

SECTION 869

REGULATIONS FOR THE SITING AND OPERATION OF COMMERCIAL CATTLE DAIRY/FEEDLOT FACILITIES

The regulations established herein are intended to address the nuisance, public health and environmental problems created from inappropriately located and operated dairy and feedlot facilities. It is necessary that cattle dairy and feedlot facilities be designed to protect the health, safety, and general welfare of the community. These regulations shall apply to all new dairy/feedlot facilities and to conversions and additions to existing dairy/feedlot facilities, with the exception that they shall not apply to: (a) the raising or keeping of cattle for grazing or domestic use; (b) cattle for Future Farmers of America (FFA), 4H, and similar organizations; (c) natural births and attrition so long as that number doesn't exceed 15% of the baseline cattle, as identified by the Regional Water Quality Control Board; and (d) the repair, maintenance, upgrading, and expansion of legally existing dairy/feedlot facilities provided such work does not increase the capacity of the facility by more than 10 cattle/year.

869.1: DEFINITIONS

A. DAIRY/FEEDLOT FACILITY

For purposes of these provisions, the definition of "dairy" and "feedlot" contained in Sections 803.6 and 803.7 shall apply and shall include all barns, shade structures, pens, manure storage areas, corrals, any liquid or solid waste storage area, and areas used in conjunction with dairy/feedlot facilities and which are on the same site as the dairy/feedlot operation. When measuring setbacks or required separations, measurements shall be taken from or between the most proximate of the above described facilities. Areas used for crop production or not otherwise utilized in the production of milk or cattle shall not be included for purposes of determining setbacks or required separations.

869.2: REGULATIONS FOR THE EXPANSION OF DAIRY/FEEDLOT FACILITIES EXISTING PRIOR TO THE ADOPTION OF THIS ORDINANCE (DATE: _____)

A. PROCEDURE

Additions to existing facilities which exceed the criteria listed above but do not include facilities that exceed a capacity of 500 cattle, shall only be permitted subject to the provisions of Section 872 (Uses Permitted Subject to Director Review and Approval) and the standards outlined in Sections 869.2.B., C., D., E, F, G and H below. A Conditional Use Permit is required for all additions or modifications to existing facilities which exceed a capacity of 500 cattle, subject to the provisions of Section 873 (Uses Permitted Subject to Conditional Use Permit) and the standards outlined in Sections 869.2.B., C., D., and E. below.

B. SITING/DEVELOPMENT STANDARDS

1. Lagoons and retention ponds that contain wastewater must maintain a minimum 50-foot separation from the ultimate public road right-of-way line. Conveyances

that contain treated wastewater are exempt from this requirement.

2. All proposed confined animal units, and wastewater storage ponds, lagoons, retention ponds, settling basins, and ditch conveyances that contain wastewater shall be located a minimum of 100 feet from all existing wells.
3. All proposed wells shall be located a minimum of 100 feet from confined animal units and wastewater storage ponds, lagoons, retention ponds, settling basins, and ditch conveyances that contain wastewater.
4. All proposed confined animal units shall not be permitted within a 100-year flood zone.
5. All proposals could be subject to additional development standards set forth during the land use permitting process.

C. LAGOON AND RETENTION POND REQUIREMENTS

The applicant shall prepare and submit a construction and maintenance plan for any proposed lagoons and/or retention ponds. The construction and maintenance plan shall comply with the following:

1. All proposed lagoons and retention ponds shall be lined in a manner that conforms to the California Code of Regulations, Title 22, section 66264.301.
2. Plans for the design, structure, and maintenance of lagoons and retention ponds shall be designed and signed by a California registered civil engineer or a California registered engineering geologist and shall have a maintenance plan, approved by the Regional Water Quality Control Board.
3. All proposed lagoons and retention ponds must conform with either section G.6.a, G.6.b or G.9.a of Table 2 of SJVUAPCD Rule 4570, or in case of amendment, with SJVUAPCD class 2 mitigation measures applicable to lagoons and retention ponds.
4. All proposed lagoons and retention ponds must have a marker on the inside slope which clearly indicates the design volume and the minimum freeboard necessary to allow for the 100-year, 24-hour rainfall event. A minimum of two (2) feet of freeboard is required at all times for new and existing retention ponds.
5. All proposed lagoons and retention ponds shall be protected against 100-year stream flows and the 100-year flood event.
6. A flow meter and associated plumbing shall be installed on the effluent line from the lagoon or retention pond.
7. All lagoons and retention ponds shall be surrounded by lanes at least twelve feet in width and nothing (i.e. trees, calf pens, hay stacks, silage, tires, equipment, etc.) shall be placed in the area of the holding ponds that would prevent passage or use of vector control equipment.

