

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

RESOLUTION NO. R2-2003-0094

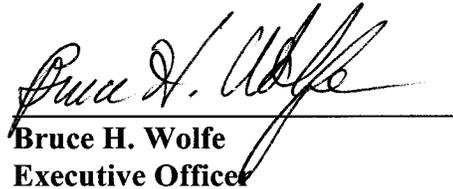
**RENEWAL OF WAIVER OF WASTE DISCHARGE REQUIREMENTS
FOR CONFINED ANIMAL FACILITIES**

- I. **WHEREAS**, a confined animal facility (CAF) is 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; and
- II. **WHEREAS**, within the San Francisco Bay Regional Water Quality Control Board's (Regional Board) region, the primary types of CAFs include cow dairies, horse facilities, goat dairies, and egg, chicken, and/or turkey production facilities within the Counties of Marin and Sonoma; and
- III. **WHEREAS**, Section 13260 (a) of the California Water Code (Water Code) requires that any person discharging waste or proposing to discharge waste, other than to a community sewer system, that could affect the quality of the waters of the State, shall file a report of waste discharge (ROWD) with the appropriate regional board; and
- IV. **WHEREAS**, Section 13263(a) of the Water Code requires a regional board to prescribe waste discharge requirements as to the nature of any proposed discharge, existing or materially changed discharge within its region; and
- V. **WHEREAS**, CAFs involve discharges of waste that could affect water quality and thus are subject to regulation by the Regional Board pursuant to the Water Code; and
- VI. **WHEREAS**, Section 13269(a) of the Water Code provides that a regional board may waive the issuance of waste discharge requirements (WDRs) for a specific type of discharge, if such a waiver is not against the public interest, and that waivers shall be conditional and may be terminated at any time by that regional board; and
- VII. **WHEREAS**, the State Water Resources Control Board, in March 1973, adopted statewide minimum guidelines for discharges of animal waste at confined animal facilities (currently promulgated at Title 27, California Code of Regulations Sections 22560-22565; hereafter, the "Statewide Minimum Standards"- Attachment B.), which require containment of manure, wash water, and storm water runoff from animal confinement areas; and
- VIII. **WHEREAS**, on August 20, 1974, the Regional Board adopted Resolution No. 74-11, *Policy for Enforcement of Guidelines for Waste Disposal From Dairies*, establishing a maximum three-year compliance deadline (extended by the Regional Board for one year in 1977) for full compliance with all guideline provisions by all CAFs in the San Francisco Region; and

- IX. **WHEREAS**, on April 20, 1983, the Regional Board adopted Resolution No. 83-3, *Waiving Waste Discharge Requirements for Specific Types of Discharge* (the "Existing Waiver Policy"), waiving the issuance of WDRs for CAFs operating in compliance with State Water Resource Control Board and Regional Board Guidelines; and
- X. **WHEREAS**, Section 13269 (b) of the Water Code provides that waivers in effect as of January 1, 2000, shall expire as of January 1, 2003, and that such waivers may be renewed by a regional board in five-year increments; and
- XI. **WHEREAS**, Section 13269 (e) of the Water Code provides that the Regional Board require compliance with the conditions pursuant to which waivers are granted; and
- XII. **WHEREAS**, the Statewide Minimum Standards are minimum requirements only and allow the Regional Board to impose additional requirements, including compliance reporting as a condition of the issuance of WDRs; and
- XIII. **WHEREAS**, Section 13267 of the Water Code authorizes the Regional Board to require the preparation and submittal of technical reports, including monitoring and reporting programs. The monitoring and reporting program required by this Resolution is necessary to assure compliance its terms and conditions, and
- XIV. **WHEREAS**, the Regional Board has reviewed the Existing Waiver Policy as it applies to CAFs and surveyed key existing CAFs covered by this Policy and determined that the Policy should be renewed as to those existing CAFs that have proper waste control facilities and management practices in conformance with the Statewide Minimum Standard and updated with additional waiver conditions set forth in Attachment A hereto to ensure compliance with applicable water quality laws and regulations; and
- XV. **WHEREAS**, the waiver conditions set forth in Attachment A hereto include requirements to comply with the Statewide Minimum Standards; and
- XVI. **WHEREAS**, the Regional Board finds that waiving the issuance of WDRs for existing CAFs in the San Francisco Bay Region involving no or negligible expansion of use as of the date of adoption of this Resolution, and that have proper waste control facilities and management practices in conformance with the Statewide Minimum Standards as well as the conditions of waiver set forth in Attachment A hereto, is in the public interest; and
- XVII. **WHEREAS**, the Regional Board further finds that such action will provide for continuation and improvement of the Regional Board's existing program for regulation of CAFs, and will not create any new or additional adverse impacts to water quality in the San Francisco Bay Region; and
- XVIII. **WHEREAS**, this action to waive the issuance of WDRs for existing CAFs involving no or negligible expansion of use is categorically exempt from the California Environmental Quality Act (at Public Resources Code Section 21000 et seq.; "CEQA") pursuant to 14 Cal. Code of Regs. Section 15301; and

