed, can create nuisance conditions and cause pollution of surface and groundwaters. Adverse aquatic habitat impacts associated with improper waste management and application may include: nutrient enrichment resulting in algal blooms, organic waste loading resulting in lowered oxygen levels, siltation of gravel areas that can eliminate fish habitat, high levels of ammonia that are toxic to fish and aquatic invertebrates, and elevated levels of nitrates and other salts in groundwater.

### **Background**

17. In 2003, the Water Board adopted Order No. R2-2003-0093, General Waste Discharge Requirements for Confined Animal Facilities (2003 General WDRs). The 2003 General WDRs will be rescinded upon adoption of this Order. In 2015, the Water Board renewed a Conditional Waiver of Waste Discharge Requirements for Existing Dairies (2015 Conditional Waiver). The 2015 Conditional Waiver, Order No. R2-2015-0031, applies only to operating Tier 2 dairies. These facilities will be required to enroll into Tier 2 of this Order when the 2015 Conditional Waiver expires on June 9, 2020.
18. Dairies that do not meet the conditions of the 2015 Conditional Waiver are enrolled in the 2003 General WDRs. Upon adoption of this Order, these facilities will be required to enroll in Tier 3. Tier 3 facilities must implement site-specific water quality monitoring and a short and long-term improvement schedule. These facilities also must obtain professional assistance to complete all management plans.
19. CAFs eligible for Order coverage that do not utilize liquid waste ponds have separate monitoring and waste management planning requirements under Tier 1. These facilities are required to assess their facility for pollution prevention and to develop one comprehensive plan for waste management. Tier 1 facilities are not required to conduct groundwater monitoring.
20. Numerous watersheds throughout the Region are listed as impaired pursuant to CWA section 303(d). The CWA requires states to address these impairments by developing Total Maximum Daily Loads (TMDLs) that examine these water quality problems, identify sources of pollutants, and specify actions that create solutions and restore beneficial uses.
21. Issuance of these General WDRs provides an opportunity to include implementation plan requirements identified in Chapter 7, Water Quality Attainment Strategies Including Total Maximum Daily Loads of the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan).
22. The Basin Plan specifies implementation measures for each categorical pollutant source identified as contributing to the water quality impairment in specific watersheds. Livestock grazing lands and confined animal facilities, including dairies and equestrian facilities, are identified as categorical pollutant sources, in certain watersheds, that are required to implement site-specific management measures to control and reduce animal waste and

sediment runoff. This Order implements the Basin Plan by requiring management measures for pollutant sources that will improve water quality in the designated impaired watersheds.

23. The Water Board adopted Resolution No. R2-2011-0060, Conditional Waiver of Waste Discharge Requirements for Grazing Operations in the Napa River and Sonoma Creek Watersheds and Resolution No. R2-2013-0039, renewal of Conditional Waiver of Waste Discharge Requirements for Grazing Operations in the Tomales Bay Watershed (Grazing Waiver). These conditional waivers require dischargers of grazing operations to implement specific management practices to minimize discharges of sediment, pathogens, and nutrients from their grazing operations to receiving waters, conduct compliance monitoring, and submit annual reports of progress made in controlling and minimizing discharges. This Order includes similar waste discharge specifications for grazing activities; therefore, CAFs under this Order are not required to have coverage under the Grazing Waiver.
24. This Order includes consideration for potential impacts to groundwater associated with CAFs, including dairies. Since the adoption of the 2003 General WDRs, California groundwater data and various published studies related to dairies and groundwater impacts have been evaluated in order to determine the effectiveness of current confined animal State regulations in protecting groundwater quality. Findings from these studies indicate that effective groundwater protection depends on whether subsurface conditions were adequately assessed in the siting, design, and operation of each facility. Since impacts to groundwater depend on site-specific considerations, facility-specific data are necessary to assess compliance with groundwater water quality objectives. Therefore, this Order requires sampling of existing groundwater wells, including existing monitoring wells, at any CAF that utilizes a waste pond to store and manage operational wastes.

### **Regulatory Framework**

25. 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 Water Board a Report of Waste Discharge (ROWD) containing such information and data as may be required by the Water Board, unless the requirement is waived pursuant to CWC section 13269.
26. CWC section 13263 (i) authorizes the 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.
27. The Water Board finds that it is appropriate to issue general WDRs for CAFs because:
  - a. Waste discharges involve the same or substantially similar types of operations, namely operations where animals are confined and wastes are managed by onsite storage, land application, or removal offsite.
  - b. They discharge the same or similar types of waste, primarily animal waste; State regulations impose the same effluent limitations and operating conditions on CAFs.

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- c. They have many of the same types of potential impacts to surface and groundwater and, therefore, require the same or similar monitoring.
- d. Given the time and resources necessary to effectively regulatory oversight of CAFs in the Region, they are more appropriately regulated under general WDRs than individual WDRs.

The Water Board, however, may determine that a specific individual CAF is not appropriately regulated under general WDRs and must obtain individual WDRs.

28. Pursuant to this Order and CWC section 13267, Dischargers must implement a Monitoring and Reporting Program (Attachment A). The Monitoring and Reporting Program is necessary to ensure compliance with this Order's terms and provisions in order to prevent or reduce uncontrolled waste discharges and to protect water quality; it requires regular visual inspections, individual facility water quality sampling, reporting, and record-keeping.
29. This Order satisfies the State Water Resources Control Board's (State Water Board's) 2004 Policy for the Implementation and Enforcement of the Nonpoint Source Pollution Control Program (NPS Policy), which requires that nonpoint source discharges of waste be regulated by WDRs, waiver of WDRs, or prohibitions to ensure compliance with Water Board Water Quality Control Plans.
30. This Order is consistent with the requirements of the Statewide Minimum Standards for confined animal facilities, California Code of Regulations (CCRs), title 27, sections 22560-22565, which are attached to this Order as Attachment K (hereafter, the "Statewide Minimum Standards"). These Statewide Minimum Standards require containment of manure, wash water, and stormwater runoff from animal confinement areas. The Statewide Minimum Standards are the *minimum* standards for discharges of animal waste at CAFs and must be implemented in waste discharge requirements.