8. Fencing, if proposed, shall be placed on the outside of the lane (required in 869.2.C.6) and gates shall be provided for vehicle access.
9. All wastewater system designs shall include a solids separation system. If separator ponds are the exclusive means of solids removal, then two or more solids separator ponds are required. These ponds shall not be greater than sixty feet in surface width.
10. No drainage lines shall by-pass the separator ponds, except those that provide for run-off of water that has no contact with waste product. All such drain inlets must be sufficiently graded to prevent solids accumulation in the holding ponds.
11. Floatage of any solid substance that could harbor immature mosquito species shall be kept out of all wastewater holding ponds.
12. The owner shall be responsible for keeping vegetative growth from all areas of the wastewater and solids separation ponds. This includes access lanes, interior pond embankments and any weed growth that might become established as floating mats on the pond surface.
13. All proposed lagoons and retention ponds could be subject to additional requirements set forth during the land use permitting process.

D. REQUIREMENTS FOR DAIRY STRUCTURES AND FEED STORAGE

1. Owners/operators must comply with the class two mitigation measures for feed found in section B.4.a, B.4.b. or B.4.c of Table 2 of SJVUAPCD Rule 4570, and in case of amendment to Rule 4570 with SJVUAPCD class two mitigation measures applicable to feed management.
2. Owners/operators must comply with class two mitigation measures for each milk parlor found in section C.3.a of Table 2 of SJVUAPCD Rule 4570 and in case of amendment to Rule 4570 with SJVUAPCD class two mitigation measures applicable to milk parlors.
3. Owners/operators must comply with class two mitigation measures for each free stall barn found in section D.10.a of Table 2 of SJVUAPCD Rule 4570 and in case of amendment to Rule 4570 with SJVUAPCD class two mitigation measures applicable to free stall barns.
4. Owners/operators that house animals in corrals must comply with class two mitigation measure E.13.a of Table 2 of SJVUAPCD Rule 4570 and in case of amendment to Rule 4570 with SJVUAPCD class two mitigation measures applicable to corrals.
5. Owners/operators that handle or store solid animal waste or separated solids outside the animal housing must comply with either section F.6.a or F.7.a. of Table 2 of SJVUAPCD Rule 4570 and in case of amendment to Rule 4570 with SJVUAPCD class two mitigation measures applicable to solid animal waste

management.

6. All other sources of VOCs shall be controlled with mitigation measures considered as technologically feasible Best Available Control Technology as determined by the San Joaquin Valley Air Pollution Control District at the time of the application.
7. All sources of Ammonia, Methane, and Toxic Air Contaminants shall be controlled with any existing mitigation measures considered as technologically feasible Best Available Control Technology as determined by the San Joaquin Valley Air Pollution Control District at the time of the application.

E. FINANCIAL ASSURANCES PLAN

1. The owner shall prove financial responsibility for closure and corrective action. Financial responsibility is proven by providing evidence of adequate resources in the form of cash, surety bonds, an irrevocable letter of credit or insurance. The intent of this section is to provide a financial mechanism to cover the costs of closure or corrective action in the case that the owner is either unwilling or unable to perform a required activity.
 - A. Closure: The owner or operator shall demonstrate financial responsibility to the Department for closure in at least the amount of the current closure cost estimate prepared by a licensed civil engineer. For the purposes of this section closure means the removal of all manure, waste products, feed, silage, animals, hazardous materials or other products and substances that have the potential to impact the environment or public health.
 - B. Corrective Action: The owner or operator shall demonstrate financial responsibility to the Department for corrective action associated with a release to the environment that results in the degradation of surface or groundwater as determined by County or the Regional Water Quality Control Board. The minimum amount of financial responsibility for corrective action is \$1,000,000.00.

