

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER R5-2019-0034

AMENDING WASTE DISCHARGE REQUIREMENTS ORDER R5-2016-0087
FOR
POULTRY OPERATIONS

The California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board), finds that:

Waste Discharge Requirements Order R5-2016-0087

1. Under the Porter-Cologne Water Quality Control Act (Division 7 of the California Water Code), the Central Valley Water Board has the authority to regulate waste discharges that could affect the quality of the waters of the state, which includes any surface or ground water within the boundaries of the state.
2. On 6 December 2016, the Central Valley Water Board adopted Waste Discharge Requirements Order R5-2016-0087 (Order R5-2016-0087) prescribing requirements for discharges of waste from poultry operations. A poultry operation is a facility where animals such as chickens, turkeys, ducks, geese, guinea fowl, pheasants, pigeons, and/or ostriches are raised and which meets criteria listed in Finding 2 of Order R5-2016-0087.
3. Order R5-2016-0087 applies to poultry operations that house the equivalent of 2 Animal Units (AU) worth of birds at any given time, where 1 AU equals 1,000 pounds of poultry. Order R5-2016-0087 does not apply to facilities that operate only seasonally (less than 12 weeks in any 12-month period AND for no more than three consecutive weeks per event, such as fairs or annual farm events), or small backyard operations raising or keeping poultry for domestic use.

Reason for Proposed Amendment

4. Order R5-2016-0087 was developed primarily to regulate traditional commercial poultry operations. Traditional commercial poultry operations house birds almost entirely inside roofed permanent structures and collect and manage waste generated from housed birds by exporting to a third party or applying to cropland.
5. Pasture raised poultry operations are different than traditional commercial poultry operations in that they house birds almost entirely outside, rather than confined in cages or housing. Pasture raised poultry operations typically include movable pens, shelters, or coops with open outdoor access that are moved periodically. Birds spend most of the time on pasture, feeding primarily on grass or forage. The bird stocking density of pasture raised poultry operations is much lower than the stocking density of traditional commercial poultry operations. Also, this type of pasture raised poultry production method is typically done on a much smaller scale than traditional commercial poultry operations.

6. Although it does not exclude pasture raised poultry operations, Order R5-2016-0087 is not appropriate for such operations due to the many operational and management differences between pasture raised poultry operations and traditional commercial poultry operations. No pasture raised poultry operations have been or are currently enrolled under Order R5-2016-0087.
7. This Order amends Order R5-2016-0087 to exclude pasture raised poultry operations.
8. The Central Valley Water Board intends to develop separate general waste discharge requirements to regulate waste discharges by pasture raised poultry operations. The Central Valley Water Board also has the authority to issue individual waste discharge requirements at any time for any pasture raised poultry operation that could affect the quality of the waters of the state.
9. This Order also amends Order R5-2016-0087 to clarify that the definition of Agricultural Composting under Order R5-2016-0087 matches the definition under the State Water Resources Control Board's (State Water Board) General Waste Discharge Requirements for Composting Operations, Order WQ 2015-0121-DWQ (Composting General Order).
10. Under Section F of Order R5-2016-0087, a composting area is exempt from the requirements of the Composting General Order if, among other reasons, the composting operation meets the definition of "Agricultural Composting," which means that (a) feedstocks consist only of materials generated onsite by production of farm, ranch, agricultural, horticultural, silvicultural, floricultural, vermicultural, or viticultural products; (b) animal carcasses are not composted; (c) the resulting compost product is returned to that same agricultural site, or to an agricultural site owned by the owner of the composting activity, and is applied at an agronomic rate; and (d) no more than 1,000 cubic yards of compost product are given away or sold annually.