**Water Quality Control Plan for the San Francisco Bay Basin**

31. The Basin Plan is the Water Board's master water quality control planning document. It designates beneficial uses and water quality objectives for waters of the State, including surface waters and groundwater. Economics were considered as required by law during the development of these objectives. It also includes programs of implementation to achieve water quality objectives. The Region's TMDLs and associated implementation plans are also part of the Basin Plan. The Basin Plan was duly adopted by the Water Board and approved by the State Water Board, Office of Administrative Law, and U.S. EPA, where required.
32. Pursuant to the Basin Plan, the existing and potential beneficial uses of waters in the Region that could be impacted by the discharge of wastes include:
  - a. Municipal and domestic water supply
  - b. Agricultural water supply
  - c. Groundwater recharge
  - d. Estuarine habitat
  - e. Marine habitat
  - f. Preservation of rare and endangered species
  - g. Water contact recreation

- h. Noncontact water recreation
  - i. Shellfish harvesting
  - j. Cold freshwater habitat
  - k. Warm freshwater habitat
  - l. Wildlife habitat
  - m. Preservation of areas of special biological significance.
33. The Basin Plan directs the Executive Officer to work with the dairy industry through local dairy waste committees and local/State agencies in obtaining cooperative corrections of dairy waste problems. The Basin Plan also recommends adoption of WDRs in those cases where water quality objectives for waters, within watersheds dominated by agricultural activities, are consistently exceeded or where corrective action is not yet successful in eliminating either short- or long-term water quality problems or threats.

### **Anti-Degradation**

34. State Water Board Resolution 68-16 (“*Statement of Policy with Respect to Maintaining High Quality of Waters in California*”) requires 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 Water Board that the change is consistent with maximum benefit to the people of the State, will not unreasonably affect present and anticipated beneficial uses of such water, and will not result in water quality less than that prescribed in the policies. Resolution 68-16 further requires that discharges comply with WDRs that will result in the best practicable treatment or control of the discharge necessary to assure that (a) pollution or nuisance will not occur and (b) the highest water quality consistent with the maximum benefit to the people of the State will be maintained. Resolution 68-16 incorporates the federal “antidegradation” policy (Cal. Code Regs., tit. 40, § 131.12). This Order is consistent with these policies.

This Order prohibits discharges of waste to surface waters except in specified circumstances that are consistent with federal regulations, requires Dischargers to manage waste and waste disposal to prevent degradation of groundwater, and requires Dischargers to manage waste to minimize odors and prohibit nuisance conditions. The Water Board finds that under normal operating conditions:

- a. The discharge conditions and effluent limitations established in this Order will ensure that the existing beneficial uses and quality of waters of the State in the Region will be maintained and protected, and
  - b. Discharges regulated by this Order will not degrade existing water quality if the terms and conditions of this Order are met.
35. This Order requires that discharges of waste, as defined in Finding 15, from CAFs shall not cause surface water or groundwater to be further degraded, to exceed water quality objectives, unreasonably affect beneficial uses, or cause a condition of pollution or nuisance. This Order also requires monitoring of surface water and groundwater to demonstrate compliance with water quality objectives.

**California Environmental Quality Act**

36. The Water Board is the lead agency for these general WDRs (Project) under CEQA (Public Resources Code section 21000 *et seq.*). The Water Board prepared and circulated a Mitigated Negative Declaration for the Project that was adopted on June 8, 2016. The Water Board has considered the Mitigated Negative Declaration, as well as all comments, and finds that there is no substantial evidence that these general WDRs will have a significant effect on the environment. The Water Board further finds that the mitigation measures identified in the Mitigated Negative Declaration to keep impacts to less-than-significant levels, as well as a program for monitoring and reporting on such mitigation measures, are required as conditions of these general WDRs. The Water Board's decision is based on the record as a whole for the Project, which is available at the Board's offices. The Mitigated Negative Declaration reflects the Water Board's independent judgment and analysis.
37. This Order involves the permitting of facilities, which are defined as CAFs, including dairies, that are fully constructed, and operating as of the effective date of this Order, and which have subsequently undergone no expansion in size of their physical facilities beyond the designed animal holding capacity. This Order is designed to enhance the protection of surface and groundwater resources, and its application to existing facilities is exempt from the provisions of CEQA in accordance with the following categorical exemptions:
- a . CEQA Guidelines Exemption 1 for Existing Facilities (Cal. Code Regs., tit.14, § 15301), which exempts the “operation, repair, maintenance, [and] permitting ... of existing public or private structures, facilities, mechanical equipment, or topographical features” from environmental review. The restoration of, or improvements to, CAF waste management systems to ensure proper function in compliance with this Order will involve minor alterations of existing private facilities.
  - b . CEQA Guidelines Exemption 2 for Replacement of Existing Structures (Cal. Code 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 CAFs to replace or reconstruct retention ponds or other structures on the facility to ensure proper function in compliance with this Order.
  - c. CEQA Guidelines Exemption 4 for Minor Alterations (Cal. Code 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 CAFs to make improvements to their facilities that will result in minor alterations to land, water, and/or vegetation.
38. Facilities defined as “new” or “expanding” pursuant to this Order must submit proof of compliance with the provisions of CEQA in the form of a certified Environmental Impact Report (EIR), Mitigated Negative Declaration, or Negative Declaration, together with a Notice of Intent (NOI) and appropriate fee, to the Executive Officer to qualify for coverage under this Order. Completing the NOI includes making a demonstration that:

