

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

STAFF SUMMARY REPORT (Laurie Taul)
MEETING DATE: JUNE 8, 2016

ITEM: 6

SUBJECT: **General Waste Discharge Requirements for Confined Animal Facilities within the San Francisco Bay Region** – Adoption of General WDRs

CHRONOLOGY: October 2003 – General Waste Discharge Requirements adopted

DISCUSSION: The Revised Tentative Order (Order) (Appendix A) would rescind and replace Order No. R2-2003-0093, General Waste Discharge Requirements for Confined Animal Facilities (2003 General WDRs). The updated Order clarifies the regulatory requirements for confined animal facilities (CAFs) that are *not* currently covered under the Conditional Waiver of WDRs for dairies (2015 Dairy Waiver) adopted by the Board in June 2015, including non-dairy CAFs, e.g., horse-boarding facilities. The Order also implements Total Maximum Daily Loads (TMDLs) that were adopted after issuance of the 2003 General WDRs.

A number of cow dairies in our region that closed in the past are now in the process of re-opening, often as goat or sheep dairies. The Order includes coverage for existing dormant facilities that re-open. To satisfy CEQA requirements, we completed an Initial Study and Mitigated Negative Declaration (Appendix A, Attachment L). In addition, new or expanded facilities may seek coverage under the Order if they comply with CEQA prior to enrollment.

What the Order Covers: This Order addresses the collection and management of animal waste at CAFs to prevent waste discharge to surface water and groundwater. This Order includes three tiers that are based on CAF type and threat to water quality:

- a. Tier 1 applies to CAFs that *do not* utilize liquid waste retention ponds,
- b. Tier 2 applies to CAFs that utilize liquid waste retention ponds, and
- c. Tier 3 applies to any CAF that, due to its complexity, is a threat to water quality or is contributing to adverse water quality impacts.

Tier 1 applies to CAFs such as horse-boarding facilities and other non-dairy CAFs. There are about 42 horse facilities located in the region that were identified as potential sources of bacteria for TMDLs adopted in the Tomales Bay, Napa River, and San Pedro Creek watersheds; these facilities are required to seek coverage under this Order. Horse facilities identified in the San Vicente Creek Water Quality Improvement Plan the Board approved last month would also need to seek coverage under this Order. In addition, the Order would apply to other non-dairy CAFs identified as pollutant sources in future TMDLs.

Dairies currently enrolled under the 2015 Dairy Waiver will be required to enroll into Tier 2 of this Order when the 2015 Dairy Waiver expires on June 9, 2020. Requirements for Tier 2 facilities are consistent with the 2015 Dairy Waiver, and we anticipate that coverage

under this Order should be straightforward provided these facilities are in compliance with the 2015 Dairy Waiver.

Tier 3 applies to dairies that are not eligible for coverage under the 2015 Dairy Waiver or CAFs that are unable to meet the conditions of Tiers 1 and 2. There are five dairies currently enrolled in the 2003 General WDRs. We have determined that three of these dairies are not eligible for coverage under the 2015 Dairy Waiver. Upon Order adoption, 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 deficient management plans.

Public Outreach: Board staff enlisted a technical advisory group with agricultural, dairy, and horse-keeping interests and expertise to vet ideas and solicit input on the requirements of the Order. During the public comment period, staff attended an Animal Resource Management Committee meeting sponsored by the Sonoma County Farm Bureau and hosted a public workshop on April 18. The workshop was well attended by a variety of interested parties, including local, State, and federal agencies, resource conservation districts, the Sonoma County Horse Council, and private horse stable owners.

Comments Received: We received six comment letters (Appendix B). Our responses, included in Appendix C, resulted in mostly minor revisions of the Order for improved clarity and consistency of terms. We did revise the Order to address some comments, for example, to clarify that small residential non-commercial facilities are not expected to seek coverage under this Order and that third-party programs for CAFs that are not dairies, similar to the Dairy Quality Assurance Program, could be developed to assist Dischargers in complying with the requirements of the Order.

Some commenters expressed concern over the compliance time frames for non-dairy CAFs that have not, to-date, been regulated through WDRs, claiming that dairies have benefited from decades of regulation and financial assistance programs. We feel the time frames are reasonable and did not modify them. Resources have been made available to help horse facilities identify and implement best management practices, and we continue to support grant projects to assist these facilities. Concerns were also expressed over fees, particularly in delaying or phasing-in fees for small facilities. While we do not have control over phasing-in fees, we can address the fee concerns by working with the State Board, who sets fees, to establish a lower fee for smaller CAFs. Concerns were also raised over including grazing management requirements in the Order in light of the State Board's discontinuing a statewide grazing regulatory action project. The Order is consistent with the direction provided by the State Board and consistent with the Grazing Waivers already adopted by this Board.

Lastly, some commenters expressed appreciation for staff's outreach efforts, for providing a clear regulatory path forward for reopening dormant operations, and for the tier-structure and flexibility in requirements for different CAF types based on scale of operation and animal type.

**RECOMEN-
DATION:**

Adoption of the Revised Tentative Order and Mitigated Negative Declaration

APPENDIX A:

Revised Tentative Order

APPENDIX B:

Comments Received

APPENDIX C:

Response to Comments