



University of Arkansas Division of Agriculture

An Agricultural Law Research Project

Nutrient Management Plans Statutes & Regulations

California

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Nutrient Management Plans

STATE OF CALIFORNIA

1) Cal. Wat. Code §§ 13260, 269, 13376, 377, 382.5, 383; 27 CCR §§ 22560—565; Renewal of Conditional Waiver of Waste Discharge Requirements for Existing Dairies; Irrigated Lands Regulatory Program; Irrigated Lands Regulatory Program (ILRP)

The statutes and Constitution are current through the 2018 regular and special legislative sessions. The statutes are subject to changes by the California Legislative Council.

1) Cal. Wat. Code §§ 13260, 269, 13376, 377, 382.5, 383; 27 CCR §§ 22560—565; Renewal of Conditional Waiver of Waste Discharge Requirements for Existing Dairies; Irrigated Lands Regulatory Program; Irrigated Lands Regulatory Program (ILRP)

§ 13260. Reports; Fees; Recoverable Costs; Waiver; Exemptions

(a) Each of the following persons shall file with the appropriate regional board a report of the discharge, containing the information that may be required by the regional board:

(1) A person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the state, other than into a community sewer system.

(2) A person who is a citizen, domiciliary, or political agency or entity of this state discharging waste, or proposing to discharge waste, outside the boundaries of the state in a manner that could affect the quality of the waters of the state within any region.

(3) A person operating, or proposing to construct, an injection well.

(b) No report of waste discharge need be filed pursuant to subdivision (a) if the requirement is waived pursuant to Section 13269.

(c) Each person subject to subdivision (a) shall file with the appropriate regional board a report of waste discharge relative to any material change or proposed change in the character, location, or volume of the discharge.

(d)

(1)

(A) Each person who is subject to subdivision (a) or (c) shall submit an annual fee according to a fee schedule established by the state board.

(B) The total amount of annual fees collected pursuant to this section shall equal that amount necessary to recover costs incurred in connection with the issuance, administration, reviewing, monitoring, and enforcement of waste discharge requirements and waivers of waste discharge requirements.

(C) Recoverable costs may include, but are not limited to, costs incurred in reviewing waste discharge reports, prescribing terms of waste discharge requirements and monitoring requirements, enforcing and evaluating compliance with waste discharge requirements and waiver requirements, conducting surface water and groundwater monitoring and modeling, analyzing laboratory samples, adopting, reviewing, and revising water quality control plans and state policies for water quality control, and reviewing documents prepared for the purpose of regulating the discharge of waste, and administrative costs incurred in connection with carrying out these actions.

(D) In establishing the amount of a fee that may be imposed on a confined animal feeding and holding operation pursuant to this section, including, but not limited to, a dairy farm, the state board shall consider all of the following factors:

(i) The size of the operation.

(ii) Whether the operation has been issued a permit to operate pursuant to Section 1342 of Title 33 of the United States Code.

(iii) Any applicable waste discharge requirement or conditional waiver of a waste discharge requirement.

(iv) The type and amount of discharge from the operation.

(v) The pricing mechanism of the commodity produced.

(vi) Any compliance costs borne by the operation pursuant to state and federal water quality regulations.

(vii) Whether the operation participates in a quality assurance program certified by a regional water quality control board, the state board, or a federal water quality control agency.

(A) Subject to subparagraph (B), the fees collected pursuant to this section shall be deposited in the Waste Discharge Permit Fund, which is hereby created. The money in the fund is available for expenditure by the state board, upon appropriation by the Legislature, solely for the purposes of carrying out this division.

(B)

(i) Notwithstanding subparagraph (A), the fees collected pursuant to this section from stormwater dischargers that are subject to a general industrial or construction stormwater permit under the national pollutant discharge elimination system (NPDES) shall be separately accounted for in the Waste Discharge Permit Fund.

(ii) Not less than 50 percent of the money in the Waste Discharge Permit Fund that is separately accounted for pursuant to clause (i) is available, upon appropriation by the Legislature, for expenditure by the regional board with jurisdiction over the permitted industry or construction site that generated the fee to carry out stormwater programs in the region.

(iii) Each regional board that receives money pursuant to clause (ii) shall spend not less than 50 percent of that money solely on stormwater inspection and regulatory compliance issues associated with industrial and construction stormwater programs.

(3) A person who would be required to pay the annual fee prescribed by paragraph (1) for waste discharge requirements applicable to discharges of solid waste, as defined in Section 40191 of the Public Resources Code, at a waste management unit that is also regulated under Division 30 (commencing with Section 40000) of the Public Resources Code, shall be entitled to a waiver of the annual fee for the discharge of solid waste at the waste management unit imposed by paragraph (1) upon verification by the state board of payment of the fee imposed by Section 48000 of the Public Resources Code, and provided that the fee established pursuant to Section 48000 of the Public Resources Code generates revenues sufficient to fund the programs specified in Section 48004 of the Public Resources Code and the amount appropriated by the Legislature for those purposes is not reduced.

