

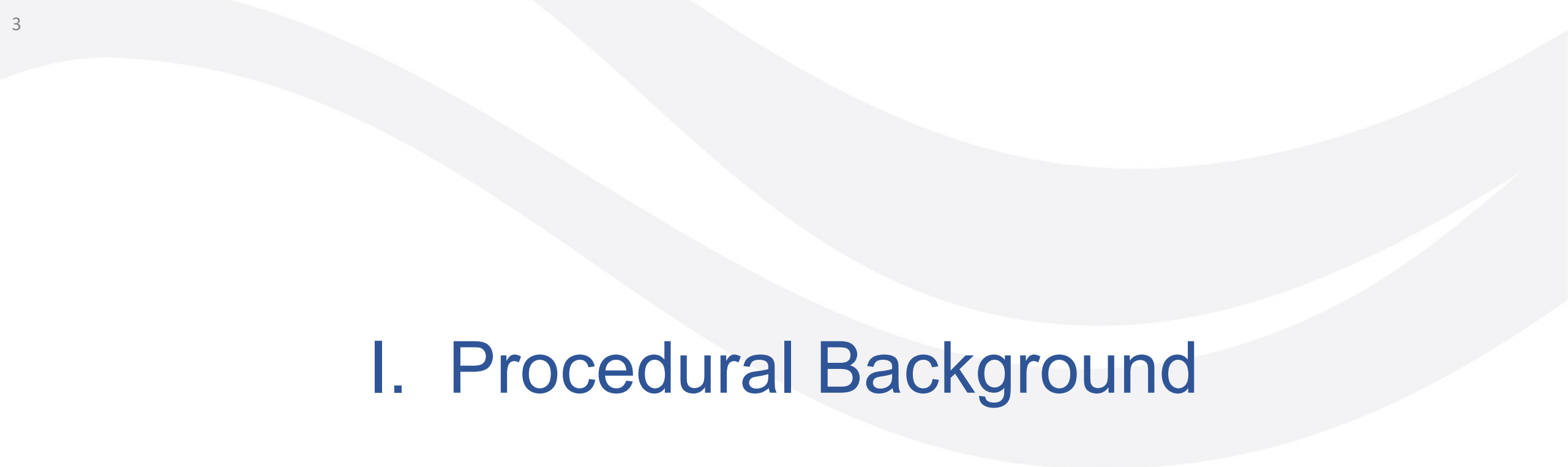
Revised Draft Dairy Order: State Water Board's Review of Central Valley Water Board's 2013 General WDRs for Dairies in the Central Valley

Board Workshop
July 8, 2026



Overview

- I. Procedural Background
- II. Petitioners' Issues Raised in Petition
- III. Draft Dairy Order (Oct. 1, 2024)
 - Regulatory framework for nitrogen discharges from dairies
- IV. Revised Draft Dairy Order (June 15, 2026)
 - Significant revisions made to the 2024 Draft Dairy Order
- V. Next Steps

The top left corner of the slide features three overlapping, wavy, light gray lines that curve from the top left towards the center of the slide.

I. Procedural Background

Background: 2013 Dairy General WDRs

- Central Valley Regional Board (hereafter, RB) issued the 2013 Dairy General WDRs in October 2013
- The petition was filed to challenge the 2013 Dairy General WDRs in November 2013
 - Petitioners: Asociación de Gente Unida por el Agua and Environmental Law Foundation

Background: 2013 Dairy General WDRs

- Comply with the Groundwater Limitation:
 - Dairy discharges must not *cause* an exceedance of water quality objectives that apply to GW
 - Includes the **10 mg/L nitrate drinking water standard**
- Requirements for production areas, existing ponds, new or reconstructed ponds, land application areas

Background: 2013 Dairy General WDRs

- Immediate compliance with Groundwater Limitation – unless dairy complies with the 16-year phased Time Schedule
 - Phase 1 (6 yrs.): technical studies and evaluation (due April 1, 2019)
 - Phase 2 (10 yrs.): implement necessary improvements
- Time Schedule Extension
 - RB may extend deadlines if compliance is infeasible
- Central Valley Dairy Representative Monitoring Program (CVDRMP)
 - Conduct Phase I