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- a. Any potential impacts to wetlands and vernal pools have been addressed in permits pursuant to CWA sections 401 or 404;
  - b. A Section 1602 Streambed Alteration has been procured, if necessary;
  - c. The Discharger has obtained coverage under the State Water Board's Construction General Stormwater Permit, if necessary;
  - d. The Discharger has obtained a Timberland Conversion Permit, if necessary;
  - e. The development of the CAF is in compliance with any applicable county regulations and ordinances, including grading, construction, and building ordinances;
  - f. That any and all impacts to special-status species have been fully mitigated; and
  - g. That all potential impacts to cultural resources will be appropriately addressed and mitigated.
39. Food and Agricultural Code section 33487 exempts state agencies from any requirement to prepare a EIR 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 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.
40. Issuance of this Order is also exempt from CEQA in accordance with CCRs, title 14, section 15307, which exempts from environmental review actions by regulatory agencies for the protection of natural resources. This action may also be considered exempt from environmental review pursuant to CCRs, title 14, section 15308, which exempts actions by regulatory agencies for the protection of the environment.
41. The Water Board has satisfied its obligation to address tribal cultural resources under AB 52. The notification and consultation provisions of AB 52 were not triggered because, when the decision occurred to undertake the Project, there were no letters requesting notification and consultation.

**Safe Drinking Water Act**

42. It is the policy of the State of California that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. This Order promotes that policy by requiring Dischargers to meet water quality objectives, as applicable, designed to protect human health and ensure that water is safe for domestic use.

**Third-Party Programs**

43. The NPS Policy encourages the Water Boards to "be as creative and efficient as possible in devising approaches to prevent or control nonpoint source pollution." This includes development of third-party programs to assist Dischargers in complying with the requirements of the Order and assure the Water Board and the public that actions have been taken to reduce nonpoint source pollution.

44. The Water Board supports the use of third-party programs to assist Dischargers in filing required forms, providing technical assistance to Dischargers in preparing required management plans, implementing nonpoint source pollutant control projects, assisting with water quality monitoring, and annual reporting to the Water Board.
45. Since its inception in 1998, the California Dairy Quality Assurance Program has provided valuable educational resources to assist dairy operators in the preparation of site-specific management plans. These efforts have resulted in dairy operators having a greater understanding of the need for water quality protection. The Water Board supports the development of similar Quality Assurance Programs for equine or other non-dairy CAFs that would advance water quality protection and assist Dischargers in complying with the requirements of the Order.

**Public Notice**

46. The Water Board has reviewed the contents of this Order and all evidence concerning this matter, written public comments, and testimony provided at the public hearing on June 8, 2016, in Oakland and hereby finds that the adoption of this Order is consistent with the Basin Plan and is in the public interest.
47. The Water Board has publicly notified interested agencies and persons of its intent to issue this Order for discharges of wastes from CAFs (including associated grazing operations) and has provided them with an opportunity for a public meeting and an opportunity to submit comments.

IT IS HEREBY ORDERED that the Dischargers, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, shall comply with the following:

**A. DISCHARGE PROHIBITIONS**

1. The discharge of waste classified as hazardous (Cal. Code Regs., tit. 23, §2521(a)) is prohibited.
2. The collection, treatment, storage, discharge, or disposal of waste at a CAF shall not cause a condition of nuisance, contamination, pollution, or degradation of surface water or groundwater (as defined in CWC section 13050).
3. The discharge of waste from a CAF that causes or contributes to an exceedance of any applicable water quality objective in the Basin Plan, or any applicable State or federal water quality criteria, or a violation of any applicable State or federal policies or regulations, is prohibited.
4. The direct and indirect discharge of waste, including stormwater contacting wastes, from the animal production or housing area to any surface water, or tributary thereof, is prohibited.
5. The application of manure or process water to a land application area in a manner that results in the discharge of wastes to surface water is prohibited.
6. The disposal of dead animals at the facility or in any liquid manure or wastewater retention pond is prohibited. The Discharger must dispose of dead animals in compliance with all applicable federal, State, county, and local laws and regulations.
7. The discharge of manure or process water to lands not owned, leased, or controlled by the Discharger without written permission from the landowner and in a manner not in compliance with this Order is prohibited.
8. The direct discharge of wastewater into groundwater via backflow through water supply or irrigation supply wells is prohibited.

**B. WASTE DISCHARGE SPECIFICATIONS BY FACILITY OPERATION**

**1. PRODUCTION/CONFINED AREA**

- a. Facilities shall be designed, constructed, operated, and maintained to retain all waste, wastewater flow, and stormwater contacting manured areas that are likely to accumulate up to and during a 25-year, 24-hour storm event. Management of the facilities shall be in accordance with a site-specific Ranch Water Quality Plan or Waste Management Plan, consistent with the technical standards specified in Attachments B and C. (Cal. Code Regs., tit. 27, §22562(a).)
- b. In addition to manure waste and wastewater generated from stormwater contacting manured areas, the Discharger must properly contain and manage all other wastes

including, but not limited to, silage leachate, compost leachate, dead animals, waste milk, veterinary medical waste, solid and liquid waste from onsite slaughtering, solid and liquid waste from onsite food processing (such as cheese), spoiled feed, bedding, and any precipitation contacting these materials. Specific pollution prevention measures must be included in the facility's Waste Management Plan or Ranch Water Quality Plan.

- c. All precipitation and clean surface drainage outside of manured areas, including that from roofed areas and tributary drainages, shall be diverted away from confined and/or manured areas, unless such drainage is fully contained in a retention pond. (Cal. Code Regs., tit. 27, §22562(b).)
- d. All animal confinement areas and feed / waste storage areas shall be managed to minimize standing water and maximize the infiltration of water into underlying soils. No standing water should be present 72 hours after the last rainfall.
- e. All confined animals shall be fenced or excluded from any surface water or perennial streams passing through the confined area. Creek crossings shall be bridged in a manner that prevents animal waste from entering the waterway.

