



Vineyard Waiver Fact Sheet

San Francisco Bay Regional Water Quality Control Board

Conditional Waiver of Waste Discharge Requirements for Vineyard Properties in the Napa River and Sonoma Creek Watersheds

Salmon and steelhead populations in the Napa River and Sonoma Creek have declined substantially since the 1940s. Many factors, including historic land uses, dam construction, and development have contributed to this decline. The San Francisco Bay Regional Water Quality Control Board (Water Board) adopted sediment Total Maximum Daily Loads (TMDLs) for the Napa River and Sonoma Creek watersheds to protect water quality and help restore native fisheries. The TMDLs require development of waste discharge requirements or a conditional waiver of waste discharge requirements to control sediment discharges from grazing lands, vineyards, rural land, and public works, parks, and open space.

The conditional waiver

State law and policy require the Water Board to regulate and reduce sources of water pollution, including non-point source pollution that commonly enters streams, creeks, and rivers from agricultural land. Waste discharge requirements, permits that the Water Board issues to individual pollution sources, may be "waived" for parties who comply with basic provisions. A *conditional* waiver establishes "conditions" that eligible dischargers must meet as an alternative to individual waste discharge requirements. Compliance with the conditional waiver (waiver) allows property owners or operators to discharge, provided that all the conditions of the waiver are met. On November 16, 2012 the Water Board released a draft waiver designed to meet the TMDLs and nonpoint source policy. The [draft conditional waiver and associated California Environmental Quality Act \(CEQA\) document](http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/TMDLs/vineyard/index.shtml) are posted on the Water Board's website at www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/TMDLs/vineyard/index.shtml.

The conditional waiver applies to most vineyards

Most existing vineyards, new vineyards, and vineyard replants located in the Napa River and Sonoma Creek watersheds will be eligible to comply with the waiver in lieu of obtaining individual waste discharge requirements. Depending on slope, small vineyards and small parcels are exempt from regulation, as summarized below. Vineyard properties on very steep slopes with unstable soils may not qualify for the waiver, and must submit a Report of Waste Discharge to the Water Board. The Water Board expects all vineyards, regardless of waiver eligibility, to be operated and maintained to prevent erosion and minimize discharge of pollutants.



Conditional Waiver Eligibility Criteria

Parcel size / site conditions	Waiver Status	Waiver Requirements
Small Vineyard: Less than 5 acres, regardless of slope or parcel size	Not covered by waiver	Not required to submit a Notice of Intent or prepare a farm plan
Flat land Vineyards		
<5% slope and <40 acres	Not covered by waiver	Not required to submit a Notice of Intent or prepare a Farm plan
<5% slope and \geq 40 acres	Eligible for waiver coverage	Submit a Notice of Intent to comply with the waiver Prepare and implement a farm plan File an annual compliance form with the Water Board or an approved third-party group
Flat land vineyard with stream setbacks	May be excluded	Submit a Notice of Non-Applicability and documentation of adequate stream setbacks.
Hillside Vineyards		
\geq 5% slope and <20 acres	Not covered by waiver	Not required to submit a Notice of Intent or prepare a farm plan
\geq 5 % slope and \geq 20 acres	Eligible for waiver	Submit a Notice of Intent to comply with the waiver Prepare and implement a farm plan File an annual compliance form with the Water Board or an approved third-party group
New and replanted vineyards on slopes \geq 30% and containing soils with "high" or "very high" erosion potential	Not eligible for waiver	Submit a Report of Waste Discharge to the Water Board
Cannot meet or fails to meet waiver requirements	Not eligible for waiver	Submit a Report of Waste Discharge to the Water Board

Conditional waiver requirements

The waiver requires vineyard landowners or operators to:

- Enroll in the vineyard program by submitting an Notice of Intent
- Prepare a Farm Water Quality Plan (farm plan)
- Implement the farm plan to meet all waiver water quality requirements
- File an Annual Compliance Form

What is a Notice of Intent?

A Notice of Intent to comply, also referred to as an "NOI," documents your intent to participate in the waiver program, and to comply with all waiver conditions. The three-page form (Attachment A of the waiver) must be submitted by the vineyard landowner or facility operator to the Water Board. Normally, this form will only be submitted once, to enroll the vineyard in the waiver program. It may be required again in the event of a change of ownership.

What is a farm plan?

A farm plan is a comprehensive inventory and assessment of agricultural lands and roads, which details vineyard management practices at the property. In addition to documenting existing management practices, the farm plan should include a strategy, tailored to the individual site, for implementing additional management practices and projects as necessary to meet waiver water quality requirements (see Table 2 of the waiver). It must address all pollutant sources related to vineyard facilities and roads, including surface erosion and excessive runoff from vineyards; pesticide and fertilizer applications; and erosion and sediment delivery to waters from unstable areas such as gullies, rills, ditches, creeks, and landslides. Farm plan requirements are listed in Attachment D of the waiver.

What are the implementation monitoring and reporting requirements?

The waiver requires annual visual monitoring in fall, to ensure that vineyards are ready for the winter rains. Inspection is also required after storms to ensure that management practices are functioning properly. In addition, annual photo documentation is required. At this time no water quality sampling is required.

Landowners or operators will be required to report annually on progress and deadlines for implementing actions specified in the farm plan. Annual Compliance Forms will be required to be submitted either to the Water Board or to an approved third-party group. Third-party groups will provide aggregate reporting to the Water Board.

Who can provide technical assistance?

While individual vineyard landowners or operators are responsible for complying with waiver conditions, Water Board-approved third-party agricultural technical assistance groups may help vineyard owners or operators prepare farm plans, implement effective management practices, and comply with reporting requirements. They may also assist landowners or groups of landowners with applications for grants or other financial assistance that will promote nonpoint source pollution control. They may also assist the Water Board with fee collection.