Background: Related SWB Actions Since Petition was Filed

- SWB's Own Motion Review Order: Sept. 4, 2018
- Reviewed CVDRMP's 2019 Summary Representative Monitoring Report
 - Land application accounts for most (94%) nitrogen loading
 - Recommends aligning the final compliance schedule with CV-SALTS
- SWB approved CV-SALTS: Oct. 2019; revised, June 2021
 - Collaborative approach for nitrate and salinity control from all sources, includes provision of safe drinking water
 - Final compliance deadline: as short as practicable, up to 35 years

Background: State Water Board Actions Since Petition was Filed

- Staff held 14 ex parte meetings: Sept. 2021 - May 2022
 - Attendees: Petitioners, dairy industry, Regional Board, CDFA, NGOs, Board Member Maguire
 - Constructive feedback on initial technical recommendations
- Added documents to the Administrative Record; footnote 67

Background: The 2024 Draft Dairy Order & Public Outreach

- Released the Draft Dairy Order: Oct. 1, 2024
 - Addresses petition issues
 - Proposes the new regulatory framework for dairies to meet the drinking water standard
- Written comment period: Oct. 1 through Dec. 20, 2024

Background: The 2024 Draft Dairy Order & Public Outreach

- Virtual Staff Workshop: Oct. 30, 2024
 - Detailed overview of draft order
 - Q and A
- Targeted outreach to environmental justice orgs. and Tribes near dairies in the state
 - 14 ex parte meetings
 - Solicited feedback on the 2024 Draft Dairy Order
 - Invited to attend the virtual staff workshop

Background: The 2026 Revised Draft Dairy Order

- Released Revised Draft Dairy Order: June 15, 2026
 - Includes substantial revisions
- Written Comment Period: June 15 – July 30, 2026
 - Comments must be related to revisions to the 2024 draft order
- SWB Workshop: July 8, 2026
 - Overview of the Revised Draft Dairy Order
 - Receive oral public comment

II. Issues Raised in the Petition

Petition Issues: Overview

Petition raises 6 issues challenging the 2013 Dairy General WDRs

- Time schedule for compliance violates the Water Code and NPS Policy (Issues 1 and 2)
- Fail to comply the Antidegradation Policy (Issues 3 and 4)
- Fail to consider the Human Right to Water statute (Issue 5)
- Disproportionately impact Latino communities (Issue 6)

Petition Issues 1 & 2: Time Schedule For Compliance

Issue 1: The 16-year time schedule is too long

2024 Draft Order: 16-year schedule lawful under Water Code and the NPS Policy—reflects data collection, studies, and phased implementation

Issue 2: Extension provision: impermissibly open-ended and indefinite

2024 Draft Order: Agrees with petitioners

- Future time schedules, including extensions, must be specific, enforceable, and as short as practicable, consistent NPS Policy and CV-SALTS

2026 Revisions: No significant changes.

Petition Issue 3: Antidegradation “Maximum Benefit” Analysis

Issue asserted: Focused on costs to dairies and improperly ignored costs to communities that rely on groundwater

2024 Draft Order: Agrees

- Must consider economic and social costs to communities

2026 Revisions: Clarify the types of costs to be considered

- costs for alternative supplies,
- potential health impacts
- health care costs, and
- treatment costs on community water providers

Petition Issue 4: Antidegradation Policy Prohibits Use of Compliance Schedules to Achieve Objectives

Issue asserted: The Antidegradation Policy bars the use of compliance schedules because it does not allow high-quality waters to become worse than water quality objectives; the 16-year time schedule unlawfully allows nitrate concentrations to exceed the safe drinking standard.

2024 Draft Order: Disagrees

- Water Code and NPS Policy—allow compliance schedules
- Antidegradation Policy does not limit that authority

2026 Revisions: No significant changes.

Petition Issue 5: The Human Right to Water Statute (Wat. Code § 106.3)

Issue asserted: The RB failed to consider the HRW statute

2024 Draft Dairy Order:

- The HRW statute does not apply to WDRs, but Water Boards have since adopted resolutions requiring the right be considered more broadly
- Itself considers the HRW, recognizing necessary phased implementation and interim alternative drinking water

2026 Revisions: No significant changes

Petition Issue 6: Antidiscrimination Law (Gov't Code 11135)

Issue asserted: The 2013 WDRs disproportionately harm Latino communities reliant on GW

2024 Draft Dairy Order:

- No evidence the 2013 WDRs affect Latinos differently compared to other Central Valley residents who rely on the same GW sources
- Regulatory framework is to improve GW quality for everyone

