

Washington Ecology shakes up dairy regulation

Environmentalists slam rules as milquetoast

By DON JENKINS
Capital Press

New rules issued by the Washington Department of Ecology on Jan. 18 will change the regulatory landscape for the state's 230 dairies with more than 200 cows.

Embracing the rules may shield dairies from government fines or lawsuits by environmental groups, but will mean taking on new obligations with uncertain costs.

"Every farmer will look at this very differently," said dairyman Jay Gordon, policy director for the Washington State Dairy Federation.

"Some will sleep better at night knowing they won't get sued, or at least are less likely to get sued," he said. "Others will say, 'Why do I need this?' It means more regulations, more paperwork and more burdens. We're very concerned about that."

The rules, codified in a revised permit for concentrated animal feeding operations, were years in the making and are meant to keep nitrates out of groundwater and fecal coliform out of surface water.

They are in addition to the state's 19-year-old Dairy Nutrient Management Act, which has the identical goal.



Don Jenkins/Capital Press

Dairy cows stand in a barn in Whatcom County, Wash. The state Department of Ecology announced new rules Jan. 18 for how dairies can store and spread manure.

While all dairies must follow the nutrient act, only a few have had CAFO permits. Environmental groups hoped a revised permit would be a vehicle to force dairies to line manure lagoons with synthetic material and install wells to monitor groundwaters, steps the department was unwilling to take.

"Ecology was presented with an unprecedented opportunity to protect the environment and public health," Andrea Rodgers of the Western Environmental Law Center said in a written

statement. "It is outrageous that Ecology has given permission for industrial agricultural facilities to dump pollution into our drinking water."

Dairies will need a CAFO permit if they discharge pollutants into surface water or groundwater. Ecology holds that manure seeps from lagoons and almost certainly reaches groundwater. If a dairy has lagoons and more than 200 cows, "they should be applying," Ecology water quality manager Heather Bartlett said.

Ecology will work with Washington State Department of Agriculture inspectors to identify dairies that don't have permits, but should, she said.

A dairy without a CAFO permit may receive a warning and could eventually be fined. Penalties could be appealed. "Ultimately, Ecology has the burden of proof," Bartlett said.

WSDA has been in the background in developing the rules, but will now play a role in enforcing them. "Hopefully, we can make this as seam-

less as possible for the dairy industry," WSDA Deputy Director Kirk Robinson said.

Here are more details about the CAFO permit:

- Ecology exempted the 147 dairies with fewer than 200 cows because of the cost.

- The annual permit fee will depend on dairy size. A dairy with 200 to 400 animal-units will pay \$592 the first year. A dairy with more than 800 animal-units will pay \$2,373. Fees are scheduled to rise next year by 5 percent. An animal unit is a cow that's approximately 1,000 pounds.

- Dairies will have to test fields before planting and after harvesting crops. Before, dairies were required to only test post-harvest. Washington dairies will have to analyze soils two to five times more often than Idaho dairies, according to Ecology. Additional testing will cost between \$3,150 to \$9,250 per dairy over five years, Ecology estimates.

- Ecology estimates a one-time WSDA assessment will cost \$460 per lagoon. Lagoons that score low by USDA Natural Resources Conservation Service standards will need to be repaired. Repairs could cost hundreds of dollars or hundreds of thousands of dollars, according to Ecology. Previously, Ecology had proposed requiring assessments by engineers, which the department estimated would cost \$7,400 per lagoon.

- Ecology will offer two versions of the permit, a concession to the dairy industry and opposed by environmental groups. One permit will be for dairies that discharge pollutants into groundwater and surface water. Because the federal Clean Water Act covers surface water, environmental groups unhappy with Ecology's enforcement could sue dairies that have this permit. The other permit will regulate groundwater discharges and wouldn't be subject to enforcement through third-party lawsuits.

- Dairies have WSDA-approved "nutrient management plans." Under Ecology, dairies also must have "manure pollution prevention plans." The plans will be similar and adding a second one might cost nothing, according to Ecology. The department estimated writing a plan from scratch will cost \$9,800.

- Dairies already must keep records to show WSDA that they are not spreading too much manure. Ecology says additional record-keeping costs should be minimal and did not make a dollar estimate.

- Although dairies were the focus as Ecology developed the rules, the CAFO permit could apply to other livestock operations. By exempting small dairies, Ecology has excluded other producers as well. For poultry, a farm with fewer than 37,500 laying hens would be exempt.

Calif.'s State Water Project increases allocation to 60 percent

By TIM HEARDEN
Capital Press

SACRAMENTO — Amid what's shaping up to be one of California's wettest winters on record, the State Water Project on Jan. 18 upped its anticipated deliveries to at least 60 percent of requested supplies.

The boost from 45 percent is the Department of Water Resources' second allocation increase in less than a month, and it comes as many of its gauges in the Central Valley have recorded twice the normal rainfall for this time of year.

Still, department spokesman Doug Carlson said it's too soon to know whether the project's 29 contracting agencies will get their full allocations for the first time since 2006.

"We still have a ways to go," he said. "The winter

could turn off the spigot as quickly as it turned on. We'll just have to continue to monitor and assess whether this is a good, wet year."

It has been so far, he said. In fact, precipitation totals at more than a dozen California Data Exchange Center stations from the northern Sierra Nevada to the San Joaquin Valley are trending higher than at this point in 1982-82, the state's wettest year on record.

"That just jumps off the page at you," Carlson said.

The latest allocation increase follows the DWR's announcement on Dec. 21 it would deliver at least 45 percent of requested deliveries, up from its 20 percent initial allocation in late November.

Under the current allocation, SWP contractors would receive more than 2.5

million acre-feet of the 4.17 million acre-feet they collectively sought. An acre-foot is enough water to supply two typical households for a year.

Reservoirs have risen to the point that water officials have had to make releases to make room for more storms and spring runoff, raising levels of the Sacramento River and other riv-

ers to near their banks.

As of Jan. 24, Lake Oroville, the SWP's principal reservoir, was holding 81 percent of its capacity and 126 percent of its historical average for the date. Shasta Lake, the federal Central Valley Project's largest reservoir, was at 81 percent of capacity and 123 percent of normal for the date.

California's snow water

content statewide was 160 percent of normal on Jan. 24 and 225 percent of normal in the southern Sierra, according to the DWR.

The latest allocation means that contractors will likely get at least as much water as they did last season, when a 60 percent final allocation was given. Contractors received 65 percent in 2012 and 80 percent in 2011.

Water officials say a 100 percent allocation is difficult to achieve even in wet years because of Sacramento-San Joaquin River Delta pumping restrictions to protect imperiled fish.

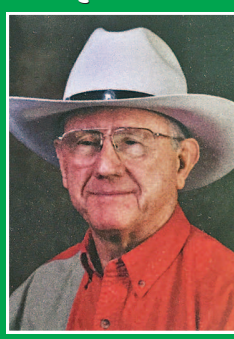
The U.S. Bureau of Reclamation typically makes its first allocation of CVP water in mid-February, though last season's was on April 1.

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