- XIX. **WHEREAS**, on October 15, 2003, the Regional Board held a public hearing and heard and considered all comments pertaining to this matter;
- XX. **NOW THEREFORE BE IT RESOLVED**, that the Regional Board hereby waives issuing WDRs for existing CAFs in the San Francisco Bay Region that involve no or negligible expansion of use as of the date of adoption of this Resolution and that now or hereafter have proper waste control facilities and management practices in conformance with the Statewide Minimum Standards,
- XXI. **BE IT FURTHER RESOLVED**, that this waiver is for a period of five years unless terminated sooner;
- XXII. **BE IT FURTHER RESOLVED**, that coverage under this waiver is conditioned upon the existing CAFs fully complying with the conditions of waiver set forth in Attachment A hereto and incorporated herein by this reference;
- XXIII. **BE IT FURTHER RESOLVED**, that the Executive Officer may terminate coverage under this waiver as to a particular discharger where the discharger fails to meet the conditions of waiver set forth in Attachment A. If coverage under this waiver is terminated for a particular CAF, the CAF shall seek coverage under General Waste Discharge Requirements for Confined Animal Facilities, Order No. R2-2003-0093 or individual WDRs.

I, BRUCE H. WOLFE Executive Officer, do hereby certify that the foregoing is a full, true and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on October 15, 2003.


Bruce H. Wolfe
Executive Officer

Attachments:

- A. Conditions for Waiver of Waste Discharge Requirements
For Discharges From Confined Animal Facilities
- B. Title 27 – Statewide Minimum Standards
- C. Report of Waste Discharge - Supplemental Information Needed
- D. Notice of Intent



ATTACHMENT A

Conditions for Waiver of Waste Discharge Requirements For Discharges From Confined Animal Facilities

With the adoption of Resolution No. R2-2003-0094, the Regional Board waived issuing WDRs for existing confined animal facilities (CAFS) if the facility owner / operator (hereafter "the discharger") meets the applicability requirements and complies with all conditions listed below.

I. Eligibility for Coverage

CAFs that meet all of the following are eligible for coverage under this waiver:

1. Are in existence as of the date of adoption of Resolution No. R2-2003-0094, and
2. Currently have proper waste control facilities and management practices in conformance with the Statewide Minimum Standards, as determined by the Executive Officer.

II. Management Practices

1. The discharger must operate in compliance with *Statewide Minimum Standards for Discharges of Animal Wastes* (Title 27, California Code of Regulations Section 22560-22565-Attachment B.), and any amendments thereto.
2. Manure ponds and containment facilities shall be designed to accommodate the waste water flow and stormwater, contacting manured areas, that is likely to accumulate in the wettest winter that may occur in a twenty-five year period. Management of such containment facilities shall include, but not be limited to, the following:
 - a. Spreading of manure and pond clean-out shall occur annually, at a minimum, and should be conducted prior to October 15;
 - b. Uncovered feeding and/or confined loafing areas must be scraped/cleaned prior to each storm event and should be conducted prior to October 15, unless all storm water contacting these areas is contained;
 - c. Manure and waste water discharges to land, including spray irrigation, shall be conducted during non-rainy or non-saturated conditions;
 - d. 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 ground water;
 - e. 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. The total nutrient loading shall not exceed the amount needed to meet crop demand; and

- f. Waste containment ponds shall be managed to have sufficient freeboard, but in no case less than two feet (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.
3. In addition to manure waste and waste water generated from storm water contacting confined manured areas, the discharger must properly contain and manage all other wastes including, but not limited to, silage leachate, dead animals, waste milk, veterinary medical waste, spoiled feed, bedding, etc., and any precipitation contacting these materials. In addition, the discharger must comply with the following waste disposal criteria:
 - a. **Waste milk:** Prepare an operating/maintenance plan and take steps that will virtually eliminate the possibility of impacts to water quality or the development of nuisance problems. The preferred option is some beneficial use of the milk, such as a feed supplement. Because the risk of nuisance from odors or vectors like flies and mosquitoes is so high, only as a last option should the discharger impound the waste milk in its retention ponds for later use in irrigation. If disposal is necessary, the best option is to directly use the waste milk on irrigated cropland implementing the following actions:
 - i. Prevent any waste milk from entering into surface waters, either by direct discharge or in irrigation or storm runoff,
 - ii. Prevent any ponding of the waste milk on fields that would result in nuisance conditions,
 - iii. When possible, dilute the milk with fresh irrigation water or with dairy process water when applying it to cropland to avoid over-application to any part of the field, and
 - iv. Report to the Regional Board in writing within one week the quantity of waste milk discharged and the location of the discharge (show the location on a map).
 - b. **Dead animals:** Dead animals shall be disposed of in accordance with appropriate state, local laws and regulations. This waiver does not permit on-site animal disposal.
4. Future management practice requirements may also be imposed by the Executive Officer, within federal Clean Water Act (CWA) Section 303(d) Water Bodies, listed as impaired by constituents that may be present in waste from the CAF.