## **2. RETENTION PONDS (if applicable)**

- a. Retention ponds and manured areas at CAFs 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 flows. CAFs existing before November 27, 1984, and that are protected against 100-year peak stream flows must continue to provide such protection. CAFs, or portions thereof, that began operating after November 27, 1984, shall be protected against 100-year peak stream flows. (Cal. Code Regs., tit. 27, §22562(c).)
- b. All existing retention ponds must, at a minimum, be lined with, or underlain by, soils that contain at least ten (10) percent clay and not more than ten (10) percent gravel or artificial materials or materials with equivalent impermeability or include additional lining materials necessary to comply with this Order's Discharge Prohibitions No. 2 and No. 3. (Cal. Code Regs., tit. 27, §22562(d).)
- c. Retention ponds 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.
- d. Retention ponds (or expanded 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  $1 \times 10^{-6}$  cm/sec. Such ponds may not be used until the Discharger submits a report verifying that the pond liner meets this requirement. Waste shall not be placed into the retention

pond until after the Water Board notifies the Discharger in writing that the report is acceptable.

- e. Retention ponds shall be managed to have sufficient freeboard, but in no case less than two feet in partially or completely aboveground ponds and one foot in pond structures that are completely in ground. Freeboard shall be measured vertically, from the water surface up to the point on the surrounding berm or dike having the lowest elevation, and shall be designed and constructed to prevent overtopping as a result of windy storm conditions. Lesser freeboard may be approved by the Executive Officer if documented by a registered civil engineer that structural integrity and required capacity will not be compromised with the proposed freeboard.
- f. Following a storm event, the Discharger shall restore the wastewater holding capacity of retention ponds, if necessary, in a timely manner and in a manner consistent with the Waste Management Plan and Nutrient Management Plan.
- g. Retention pond clean-out shall occur annually, at a minimum, and should be conducted prior to the start of the rainy season, but no later than October 31.

### **3. LAND APPLICATION AREAS (if applicable)**

- a. Discharges to land of solid and liquid waste shall be conducted in such areas that prevent the discharge of waste to surface waters or flood-prone areas and shall be managed to minimize percolation to groundwater.
- b. Discharges to land of solid or liquid waste shall be at rates that are reasonable for crop, soil, climate, special local situations, management system, and type of manure. Discharges to land shall not exceed the amount needed to meet crop demand and shall be conducted in accordance with the facility's Ranch Water Quality Plan or Nutrient Management Plan, consistent with the technical standards specified in Attachments B or D.
- c. Manure and wastewater discharges to land, including spray irrigation, shall be conducted during non-rainy or non-saturated conditions, must not result in runoff to surface waters, and must infiltrate completely within 72 hours after application.
- d. Manure and wastewater shall not be applied or stockpiled closer than 100 feet to any downgradient surface waters, open tile lined intake structures, sinkholes, agricultural or domestic well heads, or other conduits to surface waters, unless a 35-foot wide vegetative buffer or physical barrier is substituted for the 100-foot setback or alternative conservation practices or field-specific conditions will provide pollutant reductions equivalent or better than the reductions achieved by the 100-foot setback.
- e. Large CAFOs that are eligible to enroll under this Order must implement an adequate Nutrient Management Plan (in accordance with the technical standards specified in Attachment D) prior to discharging and prior to obtaining coverage if they will discharge stormwater from cropland where manure, litter, or process wastewater has been applied.

#### 4. GRAZING OPERATIONS (if applicable)

- a. Dischargers shall implement site-specific management practices that reduce water pollution due to grazing and protect water quality. In selecting management practices for the facility, the Discharger shall take into consideration the vegetation, terrain, kind of livestock, and general facility operation procedures.
- b. Dischargers with grazing operations on grazing lands that encompass an area of 50 acres or more, or encompass an area smaller than 50 acres and are identified by the Executive Officer as posing a threat to water quality, must develop and implement a Grazing Management Plan, consistent with the technical standards specified in Attachment E. If all technical standards and provisions of Attachment E are implemented by another management plan, a separate Grazing Management Plan is not required.

#### C. PROVISIONS

1. The Discharger shall comply with all applicable provisions of the CWC, CCRs title 27, and the Basin Plan.
2. The Discharger shall comply with the attached Monitoring and Reporting Program (Attachment A), and also develop and implement site-specific management plans. All existing plans must be updated and new plans developed in accordance with the technical standards specified in Attachments A, B, C, D, and E. **Plans must be completed within the schedule outlined below in Section H. Required Reports and Notices. All management plans must comply with the mitigation measures in the attached Mitigated Negative Declaration.**

**If the Discharger's facility requires additional management practices and/or physical improvements to comply with this Order (Tier 3), a detailed improvement schedule, acceptable to Water Board staff, must be developed and implemented. Improvement progress must also be reported within the Annual Report.**

3. If the Discharger observes deficiencies, defects, and/or impending failures in any of the manure-contacted water conveyances, controls, and/or retention structures, the Discharger shall take immediate action to correct and/or prevent any unauthorized release. Records of such actions shall be kept and maintained as required in the Monitoring and Reporting Program. The facility management plans shall be updated to include corrective management measures needed to avoid a recurrence of the observed condition.
4. If onsite or offsite monitoring (visual or water quality testing) results indicate that the Discharger's facility (including land application areas) is causing a condition of nuisance, contamination, pollution, or degradation of surface water or groundwater, the Discharger shall take immediate corrective action to cease such pollutant discharges. The corrective action must be documented and submitted with a Noncompliance Report, as required by the Monitoring and Reporting Plan.