F. FEDERAL AND STATE REGULATIONS

1. All proposals shall comply with the effluent limitations established by the Federal Clean Water Act and the terms of any applicable National Pollution Discharge Elimination System Permit.
2. All proposals shall adhere to the provisions set under the California Code of Regulations, Title 27, Division 2, Chapter 7, Subchapter 2, Article 1 and the requirements set by the Regional Water Quality Control Board.
3. All proposals shall comply with the standards of the San Joaquin Valley Air Pollution Control District.

4. No proposal shall be permitted unless it has been approved by the Regional Water Quality Control Board and the San Joaquin Valley Air Pollution Control District.
5. All proposals could be subject to additional Federal and State mandated regulations set forth during the land use permitting process and/or regulations amended through State and Federal law.

G. APPLICATION REQUIREMENTS

1. An application packet for the Classified Conditional Use Permit shall be submitted pursuant to the requirements specified by the Department of Public Works and Planning Pre-application Review process, in addition to the following, that shall be included in the operational statement:
 - A. Number of Cattle Existing.
 - B. Maximum Number of Cattle Proposed.
 - C. An emergency action plan covering: fire (including fuel storage), personal injury, and manure storage and handling.
 - D. The applicant may be required to provide additional information, as requested by the lead agency, a responsible agency, or a reviewing agency.
2. The applicant shall prepare/submit a management plan describing the operational practice necessary to control nuisances such as flies, dust, and odors. The management plan shall also demonstrate compliance with the following:
 - A. Plan for removal of dead animals: all dead animals shall be disposed of at/by a licensed rendering facility or other permitted disposal facility. Dead animals shall not create a nuisance prior to their removal. Storage and removal of dead animals shall be accomplished within 72 hours and in such a manner to prevent cross contamination with other animals and feed, except in specific emergency events as defined/determined by the Fresno County Health officer. In such cases, protocols established by the Department of Community Health shall take precedence. All dead animals shall not be visible from a public road.
 - B. All sources of fugitive dust emissions shall be controlled to the maximum extent possible with mitigation measures as described in the San Joaquin Valley Air Pollution Control District List of Conservation Management Practices. Notwithstanding any other requirement for control of fugitive dust emissions, all sources of fugitive dust emissions shall be controlled with mitigation measures considered as technologically feasible Best Available Control Technology as determined by the San Joaquin Valley Air Pollution Control District.
 - C. Spill prevention and contingency plan for any unpermitted, accidental off-property discharge of facility wastewater, and corresponding reporting to

the Regional Water Quality Control Board within four hours of discovery.
The written report shall contain:

1. The date the discharge began;
 2. Duration and estimated volume of the discharge;
 3. Point of discharge;
 4. Specific source of discharge (e.g., overflow from holding pond, rainfall runoff from manure storage areas, etc);
 5. Steps taken to mitigate the effects of the discharge;
 6. Steps taken to prevent such a discharge in the future.
 7. Notification of adjacent and/or affected property owners and residents.
 8. In the case of spills affecting crops intended for human consumption, the Agricultural Commissioner and the Fresno County Health Officer shall also be notified.
- D. Dairy wastewater discharged for irrigation purposes shall be managed so that it does not stand for more than three days.
3. The applicant shall prepare/submit a nutrient management plan describing the disposition/disposal of cattle waste products on site. The plan shall include the proposed storage and application of wastewater to cropland at agronomic levels (include size of retention ponds/settling basins, mixing procedures, expected application times and amounts of nitrogen applied, etc.). The nutrient management plan shall also demonstrate compliance with the following:
- A. Production and nutrient information:
 1. Animal types and numbers.
 2. Calculated manure and wastewater volumes for the facility.
 3. Crop types, actual yields and expected nutrient uptake amounts.
 4. Soil types
 5. Nitrogen and salt loading at maximum capacity/operation
 - B. A plan for the disposal and irrigation of liquid and dry manure. The plan shall include a monitoring program that is in compliance with the requirements set under the Regional Water Quality Control Board's Waste Discharge Requirements.
 - C. The storage and application of wastewater to cropland at agronomic levels. Include the size of retention ponds/settling basins, mixing procedures, expected application times and amounts of nitrogen applied.
 - D. An irrigation plan that ensures that groundwater is not contaminated from fertilizer, waste and wastewater applications.
 - E. The applicant may be required to provide additional information, as requested per a reviewing agency.
4. The applicant shall prepare and submit a vector control management plan that includes a description of how often corrals, retention ponds, settling basins, milk barns, watering areas, calf areas, free stalls, flush lanes, shades, feed storage

and feeding areas are checked for vectors, frequency of cleaning feeding areas, a description of types of vector control that will be utilized (biological, chemical or cultural) and other information needed to prevent vector control problems.