California Environmental Quality Act

11. The action to amend Order R5-2016-0087 to exclude pasture raised poultry operations from coverage is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Public Resources Code section 21080(b)(5) and California Code of Regulations, title 14, section 15270 because CEQA does not apply to projects which a public agency rejects or disapproves. This action is also exempt from the provisions of CEQA because it involves no significant changes to the facilities regulated under Order R5-2016-0087 and is consistent with California Code of Regulations, title 14, section 15301, which exempts the "operation, repair, maintenance, [and] permitting . . . of existing public or private structures [or] facilities." Finally, this action is exempt from the provisions of CEQA pursuant to California Code of Regulations, title 14, section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Public Notice

12. The Central Valley Water Board has notified the Dischargers and interested agencies and persons of its intent to amend Order R5-2016-0087 and has provided them with an opportunity for a public hearing and to submit their written views and recommendations.
13. The Central Valley Water Board, in a public meeting, heard and considered all comments pertaining to the proposed amendment of Order R5-2016-0087.

IT IS HEREBY ORDERED that Order R5-2016-0087 is amended to exclude pasture raised poultry operations and clarify that the definition of Agricultural Operations matches the definition under the Composting General Order. **Effective immediately upon adoption**, Order R5-2016-0087 is amended as shown in items 1 through 14 below.

1. Change the Order number throughout to R5-2016-0087-01.
2. **Finding 2.** Modify Finding 2 as shown in underline/strikeout format below:

Poultry Operations are subject to the Poultry General Order if they have the equivalent of 2 Animal Units (AU) worth of birds at any given time, where 1 AU equals 1,000 pounds of poultry. The Order shall not apply to facilities that operate only seasonally (less than 12 weeks in any 12 month period AND for no more than three consecutive weeks per event, such as fairs or annual farm events), or small backyard operations raising; or keeping poultry for domestic use. ~~or~~ Pasture raised poultry operations as defined in Attachment E are not required to obtain coverage under this Order.

3. **Finding 10.** Modify Finding 10, footnote 4, as shown in the strikeout format below:

~~[⁴In the case of pasture raised poultry, housed means the number of animals within the boundaries of the facility.]~~

4. **Section E, Land Application Area Specifications (Where Applicable).** Modify Section E.4.b as shown in the underline/strikeout format below:

For ~~pasture operations or~~ operations where animals spend more than an aggregate of twenty percent of the time outdoors (i.e., the time-weighted average number of animals outdoors per day divided by the total number of animals at the facility is greater than 0.20), the stocking rate of birds shall not exceed one AU per one and one-half (1.5) acres of pasture vegetative cover; if the stocking rate exceeds one AU per one and one-half acres, preparation and implementation of a Nutrient Management Plan is required; and

5. **Section F, Composting Area Specifications (Where Applicable).** Modify Section F.3 as shown in the strikeout format below:

The composting operation meets the definition of "Agricultural Composting".
Agricultural Composting ~~does not include manure and~~ means that:

6. Modify the signature line and the paragraph above the signature line as shown in the underline/strikeout format below:

I, ~~PAMELA C. CREEDON~~PATRICK PULUPA, 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, Central Valley Region, on 6 December 2016, and amended by Order R5-2019-XXXX on X April 2019.

PAMELA C. CREEDON PATRICK PULUPA,
Executive Officer

7. **Attachment A, Notice of Intent for Poultry Operations.** Modify Section A of the Type of Birds and Size of the Operation section of Attachment A as shown in the underline/strikeout format below:

PASTURE OUTDOOR, animals spend more than an aggregate of twenty percent of the time outdoors (i.e., the time-weighted average number of animals outdoors per day divided by the total number of animals at the facility is greater than 0.20

8. **Attachment C, Contents of a Nutrient Management Plan and Technical Standards for Nutrient Management for Poultry Operations.** Modify Section E.1.d.b of the Technical Standards for Nutrient Management Plans section of Attachment C as shown in the underline/strikeout format below:

