

ATTACHMENT A

Are You Eligible for Coverage Under the Waste Discharge Requirements General Order for Existing Milk Cow Dairies?

On 3 May 2007, the Regional Water Quality Control Board, Central Valley Region (Regional Board) adopted Waste Discharge Requirements General Order For Existing Milk Cow Dairies (Order No. R5-2007-0035) (General Order), which applies to milk cow dairies that were in existence as of 17 October 2005 and that filed a Report of Waste Discharge (ROWD) in response to the Regional Board's request of 8 August 2005. Some dairies may not be covered by the General Order even though they filed a ROWD. This document provides information to assist dairies in determining whether they are covered or not covered by the General Order. If you believe you are not covered by the General Order, contact the Regional Board staff immediately to assure timely compliance with the Water Code.

Under what circumstances are you not covered by the General Order?

You are not eligible for coverage under the General Order if:

1. Your dairy receives and/or discharges wastes other than those listed in Finding No. 13 of the General Order, which reads:

“For the purposes of this Order, “waste” includes, but is not limited to, manure, leachate, process wastewater, and any water, precipitation or rainfall runoff that contacts raw materials products, or byproducts such as manure, compost piles, feed silage, milk, or bedding.”

The disposal of waste not generated by on-site animal production activities is prohibited under the General Order. If your dairy receives whey or other off-site material for disposal in your dairy's waste management system (lagoon or land application area), you are not eligible for coverage under the General Order.

2. Your dairy has expanded beyond the number of mature dairy cows stated in the ROWD submitted in response to the Regional Board's 8 August 2005 request.

For purposes of the General Order, the term “expansion” includes any increase in the existing herd size (i.e., by more than 15 percent of the maximum number of mature dairy cows in the herd on 17 October 2005). Regional Board staff will be checking future reports as they are submitted to determine if the maximum herd size has been exceeded.

3. You have increased the storage capacity of the retention ponds or acquired more acreage for reuse of nutrients from manure or process wastewater in order to accommodate an expansion of the existing herd size. The General Order (Attachment E) includes such increases in storage capacity or acreage in the definition of “expansion.”

What actions must you take if you are not covered by the General Order?

1. Dairies that are not covered by the General Order must immediately contact Regional Board staff for instructions on how to prepare an updated ROWD. Upon receipt of the ROWD, Regional Board staff will prepare individual Waste Discharge Requirements for such dairies and those dairies will be required to comply with the requirements and implementation schedules within those individual Waste Discharge Requirements.
2. Prior to adoption of individual waste discharge requirements for your dairy, the Regional Board must assure compliance with the California Environmental Quality Act (CEQA). If an agency other than the Regional Board (such as a county with a Conditional Use Permit process or program Environmental Impact Report, or an air pollution control district) is the lead agency for your dairy, you must submit a final CEQA document with your ROWD. If the Regional Board would be the lead agency for your dairy, you must hire an independent consultant to prepare a draft CEQA document in coordination and consultation with Regional Board staff.
3. Call the Regional Board if you have questions, or need detailed instructions on the preparation of a ROWD.

Are you covered by the General Order if you expanded after completing a CEQA document and receiving a permit from the County?

1. You are not covered by the General Order if you expanded by more than 15% of the maximum number of cows listed in your ROWD even if you have approval by the County and have a complete CEQA document for your expanded dairy.
2. You must submit the CEQA document and a complete ROWD to the Regional Board and seek individual Waste Discharge Requirements.

What are the consequences of failing to take appropriate actions?

1. Water Code section 13260 requires any person who discharges waste or proposes to discharge waste that could affect the quality of the waters of the state must submit a Report of Waste Discharge. Water Code section 13264 states that any person who makes any material change in the discharge of waste must submit a Report of Waste Discharge and must wait at least 140

days prior to discharge plus additional time if the California Environmental Quality Act applies to the site. A discharge includes application of liquid or solid manure to land. A material change includes any significant change in the volume or character of the waste, such as an increase in the herd size, significant change in manure management or addition of new types of waste.

2. Any person failing to submit a Report of Waste Discharge when requested by the Regional Board is guilty of a misdemeanor and is subject to monetary civil liability.
3. Any person discharging waste in violation of Water Code section 13264 after such violation is called to the person's attention is guilty of a misdemeanor and subject to monetary civil liability.
4. Any person who fails to comply with these sections may also be subject to enforcement actions by the Attorney General.