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5. Manifests are required to be kept onsite to record transfer of waste to outside facilities and must be kept as part of the Nutrient Management Plan or Ranch Water Quality Plan. The application of manure or process water to lands not owned, leased, or controlled by the Discharger without written permission from the landowner, or in a manner that is not consistent with the conditions of this Order, is prohibited. The requirements for such third-party agreements are outlined in Attachment D, Nutrient Management Plan Minimum Requirements and Attachment B, Ranch Water Quality Plan Minimum Requirements.
6. The Discharger shall comply with all federal, State, county, and local laws and regulations pertaining to the discharge of wastes from the facility that are no less stringent than the requirements of this Order.
7. 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, or local laws, nor guarantee the Discharger a capacity right in receiving waters.
8. This Order does not convey any property rights or exclusive privileges. In accordance with CWC section 13263(g), "No discharge of waste into the waters of the state, whether or not the discharge is made pursuant to waste discharge requirements, shall create a vested right to continue the discharge. All discharges of waste into waters of the state are privileges, not rights."
9. This Order does not authorize any act that results in the taking of 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 §§ 2050-2097) or the federal Endangered Species Act (16 U.S.C. §§ 1531-1544). Dischargers shall be responsible for meeting all applicable requirements of the Endangered Species Acts. A discharge that is deleterious to fish, plant life, mammals, or bird life or otherwise in violation of 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.
10. Upon presentation of credentials at reasonable hours or in response to a complaint or report of noncompliance, the 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. Access 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.

11. The Discharger shall maintain a copy of this Order and each applicable management plan (i.e., Waste or Ranch Water Quality, Grazing, and Nutrient Management) at the site so as to be available at all times to site-operating personnel. The Discharger shall ensure that all site-operating personnel are familiar with the content of this Order and each management plan.
12. 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. If there is any conflicting or contradictory language between this Order and the associated attachments that outline technical requirements for the Monitoring and Reporting Program, Waste Management Plan, Nutrient Management Plan, Grazing Management Plan, or Ranch Water Quality Plan, the language in the Order shall govern over the other documents.
13. Compliance determination with the terms of this Order shall be based on the following:
  - a. Periodic inspections by Water Board staff;
  - b. Evaluation of the completed Annual Report and required information submitted according to the Monitoring and Reporting Program, including monitoring results, completed Waste Management Plan, Nutrient Management Plan, Grazing Management Plan, and Ranch Water Quality Plan; and
  - c. Any other information deemed necessary by the Executive Officer.

**D. RE-OPENING AN EXISTING BUT DORMANT CAF**

1. In order to be eligible for coverage under this Order, those seeking to start-up a new CAF operation utilizing an existing but dormant facility must comply with the following conditions prior to start-up and enrollment:
  - a. Dischargers must develop site-specific management plans applicable to each operation, in accordance with the technical standards outlined in this Order. Such plans may include a Waste Management Plan or Ranch Water Quality Plan for confined areas, a Nutrient Management Plan for lands where manure products are applied, and a Grazing Management Plan for grazing lands totaling 50 acres or more. All required plans must be submitted to Water Board for review, either attached to the Notice of Intent for Re-opening Dormant Facilities (Attachment G) or separately.
  - b. Retention ponds must comply with NRCS Waste Storage Facility Code 313, including a maximum specific discharge (unit seepage rate) of  $1 \times 10^{-6}$  cm/sec. Such ponds may not be used until the Discharger submits a report verifying that the pond liner meets this requirement.
  - c. Operations must not include more animals than the existing infrastructure is designed to accommodate. The Order does not authorize construction or expansions of facilities.

**E. OPENING A NEW OR EXPANDING FACILITY**

1. In order to be eligible for coverage under this Order, those constructing a new or expanding facility must comply with the following conditions prior to start-up:
  - a. Dischargers must submit proof of compliance with the provisions of CEQA in the form of a certified EIR, Mitigated Negative Declaration, or Negative Declaration;
  - b. Dischargers must demonstrate that all local, State and federal permits have been obtained for the construction by completing and submitting a Notice of Intent for New or Expanding Facilities (Attachment H);
  - c. Dischargers must develop site-specific management plans applicable to each operation, in accordance with the technical standards outlined in this Order. Such plans may include a Waste Management Plan or Ranch Water Quality Plan for confined areas, a Nutrient Management Plan for lands where manure products are applied, and a Grazing Management Plan for grazing lands totaling 50 acres or more. All required plans must be submitted to Water Board for review, either attached to the Notice of Intent (Attachment H) or separately.
  - d. Retention ponds must comply with NRCS Waste Storage Facility Code 313, including a maximum specific discharge (unit seepage rate) of  $1 \times 10^{-6}$  cm/sec. Such ponds may not be used until the Discharger submits a report verifying that the pond liner meets this requirement.

**F. PERMIT REOPENING, REVISION, REVOCATION, TERMINATION AND RE-ISSUANCE**

1. The Board may modify, revoke, and/or reissue this Order at any time.
2. An authorization to discharge wastes under this Order is not transferable to any person without written authorization from the Executive Officer. In the event of any change in operation, control, or ownership of land or waste discharge facilities, the Discharger shall notify any succeeding Discharger of its responsibility to comply with this Order by letter at least 60 days in advance of such change. A copy of such letter shall be submitted to the Water Board, along with a Notice of Termination (NOT), in order for the original Discharger to be relieved of its responsibility to comply with this Order.
3. To assume operation under this Order, the succeeding Discharger must submit a completed Notice of Intent (Attachment F) to the Water Board within 15 days of receipt of such notice and receive approval by the Executive Officer. The succeeding Discharger is not authorized to discharge under the Order and may be subject to enforcement until written approval of the coverage transfer from the Executive Officer.
4. In the event of closure or change in land use of the Discharger's facility, the Discharger shall file a NOT in the form of a letter that explains the extent of the change in operation, measures taken to close and/or change the operation, and Discharger contact information (if changed). Prior to NOT approval, all manure and waste-impacted soil is to be disposed of in a manner that will not pose a threat to surface water or groundwater quality or create a condition of nuisance.