2026 Revisions:

- Acknowledge studies showing impacts on community water systems serving Latino populations
- Prioritize revising the dairy WDRs and coordinate with SAFER

III. The 2024 Draft Dairy Order's Regulatory Framework

2024 Draft Dairy Order: The Regulatory Framework

- 9 required components
- Applies to all CV dairies, including future operations
- Some components are precedential for dairies that land apply within other regions
- **Ultimate objective: comply with the Nitrogen Discharge Limit**
 - Ensure dairies do not cause or contribute to exceedances of 10 mg/L nitrate drinking water standard in groundwater
- 8 components address:
 - Land application (4 components)
 - Ponds (3 components), and
 - Alternative drinking water supplies (1 component)

2024 Draft Dairy Order: The Regulatory Framework

Gives RB two types of direction to implement the 9 components:

- Required implementation: Must be included for:
 - Nitrogen Discharge Limit,
 - Whole-farm nitrogen accounting approach, and
 - Alternative drinking water supplies components
- Recommended implementation: For all remaining land application and pond components
 - Preferred methods, but RB may adopt alternative methods **if designed to comply with the Nitrogen Discharge Limit**

2024 Draft Dairy Order: The Regulatory Framework

Land Application Components

1. Develop **final enforceable numeric land application rates** that correlate with the Nitrogen Discharge Limit (10 mg/L nitrate)
 - A 2-part conceptual approach
 - Develop **groundwater loading limit**: Amount of nitrogen can reach below root zone without exceeding the drinking water standard, with a margin of safety (e.g., 8 mg/L)
 - Develop **multi-year land application rate formula**: translates groundwater loading limit into annual nitrogen application rates
 - SWB staff will develop

2024 Draft Dairy Order: The Regulatory Framework

2. RB to establish time schedules to comply with final numeric land application rates
 - Existing dairies: align with CV-SALTS and be within as short as time as practicable not to exceed 35 years.
 - New dairies that begin operating after adoption of the final numeric land application rates: comply immediately

2024 Draft Dairy Order: The Regulatory Framework

3. RB to establish **interim numeric land application rates**:
 - Discretion on specific milestones and corresponding deadlines
 - But **whole farm nitrogen balance** (a concept recommended by CVDRMP) is recommended as one interim milestone
4. Create a **whole farm nitrogen accounting approach**
 - *Must* be used in revised general WDRs
 - Accounting tool to track nitrogen generated and disposition
 - Developed by RB
 - Peer review process

2024 Draft Dairy Order: The Regulatory Framework

Additional technical recommendations to improve land application:

- Measures for more accurate whole-farm nitrogen balance accounting
- Continue using the CVDRMP's representative well monitoring
- An increased role for the CVDRMP
- Education to improve nitrogen efficiency
- Replace the strict field-by-field accounting with grouping fields
- Irrigation and Nutrient Management Plan (INMP) reporting requirements

2024 Draft Dairy Order: The Regulatory Framework

Components for Ponds

- Different reqs. for 3 categories of ponds:
 - Existing earthen ponds with no hydraulic continuity,
 - Existing earthen ponds that do or may have hydraulic continuity,
 - New and reconstructed ponds
- Determine which ponds have hydraulic continuity to GW
 - Within 1 year, RB to issue orders to dairies that may have 5 ft. or less of vertical separation between pond floor and groundwater elevation to show no hydraulic continuity

2024 Draft Dairy Order: The Regulatory Framework

Components for Ponds

1. Existing ponds that show **no** hydraulic continuity
 - Seepage rate ≤ 0.9 mm/day; seepage rate test or alternative every 3 years
2. Existing ponds that **do have** hydraulic continuity or a dairy cannot show otherwise
 - Same as new/reconstructed ponds; implement within 3 years
3. New ponds or reconstructed existing ponds
 - Double liner + leachate collection system OR and alternative single liner + leak detection and vadose monitoring

2024 Draft Dairy Order: The Regulatory Framework

Component on Alternative Drinking Water Supplies

1. Requires any dairy that causes or contributes to an exceedance of the 10 mg/L drinking water standard in groundwater to promptly provide alternative water to affected residents