III. Compliance Reporting

1. At a minimum, the discharger must conduct visual inspections to verify that all waste and storm water contacting waste accumulation areas is contained on-site and prevented from entering surface waters. These inspections must be conducted according the following conditions:

- a. The discharger must inspect all containment facilities, clean runoff diversion structures and pumping equipment to detect leaks and ensure maintenance of adequate freeboard;
 - b. The discharger must inspect the closest receiving water, upstream and downstream of all facilities and disposal areas to monitor any change in water quality resulting from its facility operations;
 - c. Inspect confined areas to ensure that all pollution prevention measures, as specified by this order and *Statewide Minimum Standards for Discharges of Animal Wastes*, are implemented and effective;
 - d. Inspections shall be conducted prior to anticipated storm events, during extended storm events and after actual storm events, or at a minimum, on a monthly basis during dry conditions. Pre-storm inspections are to ensure that all pollution prevention measures are properly installed and maintained; mid-storm and post-storm inspections are to assure that preventative measures have functioned adequately and whether additional measures are needed; and
 - e. Records shall be maintained of the inspection dates, observations, and any response taken to eliminate leaks and to maintain adequate freeboard.
2. The discharger must submit an annual certification to the Regional Board that its facility meets all conditions of this waiver. A report form, developed by the Regional Board, shall be submitted by November 15 of each year (starting in 2004). The report shall include photo documentation of compliance with required pre-season pollution prevention measures in all waste containment and confined manured areas.
 3. 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 Regional Board Office and to the California Office of Emergency Services (OES). During non-business hours, the discharger shall leave a message on the Regional Board's voice mail. The message shall include the time, date, and place of the discharge and shall be recorded in writing by the discharger. The OES is operational 24 hours a day. A written report shall be submitted to the Regional Board office within five (5) business days of the discharger becoming aware of the incident. The written submission shall contain:
 - a. The approximate date, time, and location of the discharge;
 - b. A description of the noncompliance event and its cause;
 - c. The flow rate, volume, and duration of the discharge;
 - d. The period of noncompliance, including dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
 - e. The steps taken to correct discharge and/or a time schedule and a plan to implement corrective actions necessary to prevent the recurrence of such discharges.
 4. The Executive Officer may require, as appropriate, additional monitoring on a site specific or watershed basis. Future monitoring requirements may also be imposed by the Executive Officer, within CWA Section 303(d) Water Bodies, listed as impaired by constituents that may be present in waste from CAFs.

IV. Application and Termination Procedures

1. To be covered by this waiver, the discharger shall submit a completed Notice of Intent (NOI – Attachment D.) that includes a ROWD (see Attachment C.) and documentation of compliance with the Statewide Minimum Standards, as well as documentation that conclusively demonstrates how the discharger is or intending to satisfy all the conditions of this waiver, for Executive Officer concurrence, within 90 days of adoption or notification to comply with this Resolution.
2. The discharger shall, within 21 days of receiving notice from the Regional Board that its facility no longer qualifies for coverage under this waiver for failure to comply with the waiver terms and conditions, file an updated ROWD and submit an applicable filing fee with the Regional Board, in order to obtain coverage under WDRs. Discharges that could affect the quality of the waters of the State may commence only in accordance with Water Code Section 13264(a).
3. In the event of any change in operation control or ownership of land or waste discharge facilities, the discharger shall immediately notify any succeeding discharger of its responsibility to comply with this waiver. A copy of such notice shall be submitted to the Regional Board in order for the original discharger to be relieved of its responsibility to comply with this waiver. In order to continue the discharge pursuant to this waiver, the succeeding discharger must submit a completed NOI to the Regional Board within 21 days of receipt of such notice, and receive approval by the Board's Executive Officer.
4. In the event of closure or change in land use of the discharger's facility, the discharger shall file a Notice of Termination to the Regional Board. Prior to termination approval, all manure and animal waste impacted soil is to be disposed of appropriately so as not to pose a threat to surface water or groundwater quality or create a condition of nuisance.

