

**09/15/2026 BOARD MEETING – ITEM #6
CHANGE SHEET #1 (CIRCULATED 09/14/2026)**

All page numbers and footnote numbers correspond to the September 4, 2026 “clean version” of the proposed order available at https://waterboards.ca.gov/public_notices/petitions/water_quality/docs/2026/proposed-dairy-order-clean-version.pdf. New text is shown in bold-underline, and deleted text is shown in bold-strikethrough.

1. *PAGES 12-13: Replace footnote 22 with footnote 23 and replace footnote 23 with footnote 22.*
2. *PAGE 14: Revise footnote 27 to add the following text:*

Central Valley Water Board Order Nos. R5-2007-0035 (2007 Dairy General WDRs), p. 1, Finding ¶ 2, at
<https://waterboards.ca.gov/public_notices/petitions/water_quality/docs/2026/r5-2007-0035.pdf> (as of Sept. 4, 2026); see also 2013 Dairy General WDRs, Information Sheet, p. IS-2.

3. *PAGE 21: Revise the beginning of the second paragraph of footnote 60 to correct the cited footnote number:*

The regulatory framework established by this order continues the use of the A/R ratio (see discussion at Section III.A.6.a-b). Additionally, this order also recognizes (post, fn. **251** ~~252~~ and corresponding text) ...

4. *PAGE 25: Revise the final three paragraphs of footnote 67 as follows:*

Additionally, accompanying their written comments on our June 15, 2026, revised draft order, California Coastkeeper Alliance, **and Dairy Cares, and California Rural Legal Assistance** each presented additional evidence and requested us to accept it into the administrative record in support of their respective comments, pursuant to the procedures under section 2050.6.

Specifically, California Coastkeeper Alliance requested the admission of a report entitled, “Confined Animal Facility Permitting and Reporting Under the Porter-Cologne Water Quality Control Act: An Analysis of Regional Board Activities,” by Zoe Robertson, et al., Stanford Law School Environment & Natural Resources Law and Policy Program (Feb. 2026). Dairy Cares requested the submission two technical memoranda, entitled: “Dairy Industry Market Conditions, Trends, and Cost Pressures,” by ERA Economics LLC (July 30, 2026), and “Comment on computational error in Stanford School of Law report,” by Till E. Angermann (July 27, 2026). **California Rural Legal Assistance (CRLA) requested the admission of several items that are referenced in its July 30, 2026 comment letter, specifically Item 1: Figures 1 through 5 and Tables 1 through 2; Item 2: Data analysis and findings by CRLA and Santa Clara University’s Water and Climate Justice Lab, specifically findings 1 through 8; and Item 3: (a) Survey results**

conducted by CRLA and Santa Clara University's Water and Climate Justice Clinic in 2023, and (b) "Toward the Human Right to Water for Vulnerable Communities: The Effectiveness of Stakeholder Process to Control Regional Shallow Groundwater Contaminated by Nitrates," by Iris T. Stewart, et al., (Oct. 2005). We accept these documents and material into the record with the exception of CRLA's Item 3(a), for failure to comply with California Code of Regulations, title 23, section 2050.6, subdivision (a)(1), and because the actual survey results were not submitted with the request. We are, however, concerned about the issues raised by CRLA's Item 3(a), so we direct the Central Valley Water Board to address these issues during its next annual CV-SALTS report in footnote 269, post.

To the extent any other commenters included evidence in their written comments or cited ~~to~~ evidence in support of their written comments without adhering to the process in section 2050.6, subdivision (c), such evidence does not supplement the administrative record and has not been considered for this order.

5. *PAGE 54: Revise the text at the end of the first full paragraph to substitute "time" for "compliance":*

construed in light of the Water Boards' implementation authorities, including time compliance schedules.