For pasture poultry operations ~~or operation~~ where ~~animals~~ birds spend more than an aggregate of twenty percent of the time outdoors (i.e., the time-weighted average number of animals outdoors per day divided by the total number of animals at the facility is greater than 0.20), the stocking rate of birds shall not exceed one AU per one and one-half acres of pasture vegetative cover ; if the stocking rate exceeds one AU per one and one-half acres, preparation and implementation of a Nutrient Management Plan is required; and

9. **Attachment C, Contents of a Nutrient Management Plan and Technical Standards for Nutrient Management for Poultry Operations.** Modify Section E.1.d.j of the Technical Standards for Nutrient Management Plans section of Attachment C as shown in the underline/strikeout format below:

Where crop material is not removed from the land application area, waste applications are not allowed. For example, if a pasture is not grazed or mowed (and cuttings removed from the land application area), waste shall not

be applied to the pasture. ~~Pasture operations shall comply with the carrying capacity limitations and provisions in Section 2.c below.~~

10. **Attachment C, Contents of a Nutrient Management Plan and Technical Standards for Nutrient Management for Poultry Operations.** Modify Section E.2.d.i-ii of the Technical Standards for Nutrient Management Plans section of Attachment C as shown in the strikeout format below:

~~Nutrient loading for pasture (reared outside) operations: for pasture (reared outside) operations a stocking rate may be used in lieu of a Nutrient Management Plan.~~

- ~~i. Nutrient application rates shall be controlled by limiting the number of birds pastured.~~
- ~~ii. The number of birds per acre of pasture area shall not exceed one AU per 1.5 acres of pastureland~~

11. **Attachment E, Definitions for Poultry Operations.** Add the following definition to Attachment E as shown in the underline format below:

"Pasture raised poultry operation" is defined as a poultry operation that houses birds at a relatively low density outside on pasture land, rather than confined in cages or housing. Pasture raised poultry operations include movable pens, shelters, or coops with open outdoor access that are moved periodically. Birds spend most of the time on maintained pasture, feeding primarily on grass or forage.

12. **Monitoring and Reporting Program, Attachment B, Surface Water Monitoring for Poultry Operations.** Modify provision (e) of Table 7 of Attachment B to the Monitoring and Reporting Program as shown in the strikeout format below:

Required for ~~irrigated pasture operations, as well as~~ any operation type where manure is applied within the last year.

13. **Information Sheet.** Modify the "Production Area Issues – Outdoor Access" section of the "Waste Management Provisions in the Poultry General Order" section of the Information sheet as shown in the underlie/strikeout format below:

Production Area issues – Outdoor Access: One of the criteria required to qualify as a Low Threat operation is that animals do not spend more than an aggregate of 20 percent of the time outdoors, due to concerns about the runoff of waste constituents from the outdoor areas. The 20 percent figure is based on industry-provided information on the amount of time that birds spend outdoors when they have access to both a bird house and an outdoor penned area. This information, in turn, is based on observations of bird behavior. Birds do not prefer to go outside at night or during the warmest portion of the day. During wet or cold

weather, birds remain inside. Birds are not allowed outside when they are very young. The intent of the 20 percent figure, which is to be monitored and certified by the Dischargers, is to allow organic operations, which are required to provide outdoor access for birds as a condition of their certification, to qualify for the Low Threat tier, while requiring operations that house birds ~~almost entirely~~ outside for a significant amount of time, such as pasture operations, to receive Full General Order coverage ~~under a separate Waste Discharge Requirements General Order.~~ Staff believe that the risk of runoff of waste constituents from areas housing poultry increases with the amount of time that birds spend outside, as the amount of waste excreted on the ground increases. Pasture raised poultry operations as defined in Attachment E are not required to obtain coverage under this General Order. The Board intends to regulate pasture raised poultry operations under separate waste discharge requirements.

14. Throughout the order, make non-substantive revisions, including correcting typographical errors.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality/

or will be provided upon request.

I, PATRICK PULUPA, 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 on 5 April 2019.

Original signed by

PATRICK PULUPA, Executive Officer