5. The 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(s) regarding approval or disapproval of the NOT.
6. If more stringent requirements are necessary to implement or be consistent with any total maximum daily load adopted by the Water Board to achieve applicable water quality standards pursuant to CWA section 303, or amendments thereto, the Water Board will revise and modify this Order.
7. This Order may be reopened to address any changes in State or federal plans, policies, or regulations that would affect the quality requirements for the discharges and as authorized by federal and State law.
8. The Executive Officer may at any time terminate coverage under this Order as to a particular Discharger if the Discharger fails to comply with this Order; such termination is in the public interest; the activities could adversely affect beneficial uses of waters of the State; or the Executive Officer determines, based on changes to the Discharger's facility, that coverage under individual WDRs or an NPDES permit is more appropriate.
9. A Discharger designated to Tier 3 may request approval for a transfer to Tier 1 or 2 (as applicable) following a minimum of three consecutive years of compliance with this Order and proof of completion of one educational program approved by the Executive Officer. A shorter demonstration period may be approved by the Executive Officer, given circumstances that merit special consideration.

## **G. ENFORCEMENT**

1. A Discharger who fails to comply with the terms and conditions of this Order is subject to an enforcement action to the extent allowed by law, including but not limited to, administrative civil liabilities. Discharges that could affect the quality of the waters of the State may commence only in accordance with CWC section 13260 *et seq.*
2. Section 13387(e) of the CWC provides that any person who knowingly makes any false statement, representation, or certification in any record, report, plan, notice to comply, or other document filed with a Regional Water Board or the State Water Board, or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required under this division shall be punished by a fine of not more than \$25,000, or by imprisonment in state prison for not more than two years, or by both.
3. Large CAFOs that discharge stormwater from land application areas without implementing an adequate Nutrient Management Plan are in violation of the CWA and may be fined for the discharge and/or required to enroll under an NPDES permit.
4. Section 13350 of the CWC provides that any person who violates WDRs or a provision of the CWC is subject to civil liability of up to \$15,000 per day of violation or up to \$20 per gallon of waste discharged. Alternatively, administrative civil liability may be

imposed up to \$5,000 per day of violation or \$10 for each gallon of waste discharged, depending on the violation or combination of violations.

5. If it is determined that a Tier 1 or Tier 2 facility does not meet the Order requirements and/or the Minimum State Standards (Title 27), due to a failure to implement effective pollution prevention management practices or structural deficiencies that can be corrected within 30 days, a short term improvement plan and schedule must be prepared and implemented. Tier 3 facilities must prepare, implement, and submit for Water Board review, a site-specific workplan that delineates a short and long-term improvement schedule for bringing all facilities into compliance with this Order. Tier 3 facilities must also obtain professional assistance to assess the potential causes for non-compliance and to develop complete and effective management plans.
6. If a Tier 1 facility cannot comply with all conditions and provisions of this Order within two years, the Executive Officer may designate the facility into Tier 3. Within one year from this designation, the Ranch Water Quality Plan must be revised and updated by a qualified professional and all facility improvements must be completed within two years.

## **H. REQUIRED REPORTS AND NOTICES**

1. The Discharger must complete the following tasks and submit a certification of completion either separately or attached to the Annual Report. If tasks are completed and certification was previously submitted, indicate this in the Annual Report.
2. **Monitoring and Management Plan**
  - a. **Tier 1 Dischargers - CAFs without liquid waste retention ponds:**

### **Facility Monitoring Program**

The facility's Monitoring and Reporting Plan must be completed and implemented consistent with the technical standards specified in Attachment A, within one year from enrollment under this Order (submittal of a Notice of Intent), but no later than November 1, before the first monitoring period. This is an onsite operational plan to implement visual inspections and associated documentation and water quality monitoring. Preparations must be made in order to begin rainy season monitoring within one year.

If the Discharger opts to participate in an Executive Officer-approved watershed or group monitoring program in lieu of individual surface water quality testing, confirmation of such participation must be documented in the facility's first Annual Report (Attachment A, Appendix 1), and the program must also be prepared to begin sampling by November 1, before the first monitoring period.

### **Ranch Water Quality Plan (RWQP)**

The RWQP must be completed, and implemented consistent with the technical standards specified in Attachment B, within two years of submittal of a Notice of Intent.

Tier 1 Dischargers have the option to prepare their own RWQP, with or without the assistance of a qualified professional, as described in Attachment B, General Requirement 2.

A copy of the RWQP must be kept at the CAF and made available upon request by Water Board staff during inspections.

#### **b. Tier 2 Dischargers - Dairies and other CAFs with liquid waste retention ponds:**

When the 2015 Conditional Waiver expires in June 2020, dairies must have completed all reporting and monitoring requirements stipulated by the 2015 Conditional Waiver, prior to enrolling into Tier 2. Competed plans shall be updated when necessary to account for changes to the facility or operation.

Dischargers eligible for Tier 2 coverage, not previously enrolled under the 2015 Conditional Waiver, must complete the following tasks:

#### **Facility Monitoring Program**

The facility's Monitoring and Reporting Plan must be completed and implemented consistent with the technical standards specified in Attachment A, by within one year of enrollment under this Order (submittal of a Notice of Intent), but no later than November 1, before the first monitoring period. This is an onsite operational plan to implement visual inspections and associated documentation and water quality monitoring. Preparations must be made in order to begin rainy season monitoring within one year.

If the Discharger opts to participate in an Executive Officer-approved watershed or group monitoring program in lieu of individual surface water quality testing, confirmation of such participation must be documented in the facility's first Annual Report (Attachment A, Appendix 1), and the program must also be prepared to begin sampling by November 1, before the first monitoring period.