5. The applicant shall prepare and submit a soil monitoring program. The soil monitoring program shall demonstrate compliance with the following:
 - A. Maps and drawings that identify the locations of soil sampling at existing or proposed uncovered animal housing (corrals/pens), manure storage areas, and cropland that will receive manure.
 - B. A description of how representative soil samples will be collected from each location and at what depth.
 - C. Specific constituents required for analysis, number of samples and sampling frequency. At a minimum, soil samples for cropland shall be sampled for ammonium, calcium, magnesium, potassium, sodium, nitrate, cation exchange capacity, percent base saturation, soluble salts, selenium, total Kjeldahl nitrogen, phosphorus and pH. At a minimum, soil samples for non-cropland shall be sampled for ammonium, nitrate, soluble salts, total Kjeldahl nitrogen and pH.
 - D. Sampling shall follow EPA procedures and test methods for soil sampling and analysis.
 - E. The time of year when sampling will take place and who is responsible for taking the samples shall be identified.
 - F. Soil sample results, for the initial sampling, shall be submitted within 90 days of the start of operations at the site.
 - G. Sampling techniques, equipment, sample preservation, analysis, the name of the laboratory and the name of the sampler shall be provided.

6. The applicant shall prepare and submit a groundwater monitoring program for review and approval by the California Regional Water Quality Control Board. The groundwater monitoring program shall contain the following:
 - A. A description of groundwater conditions beneath the site including expected depths to the shallow and deep groundwater, expected direction(s) of groundwater flow, and the source of groundwater information (irrigation/water district maps, measurements of on site wells, and highest anticipated groundwater elevation).
 - B. A map showing the location of all the proposed monitoring wells and existing on-site wells relative to operations. Provide a separate map showing wells within 1,000 feet of the site.
 - C. Description of sampling techniques, equipment, sample preservation, analysis, the name of the laboratory and the name of the sampler, shall be provided.

- D. Frequency of groundwater monitoring shall be quarterly and analyzed at a state certified laboratory.
 - E. Groundwater sampling shall, at a minimum, include the following constituents: ammonium, calcium, potassium, magnesium, sodium, chloride, bicarbonate, selenium, nitrate, sulfate, ammonia, total dissolved solids, total Kjeldahl nitrogen and pH, in addition to all chemicals stored or used on the facility.
 - F. A minimum of four monitoring wells shall be placed in the following location: up and down gradient of the settling basins and retention ponds, areas of high animal density such as corrals and free stall barns, areas of potential contamination, and fields that are receiving wastewater irrigation. Monitoring wells shall be screened at the shallowest aquifer.
 - G. Groundwater depth, groundwater elevation and direction of flow shall be determined.
 - H. For new confined animal facilities, initial water samples shall be taken prior to the start of operation to establish background water quality information.
 - I. Within 30 days after completion of the monitoring system, a report signed by a registered geologist or civil engineer must be submitted to the Regional Water Quality Control Board. The report shall include a map showing the location of all wells (including monitoring, domestic and irrigation wells) and all off site wells within 1,000 feet of the facility; well logs of the monitoring wells and on-site wells, if available; a description of how the wells were developed; the surveyed elevation of each monitoring well taken from a clearly marked and adequately described benchmark (including GPS coordinates); and lithologic logs, if available.
 - J. In site-specific cases, where the water table is more than 100 feet below ground surface, the Regional Water Quality Control Board may allow soil monitoring to be substituted for groundwater monitoring.
7. All proposals could be subject to additional application requirements set forth during the land use permitting process.

H. ANNUAL REPORTING AND INSPECTIONS

1. Each owner/operator must submit to the Department on an annual basis, based on the date of the issuance of the first operating permit, a report stating whether the dairy is in compliance with each requirement of this Section and with the CUP. The report must contain the results of all groundwater and soil monitoring over the year leading up to the filing of the annual report.

2. Within six months of receiving the compliance report, the Department shall conduct or cause an inspection of the operation to insure compliance with this Section and with the CUP. Inspections shall occur on an annual basis.