Several technical assistance groups are already working with farmers in Napa and Sonoma valleys, including the Resource Conservation Districts, Fish Friendly Farming, U.C. Cooperative Extension, and the California Sustainable Winegrowers Alliance. The Water Board has developed a process for approval of third-party groups that will be implemented after adoption of the waiver (Attachment C of the waiver).

Vineyard Waiver Program Contact Information

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Frequently Asked Questions about the Proposed Conditional Waiver

What if I have more than one vineyard parcel?

In general, multiple parcels under the same ownership should be grouped together to facilitate farm planning and minimize paperwork. An individual parcel that does not meet the size and slope criteria for waiver coverage (above), but is part of the same operation on another parcel or group of parcels that jointly or collectively meet the parcel size thresholds may be considered part of the larger operation and should seek coverage under the waiver.

What if I already have a farm plan?

A vineyard facility that has an accurate and complete farm plan (such as a *Fish Friendly Farming/Napa Green Certified Farm Plan*) containing the required farm plan elements (Attachment D of the waiver) typically has satisfied the waiver's farm plan requirement and will not be required to prepare a new plan. Existing farm plans may be supplemented, as necessary, to meet all waiver requirements.

What if I have a Napa or Sonoma County-approved erosion control plan?

Napa County Conservation Regulations apply only to portions of a vineyard with slopes greater than 5 percent; the Sonoma County Vineyard Erosion and Sediment Control Ordinance (VESCO) applies to portions of a vineyard with slopes greater than 10 or 15 percent, depending on soil type. A county-approved erosion control plan may be used for the surface erosion element of a farm plan provided that the plan is supplemented to include vineyards of all slopes.

What do I need to do to replant part of my vineyard?

Plans to replant all or part of a vineyard during the five-year term of the proposed waiver must be detailed in the farm plan, including location, size, and timing of the proposed replant. You may replant within the existing footprint of vineyard blocks as long as you meet the waiver water quality requirements (see Table 2 of the waiver). Otherwise you may need to make adjustments to vineyard layout, row direction, or stream setbacks. There is no specific requirement for setbacks, only an obligation to consider the opportunity to improve vineyard layout to meet water quality requirements. Vineyard replants greater than one acre on highly erosive soils where slopes exceed 30 percent are excluded from waiver coverage and are required to file a Report of Waste Discharge with the Water Board.

How can I avoid coverage under the conditional waiver?

Adequate stream setbacks, as defined in the waiver (see Definitions) can qualify a flatland vineyard property of any size for relief from the waiver. To be considered for an exclusion based on stream setbacks, you must file a Notice of Non-Applicability (Attachment B of the waiver) and provide documentation that setbacks are managed to promote predominately native riparian vegetation.

What Information will I need to submit to the Water Board?

The Notice of Intent to comply with the waiver must be submitted to the Water Board either in hard copy or electronically. Normally, this form will only be submitted once to enroll in the vineyard waiver program and would be required again in the event of a change ownership.

Annual Compliance Forms must be submitted either individually or through an approved third-party group to the Water Board by the required deadline each year.

The farm plan must be kept at the vineyard facility at a location identified in the Notice of Intent. Annual photo-point monitoring is required, and photos and documentation must be kept with the farm plan. The farm plan must be available for review by, or submittal to, the Water Board, upon request.

Will there be vineyard inspections?

Water Board staff and approved third-party groups will conduct site inspection audits to ensure that farm plans are complete, accurate, and being implemented as designed and on schedule. Landowners or operators will be contacted a minimum of 72 hours prior to a site inspection, except in cases of an unauthorized facility discharge.

What are the conditional waiver deadlines?

Following adoption by the Water Board, the waiver will go into effect and vineyard properties that meet the eligibility criteria will be required to meet deadlines specified in the final order and as follows:

- Submit a Notice of Intent 60 days following waiver approval
- Prepare a farm plan within 12 months of the Notice of Intent due date
- File an Annual Compliance Form about 12 months after farm plan due date
- Achieve water quality requirements within the 5-year term of the waiver

How was this conditional waiver program developed?

Water Board staff formed two local groups, a Technical Advisory Committee and a Stakeholder Advisory Group, which met over the course of 14 months to provide input into waiver requirements. Vineyard owners and operators, farmers, resource agency staff, groups with expertise in agricultural land management, environmental groups, and technical experts participated in these efforts.

How will the effectiveness of the waiver program be assessed?

The waiver requires vineyard landowners or operators to monitor the effectiveness of their pollution control actions. Implementation monitoring is required to ensure proper selection and implementation of management practices (examples are provided in Attachment E of the waiver). Landowners or operators must also conduct visual monitoring and site inspections of their entire facility, including annual photo documentation, to ensure that management practices and projects have performed as expected, are properly maintained, and are effectively controlling discharges of sediment and other pollutants.

The Water Board will conduct upslope effectiveness monitoring to evaluate sediment delivery (sediment budget) to channels from land use activities and natural processes. In-channel effectiveness monitoring will be conducted by local governments to evaluate sediment supply and transport in the watersheds. In addition, the Water Board will conduct in-channel effectiveness monitoring as part of the Surface Water Ambient Monitoring Program.

Are there annual fees associated with the conditional waiver?

Enrollees under the waiver are required to pay an annual fee to the State Water Board in compliance with the annual agricultural and irrigated lands fee schedule established by the State Water Board.

What are the consequences for failure to comply with the terms and conditions of the waiver?

Landowners or operators who fail to comply with the terms, conditions, and requirements of the waiver are subject to enforcement action consistent with the State Water Board's Enforcement Policy.