

ATTACHMENT A

CONDITIONS FOR WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES FROM CONFINED ANIMAL FACILITIES

California Water Code Section 13269 authorizes the Regional Water Quality Control Board, Central Valley Region (Regional Board) to waive waste discharge requirements as to a specific type of discharge if the waiver is not against the public interest and the waiver is conditional. This waiver may be terminated at any time by the Regional Board.

The Regional Board in Resolution [number and date] waived waste discharge requirements for discharges from certain confined animal facilities in the Central Valley Region if the owner/operator of the confined animal facility (hereafter “Discharger”) complies with the conditions listed in I, II, III, IV, V, and VI below.

I. Application

This Waiver applies only to facilities that meet all of the following:

1. Confined animal facilities that:
 - a. Are in existence as of 1 January 2003; or
 - b. Are new or expand¹ after 1 January 2003 and that provide documentation of compliance with the California Environmental Quality Act (CEQA) by a lead agency that adequately evaluates the environmental impacts of the new or expanded facility in an Environmental Impact Report or Negative Declaration.
2. Dairies that are certified by the California Dairy Quality Assurance Program (CDQAP), poultry facilities that have developed and implemented a Nutrient Management Plan under the California Poultry Federation’s (CPF) program, and confined animal facilities that operate under a Regional Board recognized Environmental Stewardship Program or local ordinance.
3. Confined animal facilities that are not subject to National Pollutant Discharge Elimination System (NPDES) permitting requirements pursuant to the federal Clean Water Act.²

¹ Expansion includes, but is not limited to, any increase in herd or flock size such that the facility would have to: acquire more acreage for reuse of waste or wastewater to prevent impacts to surface water or groundwater quality; or an increase in the capacity of the retention pond to maintain compliance with the conditions of the waiver for adequate flood protection and wastewater containment.

² The Clean Water Act and its implementing regulations require that all concentrated animal feeding operations (CAFOs) are point sources and subject to NPDES permitting requirements. A CAFO is defined as any animal feeding operation that has more than 1,000 animal units, except where such a facility only discharges during a 25-year, 24-hour storm event or larger. Some smaller animal feeding operations may be designated as CAFOs if they meet certain criteria.

4. Confined animal facilities that discharge only waste that includes, but is not limited to, dry manure and process wastewater resulting from water directly or indirectly used in the management of a confined animal facility or resulting from any of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning or flushing pens, barns, manure pits or other feedlot facilities; washing or spray cooling of animals; and dust control (as defined in Title 40 Code of Federal Regulations Part 412.21). Process wastewater also includes precipitation which comes in contact with any manure, litter, bedding, feed supplies, or with any other raw, intermediate or final material or product used in or resulting from the confined animal facility.

II. Eligibility Requirements

In order to be eligible for this Waiver, the Discharger shall submit the following applicable documents to the Regional Board by the deadline specified.

1. Confined Animal Facilities Existing as of 1 January 2003
 - a. Owner/operators of existing confined animal facilities shall submit by **31 March 2003**:
 - i. A completed Report of Waste Discharge (Attachment B) documenting compliance with the conditions of this Waiver; and
 - ii. A filing fee of \$2,000 (all or a portion of the filing fee will be refunded in accordance with Section 13260(e) of the California Water Code), or proof that a \$2,000 fee has already been submitted and that the facility has not changed ownership or operation, expanded the herd or flock size, or expanded waste storage or disposal areas since submittal of the \$2000 fee.
 - b. Owner/operators of existing poultry facilities shall, in addition, submit one of the following by **31 March 2003**:
 - i. Documentation of development and implementation of a Nutrient Management Plan under the CPF program, or
 - ii. A Plan with a schedule to develop and implement a Nutrient Management Plan under the CPF program that requires full implementation by **1 January 2005**, or
 - iii. A Plan with a schedule to obtain certification under a Regional Board recognized local ordinance program by **1 January 2005**.