6. *PAGE 55: Revise footnote 165 as follows:*

While not directly relevant to disposition of this matter, we note that discharges pursuant to the federal Clean Water Act's NPDES permit program (33 U.S.C. § 1342) are subject to other limitations on compliance schedules. For NPDES discharges in California, the State Water Board has established a compliance schedule policy that authorizes and limits the circumstances in which compliance schedules are authorized. (State Water Board Resolution No. 2008-0025.) The limitations in the compliance schedule policy include not allowing compliance schedules for new dischargers, or for numeric water quality objectives for pollutants previously known to be in existing dischargers' effluent. Similarly, provisions of water quality control plans and state policies for water quality control may further enable and limit the use of compliance schedules.

We note that the terms "compliance schedule" and "time schedule" are not always clearly defined. In the NPDES permitting context, a compliance schedule generally refers to one or more provisions in an NPDES permit that include a set period of time before the discharge must comply with final requirements that are protective of water quality. In this order, we use "time schedule" in the context of waste discharge requirements for nonpoint source discharges to mean the general equivalent of an NPDES permit's compliance schedule. There is a different concept that often uses the same or similar terms to refer to provisions in an enforcement order (e.g., a time schedule order issued under Water Code section 13300 or 13308 or a cease and desist order issued under Water Code section 13301) that include a set period of time

during which the discharger must take specified steps to come into compliance with final requirements that are protective of water quality, but where those final requirements are already in effect in the discharger's NPDES permit or waste discharge requirements—and are being violated. This enforcement order concept is not implicated by our discussion in this Section or elsewhere in this order.

7. *PAGES 55-57: Revise the text starting on the 11th line of page 55 as follows:*

exceed water quality objectives. While we would obviously prefer to be able to require all **existing** dischargers to implement measures that immediately achieve water quality objectives, it simply is not **technically and economically** feasible in all cases. Because the interim lowering will ultimately be reversed by the same permitting action, the interim lowering is not inconsistent with the Antidegradation Policy. We recognized this in 2004 when we adopted the Nonpoint Source Policy:

Current land use management practices that have resulted in NPS pollution have a long and complicated physical, economic and political history. In addition to the need for resources, forging a new history of pollution control will take time and commitment, as well as a willingness to examine the use of practices that have resulted in current NPS pollution discharges and the barriers to change. Therefore, it is expected that it will take a significant amount of time for the RWQCBs to approve or endorse NPS control implementation programs throughout their regions, and even longer for those programs to achieve their objectives.

Importantly, while the Nonpoint Source Policy requires compliance with the Antidegradation Policy, it also acknowledges that it may take a significant amount of time for dischargers to implement water quality objectives where groundwater has been degraded by historic practices by the same or similar dischargers, and achieving water quality objectives requires phased implementation over time. That framework implicitly recognizes that compliance with the Antidegradation Policy does not prohibit interim reductions in water quality, even those beyond water quality objectives.

Accordingly, **we conclude that,** with important limitations, a water board has authority to authorize a discharge **that is subject to the Nonpoint Source Policy** that results in a lowering of high quality water to levels that are worse than applicable water quality objectives for a reasonable amount of time. A key limitation is that no water board should sanction an interim lowering of high quality water below water quality objectives **for discharges by issuing waste discharge requirements that expressly authorize discharges that will result in a lowering of high quality waters below water quality objectives for a period of time** unless it can ensure that, to the extent **technically and economically** feasible, actual disruptions to beneficial uses will be reasonably protected **during that period of time**. This requires an initial evaluation of whether the interim lowering is reasonably expected to disrupt an actual use: **a use of the water that is in fact occurring at**

the time that the regional water board authorizes the lowering of high quality water below water quality objectives.