I. VIOLATIONS AND PENALTIES

If the Director determines that the proposed facility is operating in a manner that does not comply with this Section (869.3) or the permit, the County shall follow the provisions of the County Zoning Ordinance for revocation of the DRA or CUP, whichever applicable.

Any person guilty of a violation of these standards shall be liable for such costs, expenses and disbursements paid or incurred by the County in abatement and prosecution of the violation, in addition to all penalties.

The Director shall make a written report of any alleged violations of this section to the San Joaquin Valley Air Pollution Control District and to the Regional Water Quality Control Board within 30 days of receiving a report of a violation.

J. FILING FEE

The applicant for a dairy/feedlot facilities permit shall pay the applicable application fee as prescribed in Section 879 for the purpose of defraying the costs involved in reviewing and processing the application.

K. NOTICE

Public notice shall be provided in accordance with the provisions of State Law, County Procedures, and Sections 872 or 873, whichever applicable.

869.3: REGULATIONS FOR NEW DAIRY/FEEDLOT FACILITIES AND THE EXPANSION OF EXISTING DAIRY/FEEDLOT FACILITIES THAT EXISTED AFTER THE ADOPTION OF THIS ORDINANCE (DATE: _____)

A. PROCEDURE

New dairy/feedlot facilities and additions to existing facilities, that were not legal prior to the adoption of this ordinance, which exceed the criteria listed in the first paragraph of Section 869, but do not include facilities that exceed a capacity of 500 cattle, shall only be permitted subject to the provisions of Section 872 (Uses Permitted Subject to Director Review and Approval) and the standards outlined in Section 869.3.B., C., D., and E. below. All new dairy/feedlot facilities and additions to existing facilities that were not legal prior to the adoption of this ordinance, which exceed a capacity of 500 cattle are subject to the provisions of Section 873 (Uses Permitted Subject to Conditional Use Permit) and the standards outlined in Section 869.3.B., C., D., and E. below.

B. SITING/DEVELOPMENT STANDARDS FOR FACILITIES SUBJECT TO DIRECTOR REVIEW AND APPROVALS AND CLASSIFIED CONDITIONAL USE PERMITS AND

The following requirements and all those listed in section 869.2.B shall apply.

1. A dairy/feedlot facility shall not be permitted within three miles of a LAFCO adopted City Sphere of Influence, any city limit line, the nearest point of any unincorporated community plan boundary or Rural Settlement Area, or any residential zone district.

2. A dairy/feedlot facility, shall not be permitted when ten or more dwellings or a sensitive use such as a school, public park, or hospital, are located within one-half mile of the proposed facility or within the identified wind shed area (See Diagram "A").
3. A dairy/feedlot facility shall not be permitted when a dwelling other than one owned by the facility owner is located within the identified micro wind shed area (See Diagram "B").
4. All dairy/feedlot facilities shall be set back a minimum of 2,500 feet from all waterways used for public drinking water.
5. All dairy/feedlot facilities shall not be permitted within three miles of the Mendota Wildlife Area, the San Joaquin River, and the Kings River.
6. All dairy/feedlot facilities shall not be permitted within two miles from the perimeter of any existing dairy/feedlot facility.

C. LAGOON AND RETENTION POND REQUIREMENTS

All requirements listed in section 869.2.C shall apply.

D. REQUIREMENTS FOR DAIRY STRUCTURES AND FEED STORAGE

___All regulations listed in section 869.2.D shall apply.

E. FINANCIAL ASSURANCES PLAN

All regulations listed in section 869.2.E shall apply.

F. FEDERAL AND STATE REGULATIONS

All regulations listed in section 869.2.F shall apply.

G. APPLICATION REQUIREMENTS

All regulations listed in section 869.2.G shall apply.

H. ANNUAL REPORTS AND INSPECTION

All regulations listed in section 869.2.H shall apply.

I. VIOLATIONS AND PENALTIES

All regulations listed in section 869.2.I shall apply.

J. FILING FEE

The applicant for a dairy/feedlot facilities permit shall pay the applicable application fee as prescribed in Section 879 for the purpose of defraying the costs involved in reviewing and processing the application.

K. NOTICE

Public notice shall be provided in accordance with the provisions of State Law, County Procedures, and Sections 872 or 873, whichever applicable.

(Section 869 added by Ord. T- _____ - adopted _____ -07)