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- c. Owner/operators of existing dairy facilities shall, in addition, submit one of the following by **31 March 2003**:
- i. Documentation of CDQAP certification, or
 - ii. A Plan with a schedule to obtain CDQAP certification that includes:
 - (1) By **1 January 2004**, documentation of completion of the educational component of the CDQAP.
 - (2) For owner/operators of dairy facilities with more than 1,000 animal units³:
 - (a) By **1 January 2005**, documentation of at least one third-party evaluation of the facility under the CDQAP; and
 - (b) By **1 January 2006**, documentation of certification under the CDQAP.
 - (3) For owner/operators of dairy facilities with 1,000 animal units or less:
 - (a) By **1 January 2006**, documentation of a third-party evaluation of the facility under the CDQAP; and
 - (b) By **1 January 2007**, documentation of certification under the CDQAP, or
 - iii. A Plan with a schedule to obtain certification under a Regional Board recognized local ordinance program by **1 January 2006**.
- d. Owners/Operators of existing confined animal facilities other than poultry or dairy facilities shall, in addition, submit one of the following by **31 March 2003**:
- i. Documentation of certification in a Regional Board-recognized Environmental Stewardship Program or approval by the Executive Officer; or
 - ii. A plan with a schedule to obtain certification under a Regional Board-recognized Environmental Stewardship Program or local ordinance program by **1 January 2006**.

³An animal unit is defined as a unit of measurement for any animal feeding operation calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 25 kilograms (approximately 55 pounds) multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0. See Table 1 for a list of the numbers of different animals that make up 1,000 animal units.

2. New or Expanding Confined Animal Facilities

- a. **Prior to startup of operations or expansion**, owner/operators of confined animal facilities which are new or expand after 1 January 2003 shall submit:
 - i. A completed Report of Waste Discharge documenting compliance with the conditions of this Waiver;
 - ii. A filing fee of \$2,000 (all or a portion of the filing fee will be refunded in accordance with Section 13260(e) of the California Water Code); and
 - iii. Documentation of compliance with the California Environmental Quality Act (CEQA) by a lead agency that adequately evaluates the environmental impacts of the new or expanded facility in an Environmental Impact Report or Negative Declaration; and
 - iv. Documentation of CDQAP certification, development and implementation of a Nutrient Management Plan under the CPF program, or certification in a Regional Board-recognized Environmental Stewardship Program or local ordinance program.

III. Reporting Requirements

1. Annual Report

Owner/operators of confined animal facilities for which waste discharge requirements are waived shall provide an annual report by **30 January** each year to the Regional Board describing waste management practices for the previous year. The annual report should summarize the following:

- a. An inventory of the type (including breed) and the maximum total number of animal units at the facility during the year.
- b. Acreage used for waste disposal and crops grown for waste utilization during the year.
- c. The volume (cubic yards) or weight and destination of all solid manure removed from the facility during the year.
- d. A summary of all off-property discharges during the year, including information as described below under III.2.

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2. Notification of Release or Discharge

The Discharger shall notify the Regional Board by telephone within 24 hours of any discharge of waste, including wastewater-containing manure, off the facility. This notification shall be followed by a written report that shall be submitted to the Regional Board within five days of the discharge. The written report shall contain:

- a. Date discharge began;
- b. Duration of the discharge;
- c. Point of discharge;
- d. Specific source of waste discharge (i.e., overflow from retention pond, rainfall runoff from manure storage areas, etc.); and
- e. Steps taken to prevent future discharges.

Each report submitted shall be sworn to, or submitted under penalty of perjury.

IV. Additional Requirements

1. The Discharger shall comply with all requirements for confined animal facilities in Title 27 California Code of Regulations, Division 2, Chapter 7, Subdivision 1.
2. The Discharger shall comply all applicable provisions of the Water Quality Control Plan for the Sacramento and San Joaquin River Basins (4th Edition 1998) and the Water Quality Control Plan for the Tulare Lake Basin (2d Edition 1995).
3. The Discharger shall comply with the conditions of this Waiver.
4. The Discharger shall comply with all Federal, State, County, and local laws and regulations pertaining to the discharge of wastes from the facility.
5. The discharge of any waste not specifically regulated by this Waiver is prohibited unless the Discharger obtains waste discharge requirements or other permission to discharge.
6. The Discharger shall discharge only in accordance with the complete Report of Waste Discharge.
7. The Discharger shall not create a pollution, contamination, or nuisance, as defined in California Water Code Section 13050;