(e) Each person that discharges waste in a manner regulated by this section shall pay an annual fee to the state board. The state board shall establish, by regulation, a timetable for the payment of the annual fee. If the state board or a regional board determines that the discharge will not affect, or have the potential to affect, the quality of the waters of the state, all or part of the annual fee shall be refunded.

(f)

(1) The state board shall adopt, by emergency regulations, a schedule of fees authorized under subdivision (d). The total revenue collected each year through annual fees shall be set at an amount equal to the revenue levels set forth in the Budget Act for this activity. The state board shall automatically adjust the annual fees each fiscal year to conform with the revenue levels set forth in the Budget Act for this activity. If the state board determines that the revenue collected during the preceding year was greater than, or less than, the revenue levels set forth in the Budget Act, the state board may further adjust the annual fees to compensate for the over and under collection of revenue.

(2) The emergency regulations adopted pursuant to this subdivision, any amendment thereto, or subsequent adjustments to the annual fees, shall be adopted by the state board in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the state board, or adjustments to the annual fees made by the state board pursuant to this section, shall not be subject to review by the Office of Administrative Law and shall remain in effect until revised by the state board.

(g) The state board shall adopt regulations setting forth reasonable time limits within which the regional board shall determine the adequacy of a report of waste discharge submitted under this section.

(h) Each report submitted under this section shall be sworn to, or submitted under penalty of perjury.

(i) The regulations adopted by the state board pursuant to subdivision (f) shall include a provision that annual fees shall not be imposed on those who pay fees under the national pollutant discharge elimination system until the time when those fees are again due, at which time the fees shall become due on an annual basis.

(j) A person operating or proposing to construct an oil, gas, or geothermal injection well subject to paragraph (3) of subdivision (a) shall not be required to pay a fee pursuant to subdivision (d) if the injection well is regulated by the Division of Oil and Gas of the Department of Conservation, in lieu of the appropriate California regional water quality control board, pursuant to the memorandum of understanding, entered into between the state board and the Department of Conservation on May 19, 1988. This subdivision shall remain operative until the memorandum of understanding is revoked by the state board or the Department of Conservation.

(k) In addition to the report required by subdivision (a), before a person discharges mining waste, the person shall first submit both of the following to the regional board:

(1) A report on the physical and chemical characteristics of the waste that could affect its potential to cause pollution or contamination. The report shall include the results of all tests required by regulations adopted by the board, any test adopted by the Department of Toxic Substances Control pursuant to Section 25141 of the Health and Safety Code for extractable, persistent, and bioaccumulative toxic substances in a waste or other material, and any other tests that the state board or regional board may require, including, but not limited to, tests needed to determine the acid-generating potential of the mining waste or the extent to which hazardous substances may persist in the waste after disposal.

(2) A report that evaluates the potential of the discharge of the mining waste to produce, over the long term, acid mine drainage, the discharge or leaching of heavy metals, or the release of other hazardous substances.

(l) Except upon the written request of the regional board, a report of waste discharge need not be filed pursuant to subdivision (a) or (c) by a user of recycled water that is being supplied by a supplier or distributor of recycled water for whom a master recycling permit has been issued pursuant to Section 13523.1.

§ 13263. Requirements prescribed by board; Review, revision, and notice; Absence of vested right to discharge waste

(a) The regional board, after any necessary hearing, shall prescribe requirements as to the nature of any proposed discharge, existing discharge, or material change in an existing discharge, except discharges into a community sewer system, with relation to the conditions existing in the disposal area or receiving waters upon, or into which, the discharge is made or proposed. The requirements shall implement any relevant water quality control plans that have been adopted, and shall take into consideration the beneficial uses to be protected, the water quality objectives reasonably required for that purpose, other waste discharges, the need to prevent nuisance, and the provisions of Section 13241.

(b) A regional board, in prescribing requirements, need not authorize the utilization of the full waste assimilation capacities of the receiving waters.

(c) The requirements may contain a time schedule, subject to revision in the discretion of the board.

(d) The regional board may prescribe requirements although no discharge report has been filed.

(e) Upon application by any affected person, or on its own motion, the regional board may review and revise requirements. All requirements shall be reviewed periodically.

(f) The regional board shall notify in writing the person making or proposing the discharge or the change therein of the discharge requirements to be met. After receipt of the notice, the person so notified shall provide adequate means to meet the requirements.