If disruption is reasonably expected, the water board shall determine whether there are any **technically and economically** feasible measures to protect the actual uses during the interim period that are appropriate to the discharge and the affected beneficial use, considering the magnitude and duration of the foreseeable impact, and available alternatives. Feasible measures could include alternative water supplies, operational practices, or other measures that would maintain actual uses during the interim period. Monitoring and contingency provisions sufficient to detect and address future disruptions to the actual beneficial use may also be appropriate. If a water board determines that there will be disruptions of an actual use, it shall either require the dischargers to implement **technically and economically** feasible measures or explain that there are no **technically and economically** feasible measures to protect the actual uses during the interim period. In addition, as explained in Section II.A.2, Key Element 3 of the Nonpoint Source Policy requires that the time schedule to achieve water quality requirements be specified, along with quantifiable milestones designed to measure progress toward reaching the water quality requirements. Alternatively, of course, a water board may determine that it is appropriate to deny or limit the use of a time schedule.

For this reason, on remand, and consistent with the direction we provide in this order, the Central Valley Water Board may establish a time schedule ~~for~~ in the revised dairy general waste discharge requirements that results in a temporary lowering of high quality water consistent with the Antidegradation Policy.

8. *PAGE 79: Revise footnote 219 to add the following text at the end of the footnote:*

CV-SALTS does allow proposed new and expanded dischargers of nitrogen to join a current or future management zone and allows a management zone to request an exception to meeting a nitrate water quality objective that applies to all permitted dischargers participating in the management zone. (*Id.*, pp. 48, 55).

Importantly, however, one of the revisions that we directed the Central Valley Water Board to make to CV-SALTS was to specify that the management zone implementation plans “must include proposals for enforceable and quantifiable interim deadlines that focus on reducing nitrate in *ongoing discharges* and a proposed final compliance date for *ongoing discharges* of nitrate to cease causing or contributing to exceedances of the applicable water quality objective in the receiving water” (See *supra*, fn. 99 and accompanying text.) And CV-SALTS implements that direction. (CV-SALTS, *supra*, p. 53.) By the time that the Central Valley Water Board adopts the revised dairy general waste discharge requirements, it should have already approved all of the management zone implementation plans, including the management zones’ requests for exceptions. As a result, any proposed new or expanded dairies after the adoption of the revised dairy general waste discharge requirements will not qualify as “ongoing discharges.” Finally,

given the significant contributions of dairy manure to groundwater nitrate pollution that is affecting communities in the Central Valley, we find that it is not appropriate to allow new or expanded dairies after the Central Valley Water Board's adoption of the revised general waste discharge requirements to perpetuate, or even exacerbate, that pollution. Discharges to waters of the state are a privilege, not a right. (Wat. Code, § 13263, subd. (g).)

9. *PAGE 79: Revise footnote 220 to correct the cited footnote numbers:*

This definition of “existing dairies” also applies in the context of manure ponds. (See fns. **255** ~~257~~ and **264** ~~268~~.)

10. *PAGE 82: Revise the first two lines of text to substitute “time” for “compliance”:*

dairy and therefore give them the benefit of up to the full interim and final **time compliance** schedules for the land application requirements for the proportion of the dairy manure

11. *PAGE 104: Revise the last sentence of the first paragraph to insert “the test”:*

The seepage rate would have to be confirmed by a licensed professional (i.e., a professional engineer or professional geologist licensed in California) and **the test** be performed every ten years, commencing within three years of the adoption of the revised dairy general waste discharge requirements.

12. *PAGE 108: Revise the last line of text to substitute “time” for “compliance”:*

standard. There should be no need for a **time compliance** schedule to comply with the

13. *PAGE 111: Revise footnote 269 to add the following text:*

See generally, CV-SALTS, *supra*, pp. 7-9. **We note that CRLA raised concerns about the efficacy of the CV-SALTS water supply programs for non-English speakers in 2023 in its July 30, 2026 comment letter. We hereby direct the Central Valley Water Board to work with the management zones to confirm that all affected residents are able to access well testing and adequate clean water regardless of their English proficiency, and to report its findings during its next annual CV-SALTS report to the State Water Board.**

14. *PAGE 112: Revise the first paragraph to add the following text to the end of the paragraph:*

We prefer this sampling approach, rather than sampling all wells within a two- or three-mile radius of a dairy as suggested by some commenters, because it is more targeted toward wells that are likely to exceed the nitrate water quality objective.