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8. Facilities shall not discharge waste, including process wastewater, to surface waters or tributaries to surface waters.
9. No person shall initiate a new discharge of waste or make any material changes in any discharge prior to filing a Report of Waste Discharge and no person shall take any of these actions after filing a report of waste discharge but before one of the bulleted items listed below occurs.
 - a. The Regional Board adopts waste discharge requirements; or
 - b. The expiration of 120 days after submittal of a complete report of waste discharge if any of the following applies: (I) the project is not subject to the CEQA (Division 13); (II) the Regional Board is the lead agency for purposes of CEQA, a negative declaration is required, and at least 105 days have expired since the Regional Board assumed lead agency responsibility; (III) the Regional Board is the lead agency for purposes of CEQA, and an environmental impact report or written documentation prepared to meet the requirements of §21080.5 of the Public Resources Code is required, and at least one year has expired since the Regional Board assumed lead agency responsibility; (IV) The Regional Board is a responsible agency for the purposes of CEQA, and at least 90 days have expired since certification or approval of documentation by the lead agency; or
 - c. The Regional Board waives waste discharge requirements pursuant to Section 13269 of the CWC.
10. The discharge of any waste, except waste originating from on-site confined animals or from the storage of animal feed to be used on site as allowed by this Waiver, is prohibited.
11. The Discharger shall comply with the time schedule to implement requirements of the relevant Environmental Stewardship Program as specified in the Eligibility Criteria in II.A.2, 3, and 4 above.
12. The disposal of dead animals at the facility is prohibited unless a Report of Waste Discharge for the disposal has been submitted and waste discharge requirements or a waiver of waste discharge requirements has been issued by the Regional Board.
13. The Discharger shall, upon receipt of notice of termination of applicability of the Waiver, immediately cease all activities that may result in discharges that could affect the quality of waters of the state. Upon notice of termination, the Discharger must file a Report of Waste Discharge and submit an applicable filing fee with the Regional Board. Activities that may result in discharges that could affect the quality of waters of the state may commence only upon enrollment by the Executive Officer under the general waste discharge requirements, the adoption by the Regional Board

of an individual waiver of waste discharge requirements or individual waste discharge requirements, or in accordance with Water Code Section 13264(a) [which may be longer than 120 days, depending on what is necessary to comply with CEQA].

14. In the event of any change in control or ownership of land or waste discharge facilities described in the Report of Waste Discharge, the Discharger shall notify the Regional Board immediately and the succeeding Discharger of that person's responsibility to comply with this Waiver. In order to continue the discharge pursuant to this Waiver, the new Discharger must submit a Report of Waste Discharge and receive approval by the Executive Officer.

V. Compliance Program

The Discharger shall allow Regional Board staff to inspect the facility for the purpose of determining compliance with this Waiver.

The Discharger shall submit and comply with a monitoring program where directed by the Executive Officer in compliance with California Water Code Section 13267, or other applicable provisions of law.

VI. Management Practices

1. Upon cessation of confined animal operations at the facility, 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.
2. The Discharger shall prevent animals from entering any surface water within the confined area.
3. All precipitation and surface drainage outside of manured areas, including that collected from roofed areas and runoff from tributary areas during storm events, shall be diverted away from manured areas unless the drainage is fully retained.
4. In the Sacramento and San Joaquin River Basins, retention ponds and manured areas at confined animal facilities in operation on or before 27 November 1984, shall be protected from inundation or washout by overflow from any stream channel during 20-year peak stream flows. Existing facilities that were in operation on or before 27 November 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 27 November 1984, shall be protected against 100-year peak stream flows. Facilities that expand or upgrade after 1 January 2003 shall be protected against 100-year peak stream flows.