(g) No discharge of waste into the waters of the state, whether or not the discharge is made pursuant to waste discharge requirements, shall create a vested right to continue the discharge. All discharges of waste into waters of the state are privileges, not rights.

(h) The regional board may incorporate the requirements prescribed pursuant to this section into a master recycling permit for either a supplier or distributor, or both, of recycled water.

(i) The state board or a regional board may prescribe general waste discharge requirements for a category of discharges if the state board or that regional board finds or determines that all of the following criteria apply to the discharges in that category:

(1) The discharges are produced by the same or similar operations.

(2) The discharges involve the same or similar types of waste.

(3) The discharges require the same or similar treatment standards.

(4) The discharges are more appropriately regulated under general discharge requirements than individual discharge requirements.

(j) The state board, after any necessary hearing, may prescribe waste discharge requirements in accordance with this section.

§ 13269. Board's waiver of reports or compliance with requirements

(a)

(1) On and after January 1, 2000, the provisions of subdivisions (a) and (c) of Section 13260, subdivision (a) of Section 13263, or subdivision (a) of Section 13264 may be waived by the state board or a regional board as to a specific discharge or type of discharge if the state board or a regional board determines, after any necessary state board or regional board meeting, that the waiver is consistent with any applicable state or regional water quality control plan and is in the public interest. The state board or a regional board shall give notice of any necessary meeting by publication pursuant to Section 11125 of the Government Code.

(2) A waiver may not exceed five years in duration, but may be renewed by the state board or a regional board. The waiver shall be conditional and may be terminated at any time by the state board or a regional board. The conditions of

the waiver shall include, but need not be limited to, the performance of individual, group, or watershed-based monitoring, except as provided in paragraph (3). Monitoring requirements shall be designed to support the development and implementation of the waiver program, including, but not limited to, verifying the adequacy and effectiveness of the waiver's conditions. In establishing monitoring requirements, the regional board may consider the volume, duration, frequency, and constituents of the discharge; the extent and type of existing monitoring activities, including, but not limited to, existing watershed-based, compliance, and effectiveness monitoring efforts; the size of the project area; and other relevant factors. Monitoring results shall be made available to the public.

(3) The state board or a regional board may waive the monitoring requirements described in this subdivision for discharges that it determines do not pose a significant threat to water quality.

(4)

(A) The state board or a regional board may include as a condition of a waiver the payment of an annual fee established by the state board in accordance with subdivision (f) of Section 13260.

(B) Funds generated by the payment of the fee shall be deposited in the Waste Discharge Permit Fund for expenditure, upon appropriation by the Legislature, by the state board or appropriate regional board for the purpose of carrying out activities limited to those necessary to establish and implement the waiver program pursuant to this section. The total amount of annual fees collected pursuant to this section shall not exceed the costs of those activities necessary to establish and implement waivers of waste discharge requirements pursuant to this section.

(C) In establishing the amount of a fee that may be imposed on irrigated agriculture operations pursuant to this section, the state board shall consider relevant factors, including, but not limited to, all of the following:

(i) The size of the operations.

(ii) Any compliance costs borne by the operations pursuant to state and federal water quality regulations.

(iii) Any costs associated with water quality monitoring performed or funded by the operations.

(iv) Participation in a watershed management program approved by the applicable regional board.

(D) In establishing the amount of a fee that may be imposed on silviculture operations pursuant to this section, the state board shall consider relevant factors, including, but not limited to, all of the following:

(i) The size of the operations.

(ii) Any compliance costs borne by the operations pursuant to state and federal water quality regulations.

(iii) Any costs associated with water quality monitoring performed or funded by the operations.

(iv) The average annual number of timber harvest plans proposed by the operations.

(5) The state board or a regional board shall give notice of the adoption of a waiver by publication within the affected county or counties as set forth in Section 6061 of the Government Code.

(b)

(1) A waiver in effect on January 1, 2000, shall remain valid until January 1, 2003, unless the regional board terminates that waiver prior to that date. All waivers that were valid on January 1, 2000, and granted an extension until January 1, 2003, and not otherwise terminated, may be renewed by a regional board in five-year increments.

(2) Notwithstanding paragraph (1), a waiver for an onsite sewage treatment system that is in effect on January 1, 2002, shall remain valid until June 30, 2004, unless the regional board terminates the waiver prior to that date. Any waiver for onsite sewage treatment systems adopted or renewed after June 30, 2004, shall be consistent with the applicable regulations or standards for onsite sewage treatment systems adopted or retained in accordance with Section 13291.