#### **Waste Management Plan (WMP)**

A WMP must be updated or completed and implemented consistent with the technical standards specified in Attachment C, within two years of submittal of a Notice of Intent.

Tier 2 Dischargers have the option to prepare the entire WMP, including containment structure specifications, through a technical education program, administered by a qualified professional, as described in Attachment C. General Requirement 2.

A copy of the WMP must be kept at the CAF and made available upon request by Water Board staff during inspections.

### **Grazing Management Plan (GMP)**

If grazing occurs on 50 acres or more, a GMP must be completed and implemented consistent with the technical standards specified in Attachment E, within two years of submittal of a Notice of Intent. If all technical standards and provisions of Attachment E are included in the WMP or NMP, a separate GMP is not required.

A copy of the GMP must be kept on the facility site and made available upon request by Water Board staff during inspections.

### **Nutrient Management Plan (NMP)**

If waste is applied to land, an NMP must be completed and implemented consistent with the technical standards specified in Attachment D, within four years of submittal of a Notice of Intent.

Tier 2 Dischargers may develop their own NMP, with the assistance of a qualified professional, as described in Attachment D.

***Large Concentrated Animal Feeding Operations (700 mature cows or more) must implement an NMP prior to enrolling under the Order.***

A copy of the NMP must be kept on the CAF site and made available upon request by Water Board staff during inspections.

### **c. Tier 3 Dischargers – Designated by the Executive Officer due to threat to water quality:**

#### **Facility Monitoring Program**

*Tier 3 Dischargers must implement an individual monitoring program, including onsite surface water (all dischargers) and groundwater (those with liquid retention ponds) quality sampling and may not participate in a watershed or group monitoring program.*

The facility's Monitoring and Reporting Plan must be completed and implemented consistent with the technical standards specified in Attachment A, within one year of Tier 3 designation or submittal of a Notice of Intent, but no later than November 1, before the first monitoring period. This is an onsite operational plan to implement visual inspections and associated documentation and water quality monitoring. Preparations must be made in order to begin rainy season monitoring within one year.

#### **Ranch Water Quality Plan or Waste Management Plan**

*A RWQP (facilities without liquid waste retention ponds) or WMP (facilities with liquid waste retention ponds) must be prepared by a qualified professional<sup>6</sup> and submitted to the Water Board for review. It must also be kept on the CAF site and made available for review by Water Board staff during inspections.*

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<sup>6</sup> Examples of these professionals include, but are not limited to, registered professional engineers (PE), or the qualified staff of the Natural Resource Conservation District (NRCS), Resource Conservation Districts (RCDs), the University California Cooperative Extension, or technical service providers (TSPs) certified by the NRCS. The Executive Officer may approve the use of alternative specialists.

The RWQP or WMP must be completed and implemented consistent with the technical standards specified in Attachment B (RWQP) or Attachment C (WMP) within one year of Tier 3 designation or submittal of a Notice of Intent.

#### **Grazing Management Plan (GMP)**

*If grazing occurs on 50 acres or more, a GMP must be developed and submitted to the Water Board for review. It must also be kept on the CAF site and made available for review by Water Board staff during inspections.*

The GMP must be completed and implemented consistent with the technical standards specified in Attachment E, within one year of Tier 3 designation or submittal of a Notice of Intent. If all technical standards and provisions of Attachment E are included in the RWQP, WMP, or NMP, a separate GMP is not required.

#### **Nutrient Management Plan (NMP)**

*If liquid waste is applied to land, a NMP must be must be prepared by a qualified professional and submitted to the Water Board for review. It must also be kept on the CAF site and made available for review by Water Board staff during inspections.*

The NMP must be completed, and implemented consistent with the technical standards specified in Attachment D, within two years of Tier 3 designation or submittal of a Notice of Intent.

### **3. Notice of Non-Applicability**

A CAF that meets any of the following conditions may apply for an exclusion from coverage under this Order by submitting a Notice of Non-Applicability (NONA) (Attachment I), subject to Executive Officer approval:

- a. Number of animals within confined areas is small in relation to the size of the facility and poses no potential for adverse water quality impact;
- b. Primary means for feeding and containing animals is on pasture lands (coverage under a Grazing Waiver may be required);
- c. Animals are rarely confined and/or fed in areas devoid of vegetation, especially during the rainy season; or
- d. Stormwater does not contact manure or waste materials within the facility's confined areas and all waste is disposed lawfully offsite.

These facilities may need to obtain coverage under this Order in the future if conditions or operations change or the potential for water quality impacts is found.

### **4. Annual Reporting**

The Discharger must submit an Annual Report (Attachment A, Appendix 1) to the Water Board by **November 30 each year**, in accordance with the Monitoring and Reporting Program requirements. The Annual Report shall assess whether BMPs for waste

containment, nutrient application to land at agronomic rates, and grazing management measures 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). It shall also include documentation that rainy-season preparations have been completed, results of water quality sampling (if individual monitoring was required), and updates regarding any schedules for compliance and other data, as described in the Monitoring and Reporting Program. If participating in a watershed-based or group monitoring program, a statement identifying the group must be included.

## 5. Noncompliance Reports

- a. The Discharger shall report any noncompliance that endangers human health or the environment within 24 hours of becoming aware of its occurrence. **The incident shall be reported to the Water Board Spill Hotline (510) 622-2369 and to the California Office of Emergency Services (OES) (800) 852-7550.** During non-business hours, the Discharger shall leave a message on the Water Board's office voice mail. The message shall include the time, date, and place of the discharge. OES is operational 24 hours a day. The Discharger shall submit a written report to the Water Board within five business days of becoming aware of the incident. The report shall include complete details of the steps that the Discharger has taken or intends to take, to correct the condition and prevent recurrence. The written submission shall, at a minimum, contain:
  - The approximate date, time, and location of the discharge;
  - A description of the noncompliance and its cause;
  - The flow rate, volume, and duration of the discharge;
  - A description of the noncompliance, its causes, duration, if the noncompliance has been corrected and/or the actual or anticipated time for achieving compliance; and
  - A time schedule and a plan to implement necessary corrective actions to prevent the recurrence of such discharges.
- b. The Discharger shall take all reasonable steps to minimize any adverse impact to the waters of the State resulting from noncompliance with this Order. Such steps shall include accelerated or additional monitoring as necessary to determine the nature and impact of the noncompliance.
- c. The fact that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the Order shall not be a defense for violations.