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5. 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 and normal runoff and wastewater generated during the rainy season.
6. In the Tulare Lake Basin, animal confinement facilities, including retention ponds, shall be protected from overflow from stream channels during 20-year peak stream flows for facilities that existed as of 25 July 1975 and protected from 100-year peak stream flows for facilities constructed after 25 July 1975. Facilities that expand or upgrade after 1 January 2003, shall be protected from 100-year peak stream flows.
7. Manured areas shall be managed to minimize infiltration of water into underlying soils.
8. All manure generated at the confined animal facility shall be used beneficially. Records shall be kept detailing the sales or exportation of dry manure from the confined animal facility and include names of buyers and locations of application areas.
9. Salt in animal rations should be limited to the amount required to maintain animal health and optimum production.
10. Retention ponds shall be lined with or underlain by, soils containing at least ten percent clay and not more than ten percent gravel or artificial materials of equivalent impermeability. Additional requirements may be necessary to protect groundwater from degradation.
11. New manure retention ponds shall be sited, designed, constructed, and operated to ensure that the invert of the pond will be at least five feet above the highest anticipated elevation of underlying groundwater.
12. The Discharger shall promptly notify the Regional Board staff about any situation that threatens the integrity of waste containment features or causes or threatens to cause the discharge of waste off the facility or into any surface water drainage course. The Discharger shall take all reasonable steps to promptly correct any situation that threatens waste containment features or causes or threatens to cause the discharge of wastewater off the facility or into any surface water drainage course.
13. The level of waste in the wastewater retention ponds shall be kept at a minimum of two (2) feet from the top of each pond. Lesser freeboard may be approved by the Executive Officer when a registered Civil Engineer demonstrates that the structural integrity of the pond will be maintained with the proposed freeboard.

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14. Feed and manure storage areas shall be graded so that infiltration is minimized and any leachate and storm water runoff is collected and directed to the wastewater retention system.
15. The milk parlor and corrals shall be designed and managed to convey all water that has contacted animal wastes to the wastewater retention system and to minimize the infiltration of water into the underlying soils.
16. Facility wastewater and collected precipitation and drainage waters shall be discharged for use on disposal fields only if such discharge is in accordance with Title 27 California Code of Regulation Section 22563. Unless the Discharger obtains an NPDES permit that allows discharge of waste to surface waters, the only other allowable discharge is to wastewater treatment facilities approved by the Regional Board.
17. 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 conditions, management system, and type of manure. The nutrient loading to the reuse area, including the nutritive value of manure, wastewater, chemical fertilizers and of the irrigation water shall not exceed the crop demand.
18. Discharges of facility wastewater to disposal fields shall not result in surface runoff from disposal fields and shall be managed to minimize percolation to groundwater.
19. Lands that receive dry manure shall be managed to minimize erosion and runoff, and applied manure shall be incorporated into surface soils soon after manure application.
20. The discharge of any waste at the facility regulated by this Waiver, in combination with other sources, shall not cause underlying groundwater to contain waste constituents in concentrations statistically greater than background water quality.
21. Animal confinement areas, manure storage areas, lagoons, disposal fields, and croplands that receive manure shall not create a nuisance.
22. A 100-foot setback shall be maintained at all times between water supply wells and animal confinement areas and waste shall not be applied within 100 feet of any water production well unless it can be demonstrated that an adequate sanitary seal exists or it can be demonstrated that the well will not be a conduit for the migration of waste constituents.
23. If the wastewater distribution system is connected to a well, the backflow of wastewater into the well is to be prevented and the well shall be fitted with an

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approved backflow prevention device that meets all applicable federal, state, and local regulations.

24. The Discharger shall develop and implement a Nutrient Management Plan, which shall be maintained at the facility and available upon request to the Regional Board for review.

I, THOMAS R. PINKOS, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of Attachment A of Resolution No. _____ adopted by the California Regional Water Quality Control Board, Central Valley Region, on _____.

THOMAS R. PINKOS, Executive Officer

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Table 1. Number of Animals Equal to 1,000 Animal Units

Animal Type	Number animals = 1,000 animal units
Slaughter and beef cattle	1,000
Mature dairy cattle (milked or dry)	700
Swine over 25 kilograms (approximately 55 lbs)	2,500
Horses	500
Sheep or lambs	10,000
Turkeys	55,000
Laying hens or broilers (for continuous overflow watering)	100,000
Laying hens or broilers (for liquid manure system)	30,000
Ducks	5,000