(c) Upon notification of the appropriate regional board of the discharge or proposed discharge, except as provided in subdivision (d), the provisions of subdivisions (a) and (c) of Section 13260, subdivision (a) of Section 13263, and subdivision (a) of Section 13264 do not apply to a discharge resulting from any of the following emergency activities:

(1) Immediate emergency work necessary to protect life or property or immediate emergency repairs to public service facilities necessary to maintain service as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(2) Emergency projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway, as defined in Section 360 of the Vehicle Code, except for a highway designated as an official state scenic highway pursuant to Section 262 of the Streets and Highways Code, within the existing right-of-way of the highway, damaged as a result of fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide within one year of the damage. This paragraph does not exempt from this section any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.

(d) Subdivision (c) is not a limitation of the authority of a regional board under subdivision (a) to determine that any provision of this division shall not be waived or to establish conditions of a waiver. Subdivision (c) shall not apply to the extent that it is inconsistent with any waiver or other order or prohibition issued under this division.

(e) The regional boards and the state board shall require compliance with the conditions pursuant to which waivers are granted under this section.

(f) Prior to renewing any waiver for a specific type of discharge established under this section, the state board or a regional board shall review the terms of the waiver policy at a public hearing. At the hearing, the state board or a regional board shall determine whether the discharge for which the waiver policy was established should be subject to general or individual waste discharge requirements.

§ 13376. Reports as to discharge of pollutants to navigable waters

A person who discharges pollutants or proposes to discharge pollutants to the navigable waters of the United States within the jurisdiction of this state or a person who discharges dredged or fill material or proposes to discharge dredged or fill material into the navigable waters of the United States within the jurisdiction of this state shall file a report of the discharge in compliance with the procedures set forth in Section 13260. Unless required by the state board or a regional board, a report need not be filed under this section for discharges that are not subject to the permit application requirements of the Federal Water Pollution Control Act, as amended. A person who proposes to discharge pollutants or dredged or fill material or to operate a publicly owned treatment works or other treatment works treating domestic sewage shall file a report at least 180 days in advance of the date on which it is desired to commence the discharge of pollutants or dredged or fill material or the operation of the treatment works. A person who owns or operates a publicly owned treatment works or other treatment works treating domestic sewage, which treatment works commenced operation before January 1, 1988, and does not discharge to navigable waters of the United States, shall file a report within 45 days of a written request by a regional board or the state board, or within 45 days after the state has an approved permit program for the use and disposal of sewage sludge, whichever occurs earlier. The discharge of pollutants or dredged or fill material or the operation of a publicly owned treatment works or other treatment works treating domestic

sewage by any person, except as authorized by waste discharge requirements or dredged or fill material permits, is prohibited. This prohibition does not apply to discharges or operations if a state or federal permit is not required under the Federal Water Pollution Control Act, as amended.

§ 13377. Boards' issuance of requirements pursuant to federal act

Notwithstanding any other provision of this division, the state board or the regional boards shall, as required or authorized by the Federal Water Pollution Control Act, as amended, issue waste discharge requirements and dredged or fill material permits which apply and ensure compliance with all applicable provisions of the act and acts amendatory thereof or supplementary, thereto, together with any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance.

§ 13382.5. Controlled discharge of pollutants to aquaculture project

Waste discharge requirements shall be adopted to permit the discharge of a specific pollutant or pollutants in a controlled manner from a point source to a defined managed aquaculture project if such discharge meets all applicable requirements of the Federal Water Pollution Control Act and acts amendatory thereof and supplementary thereto, together with any more stringent effluent standards or limitations necessary to implement water quality control plans.

§ 13383. Monitoring, inspection, entry, reporting, and recordkeeping requirements

(a) The state board or a regional board may establish monitoring, inspection, entry, reporting, and recordkeeping requirements, as authorized by Section 13160, 13376, or 13377 or by subdivisions (b) and (c) of this section, for any person who discharges, or proposes to discharge, to navigable waters, any person who introduces pollutants into a publicly owned treatment works, any person who owns or operates, or proposes to own or operate, a publicly owned treatment works or other treatment works treating domestic sewage, or any person who uses or disposes, or proposes to use or dispose, of sewage sludge.

(b) The state board or the regional boards may require any person subject to this section to establish and maintain monitoring equipment or methods, including, where appropriate, biological monitoring methods, sample effluent as prescribed, and provide other information as may be reasonably required.

(c) The state board or a regional board may inspect the facilities of any person subject to this section pursuant to the procedure set forth in subdivision (c) of Section 13267.

(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. (C15: §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.

(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 §22563. 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.

California Regional Water Quality Control Board

[Renewal of Conditional Waiver of Waste Discharge Requirements for Existing Dairies](#)
(pg. 5)

State and Regional Water Board

[Irrigated Lands Regulatory Program](#)

Central Valley Regional Water Quality Control Board

[Irrigated Lands Regulatory Program \(ILRP\)](#)