## 6. Reporting Provision

- a. All technical reports and/ or monitoring program reports submitted to the Water Board shall be accompanied by a cover letter signed by the owner, operator, or duly authorized representative, with the following certification:

*"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my*

*inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”*

- b. Any Discharger authorized to discharge waste under this Order shall furnish, within a reasonable time, any information the Water Board may request, to determine whether cause exists for modifying, revoking, and reissuing, or terminating coverage under this Order. The Discharger shall also furnish to the Water Board, upon request, copies of records required to be kept by this Order.
  - c. Except for data determined to be exempt from disclosure under the Public Records Act (California Government Code Sections 6275 to 6276), and data determined to be confidential under CWC section 13267(b)(2), all reports prepared in accordance with the terms of this Order and submitted to the Executive Officer shall be available for public inspection at the offices of the Water Board. Knowingly making any false statements on any such report may result in the imposition of criminal penalties as provided for in section 13387 of the CWC.
7. The Discharger shall submit a ROWD to the Water Board at least 140 days prior to any changes or proposed changes in:
    - a. The character, location, volume, or disposal methods of waste discharges;
    - b. The size and/or use of the facilities;
    - c. The animal population, if it increases beyond the existing design capacity of the facility specified in the Ranch Water Quality Plan, Waste Management Plan, Nutrient Management Plan, and/or Grazing Management Plan.
  8. The filing of a request by the Discharger for modification, revocation, reissuance, or termination of this Order, or notification of planned changes or anticipated noncompliance, does not stay any condition of this Order.
  9. The Discharger may be required to submit technical reports as directed by the Executive Officer in accordance with CWC section 13267.

#### **10. Extension Request**

The Discharger may request an extension to deadlines by written request to the Executive Officer at least 30 days prior to the deadlines. This request must include a description of incomplete plan elements, an alternative date of compliance, and assurance of water quality protection in the interim. Any requests for extension are subject to approval by the Executive Officer, and a written response from Water Board staff will be issued granting or denying the request.

### **I. APPLICATION REQUIREMENTS**

1. In order for existing facilities to obtain coverage under this Order, Dischargers shall apply for coverage by submitting a completed Notice of Intent form (Attachment F) on or before October 31, 2016.

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2. Prior to operating an existing dormant CAF, Dischargers shall certify that all requirements listed in Section D. are completed by submitting a Notice of Intent for Re-opening Dormant Facilities (Attachment G).
3. Prior to operating a new or expanding CAF, Dischargers must certify that all requirements listed in Section E. are completed, and all local, State, and federal construction permits have been obtained, by completing and submitting a Notice of Intent for New or Expanding Facilities (Attachment H).
4. Dairies currently enrolled under the 2015 Conditional Waiver are required to enroll into Tier 2 of this Order when the 2015 Conditional Waiver expires on June 9, 2020. In order to obtain coverage under this Order, Dischargers shall submit a completed Notice of Intent form by September 1, 2020.
5. Other existing Dischargers that the Executive Officer subsequently determines need coverage under this Order, shall submit a complete Notice of Intent and associated required information within 90 days of being notified to comply with this Order.
6. If the Discharger becomes aware that a relevant fact was omitted in a Notice of Intent, or incorrect information was submitted in a Notice of Intent or in any report to the Water Board, it shall promptly submit the correct facts or information. Completed forms shall be sent to the Water Board at the following address:

San Francisco Bay Regional Water Quality Control Board  
ATTN: Confined Animal Facility Program  
1515 Clay Street, Suite 1400  
Oakland, CA 94612
7. Coverage under this Order is subject to fees as determined by the State Water Board. The application fee/annual fee schedule is developed by the State Water Board annually.
8. Facilities that are certified under a Quality Assurance Program, approved by the State Water Board or under a county regulatory program approved by the appropriate Regional Water Board, currently receive a 50 percent fee reduction. If the Water Board issues a Notice of Violation for an off-property discharge, the facility's certification and fee reduction will be revoked. The fee reduction will be revoked for a minimum of one billing cycle, and for all subsequent billing cycles, until all corrective actions are complete as determined by the Water Board and the facility's certification is restored.

**J.** Order No. R2-2003-0093 is hereby rescinded.

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I, BRUCE H. WOLFE, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on June 8, 2016.

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BRUCE H. WOLFE  
Executive Officer

- Attachment A - Monitoring and Reporting Program (MRP) No. R2-2016-0031
  - Appendix 1 - Annual Report (to be provided)
  - Appendix 2 - Sampling and Analysis Reduction Certification (to be provided)
- Attachment B - Ranch Water Quality Plan (RWQP)
- Attachment C - Waste Management Plan (WMP)
- Attachment D - Nutrient Management Plan (NMP)
- Attachment E - Grazing Management Plan (GMP)
- Attachment F - Notice of Intent (NOI)
- Attachment G - Notice of Intent for Re-opening Dormant Facilities
- Attachment H - Notice of Intent for New or Expanding Facilities
- Attachment I - Notice of Non-Applicability (NONA)
- Attachment J - Definitions
- Attachment K - Title 27 of the California Code of Regulations, sections 22560-22565
- Attachment L - Initial Study and Mitigated Negative Declaration