ATTACHMENT B

STATEWIDE WATER QUALITY REGULATIONS FOR CONFINED ANIMAL FACILITIES¹

Subchapter 2. Confined Animals

Article 1. SWRCB - Confined Animal Facilities

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

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

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

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

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

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

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

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

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

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

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

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

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

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

¹ From Title 27, Division 2, Subdivision 1, California Code of Regulations.

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

(e) **Discharge To Disposal/Use Fields**—The RWQCB shall allow the discharge of facility wastewater and of collected precipitation and drainage waters to use or disposal fields only if such discharge is in accordance with B18130. Absent an NPDES permit for discharge to surface waters, the only other allowable discharge is to wastewater treatment facilities approved by the RWQCB.

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

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

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

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

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

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

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

ATTACHMENT C

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD SAN FRANCISCO BAY REGION

REPORT OF WASTE DISCHARGE - SUPPLEMENTAL INFORMATION NEEDED for CONFINED ANIMAL FACILITIES

The Report of Waste Discharge (ROWD) shall include at least the information identified below. It should be noted that this list does not necessarily identify all of the information needed for a complete ROWD. Additional information may be needed, as determined by project staff, based on review of the information submitted.

- A completed ROWD application form (Form 200). This form include basic information such as name and location of facility; name, address and telephone number of legal owner and operator; type of facility operation (use) and waste; dated signature of applicant or agent, and status of CEQA process for the project.
(Blank copy available on internet at www.swrcb.ca.gov/sbforms/index.html)
- Descriptions of the confined animal populations normally at your facility, delineating the numbers of milking cows, dry cows, heifers, calves and other livestock.
- A scaled facility map including: property perimeter, buildings, roadways, land use designations (crops, grazed areas, woodlands, dairy facilities, pastures, confined areas, feeding areas, etc.), topography, creeks, drainages, livestock crossings, waste collection and disposal system (waste conveyances, ponds, pumps, pipes, irrigation/disposal areas, etc.).
- Calculations of average daily volume of manure and wastewater generated (liquids and solids), including storm water runoff contacting areas that may contain animal waste that would: a) be generated during a 25-year, 24-hour storm event, and b) be likely to accumulate in the wettest winter that may occur in a twenty five-year period. (Information on the 25-year, 24-hour storm event and the wettest winter in a ten-year period in your facility's vicinity should be available from the National Weather Service or from local flood control agencies.)
- A description of confined manured areas that are scraped or flushed (including corrals and areas covered by roofs), the scraping/flushing frequency, and the average daily volumes of solid and liquid wastes generated in each area.
- Calculation of existing and required storage capacity. An evaluation of collection system including the use of any sumps, pumps, scraping pits, settling ponds, solids separators, wastewater recycling facilities, waste ponds or other waste containment areas or facilities. Capacity shall be defined in terms of both volume and animal capacity. Indicate whether pumps are activated manually or automatically.
- If any wastes are disposed off-site, indicate the volume disposed, disposal frequency, the disposal site, and the name of the contractor hauling the wastes.



SECTION V. IMPLEMENTATION OF WAIVER CONDITIONS

<p>A. STATEWIDE MINIMUM STANDARDS FOR CONFINED ANIMAL FACILITIES <i>(check if true)</i></p> <p><input type="checkbox"/> Facility is currently operating in compliance with Statewide Minimum Standards for Discharges of Animal Waste (Title 27)</p>
<p>B. FACILITY / OPERATION MANAGEMENT <i>(check if true)</i></p> <p><input type="checkbox"/> Manure ponds and containment facilities are designed to accommodate the waste water flow and stormwater contacting manured areas, that is likely to accumulate in the wettest winter that may occur in a 25-year period.</p> <p><input type="checkbox"/> Manure ponds and containment facilities are managed in accordance with the Conditions for Waiver of WDRs.</p> <p><input type="checkbox"/> All non-manure wastes such as silage leachate, dead animals, waste milk, veterinary medical waste, spoiled feed, bedding, etc., are contained and managed in accordance with the Conditions for Waiver of WDRs.</p>
<p>C. MONITORING PROGRAM <i>(check if true)</i></p> <p><input type="checkbox"/> A monitoring plan has been prepared in order to implement the required pre-season and storm event inspections.</p>

SECTION VI. Report of Waste Discharge (ROWD)

<p>I have enclosed a ROWD YES <input type="checkbox"/> I have previously submitted a ROWD YES <input type="checkbox"/> DATE: _____</p>
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SECTION VII. CERTIFICATION

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