For dairies participating in CV-SALTS management zones, this requirement is met

IV. Significant Revisions in the 2026 Revised Draft Dairy Order

Revision 1: No Longer Precedential Statewide

- The Revised Draft no longer establishes a statewide precedent
- Applies to only Central Valley Dairies
- Other RBs may use the regulatory approach
- Basis: 94% of dairies located within one mile of areas classified as high risk for GW nitrate contamination are in the Central Valley

Revision 2: Adds a Phased Implementation Approach

RB to implement the Regulatory Framework in 3 phases:

- Phase 1 (w/in 1 yr.): Issue **13267 Orders** to improve monitoring and reporting for nitrogen applied (A) and removed (R)
 - Comply with existing 1.4 A/R rate requirement
- Phase 2 (w/in 3-4 yrs.): Adopt **Interim Revised Dairy WDRs**
 - Include increasingly protective interim land application requirements with time schedules
- Phase 3 (w/in 7-8 yrs.): Adopt **Final Revised Dairy WDRs**
 - Add the Groundwater Loading Limit and Final Numeric Land Application Rates

Revision 3: Adds Definitions of 4 Categories of Dairies for Time Schedule Compliance

- **Existing:** currently operating (date SWB adopts dairy order) filed a ROWD before commencing operations
- **New:** currently operating but did not file a ROWD before commencing operations or commences after dairy order adoption
- **Expanded:** portion that grows > 15% allowed
- **Consolidated:** Combined dairies, focus on whether they result in new or greater groundwater impacts

New dairies, expanded portion of dairies, consolidations that increase GW impacts = immediately comply with most protective land application requirements

Revision 4: Adds a Prioritization Process for Existing Ponds to Determine Hydraulic Continuity

- Retains pond requirements; adds a prioritization process to address ponds with potential hydraulic continuity to groundwater
- Within 90 days, RB issue WC § 13267 Order for dairies to estimate lowest pond depth within 6 months
- Concurrently, RB evaluates groundwater-elevation data
- Within 1 year, RB will *begin* to issue WC § 13267 Orders, as appropriate, to require:
 - Demonstrate no hydraulic continuity or
 - Submit pond designs for new or reconstructed ponds

Revision 5: Clarifies CV-SALTS Final Compliance Deadlines for Dairies

Clarifies the allowable CV-SALTS compliance schedule **begins** when the RB grants a discharger's request for an exception to the discharge requirements

- Approval of MZ Implementation Plans
- **Start dates will vary**

Recommends the RB should establish **the same final compliance date for all similar dairies** regardless of when their compliance schedule begins.

- Modesto MZ time schedule approved June 3, 2026
- Final time schedule: as soon as practicable, but **no later than 2061**

Revision 6: Adds on-farm drinking water well requirements

- Adds on-farm drinking water well monitoring and notification reqs.
- Within 2 years of dairy order adoption, the RB to issue orders to dairies to identify on-farm drinking water wells with unsafe nitrate levels
 - Annual sampling
 - Notify users within 10 days if nitrate exceeds 10 mg/L
- RB to act promptly to ensure dairy provides users with alternative supplies

Revision 7: Expanded Discussion of AB 2108

AB 2108 (effective, 2023) requires

- Ongoing outreach and meaningful engagement from communities potentially affected
- Findings on impacts in disadvantaged or tribal communities and environmental justice concerns

The Revised Draft Dairy Order describes the targeted outreach and makes programmatic findings:

- Replacement water,
- Enforceable increasingly protective milestones,
- Prevents impacts from new and expanded dairies

Revisions 8-12

- Dairies must use **more precise methods to monitor and report nitrogen A and R**
- Evaluates **costs and benefits** of the monitoring and reporting requirements
- Discussion of **Sustainable Groundwater Management Act**
- **Summary and timeline of RB tasks**
- RB to provide **progress reports** every six months

Revision 13: Documents Added to Administrative Record

- Petitioners and Dairy Cares submitted approximately 28 documents in support of comments to the 2024 Draft Dairy Order (23 Cal. Code. Regs. § 2050.60)
- Accepted virtually all documents into the administrative record
- Full list identified in footnote 67

V. Next Steps

V. Next Steps

- SWB will not take action today on the Revised Draft Dairy Order
- Written comment on the Revised Draft Dairy Order due: July 30, 2026
 - Related to revisions
 - Submit to commentletters@waterboards.ca.gov
- SWB will release a proposed final dairy order
- SWB meeting to consider adoption is scheduled for Sept. 15, 2026