

**ATTACHMENT D – FACT SHEET**

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## **ATTACHMENT D – FACT SHEET**

As described in section II.E of this Order, this Fact Sheet includes the legal requirements and technical rationale that serves as the basis for the requirements of this Order.

### **I. PERMIT INFORMATION**

#### **A. Background**

California Water Code section 13260 subdivision (a) requires that any person discharging waste or proposing to discharge waste, other than to a community sewer system, that could affect the quality of the waters of the State, to file a Report of Waste Discharge (ROWD) with the Regional Water Board to obtain coverage under Waste Discharge Requirements (WDRs) or a waiver of WDRs. “Waste” is defined in Water Code section 13050 subdivision (d).

Discharges to land of process wastewater and solids originating from a wine, beverage or food processing facility has the potential to affect the quality of waters of the State. Such discharges have certain common characteristics, such as similar constituents, concentrations of constituents, disposal techniques, flow ranges and they require the same or similar treatment standards. These types of discharges are appropriately regulated under general WDRs, as described in section 13263 subdivision (i) of the California Water Code.

On March 28, 2002, the Regional Water Board adopted Order No. R1-2002-0012, General Waste Discharge Requirements for Discharges of Winery Waste to Land (Winery Order). The Winery Order authorizes discharges to land from enrolled facilities’ winery wastewater treatment and disposal systems. The Winery Order contains effluent limits, and regulates the application of treated wastewater to land for the purpose of frost protection and irrigation and the application of processing solids at agronomic rates. Surface and subsurface wastewater disposal systems are eligible for coverage under the Winery Order. A General Monitoring and Reporting program allows determination of compliance with effluent limits, receiving water limitations and discharge prohibitions. The Winery Order was developed in compliance with California Environmental Quality Act (CEQA). An Initial Study and Negative Declaration for the Winery Order were adopted by the Regional Water Board on March 28, 2002.

Discharges of process waste to land by beverage and food processing facilities, other than wineries, have historically been authorized under individual facility specific WDRs. These individual Orders are on average 22 years old and in need of updating.

Discharges of process waste to land by wineries have typically been authorized through enrollment of the facility under the Winery Order. However, some wineries that have sought enrollment under the Winery Order have been deferred enrollment by Regional Water Board staff. Deferral of enrollment is based on the winery being a small winery, producing less than 1,500 gallons per day of process wastewater, and the discharge from such facilities posing a minimal risk to groundwater quality. These facilities were

advised of the deferral of coverage under the Winery Order and told of the future development of a general conditional Waiver of WDRs which would authorize discharges from their smaller facilities

This Order is a revision, or update, of the Winery Order that was adopted by the Regional Water Board on March 28, 2002. The Winery Order is being revised for the following reasons:

1. To incorporate laws, regulations and Water Quality Control Plan for the North Coast Region (Basin Plan) policies enacted after the 2002 adoption of the Winery Order.
2. To recognize the concurrent development of a general Conditional Waiver of Waste Discharge Requirements (WDR) for those eligible wine, beverage, and food processing facilities that discharge less than 1,500 gallons per day of process wastewater to land.
3. To extend coverage of the Order to other types of eligible beverage and food processors, including but not limited to, breweries, distilleries, cheese processors, and olive oil manufacturers.

#### **B. Definition of Permittee**

Permittee, as the term applies under this Order, is any person who owns and/or operates a beverage or food processing facility that discharges beverage or food processing waste to land and is responsible for ensuring compliance with the Order. For the purposes of this Order, references to the “Discharger” in applicable state laws, regulations, plans, or policy are held to be equivalent to references to the Permittee herein.

## **II. INDUSTRY INFORMATION**

### **A. Background**

Wine, beverage, and food processing facilities located within the North Coast Region include but are not limited to alcoholic (wineries, breweries, cider house) and non-alcoholic beverage producers, fruit and vegetable processors, meat wrapping, and dairy product manufactures. These facilities range in size from small, in-home operated, non-commercial establishments to larger, industrial or commercial establishments.

The Regional Water Board currently regulates discharges to land from wine, beverage, and food processor facilities that could affect the quality of the waters of the state through the issuance of facility specific WDRs, enrollment under the Winery Order, or issuances of a conditional waiver of WDRs.

The California Integrated Water Quality Systems (CIWQS) statewide regulatory, compliance and enforcement information database has identified approximately 220 wine, beverage, and food processor facilities located within the North Coast Region. Of the 220 facilities, 38 are currently regulated by facility specific WDRs for discharges of wastewater to land, 46 are enrolled under the Winery Order and the remaining facilities are authorized or are pending authorization for discharge under a waiver of WDRs.

Additionally, it is suspected that there may be other wine, beverage, and food processing facilities located within the North Coast Region that may be currently discharging process wastewater to land and have not applied or been issued; facility specific WDRs, coverage under the Winery Order or coverage under a Waiver of WDRs. This conclusion is based on an informal survey of telephone directories, licensing records, industry and business associations, and other information made available on the internet.

## **B. Eligible Facilities**

Types of eligible beverage or food processing facilities includes, but is not limited to; wineries, breweries, cider houses, non-alcoholic beverage producers, distilleries, post-slaughter cut and wrap meat processing facilities, fruit, nut and vegetable processors, and dairy product manufactures.

Determinations of whether a facility should be covered by this Order or is appropriate for coverage under the general conditional Waiver of WDRs, facility specific WDRs, or some other WDRs or conditional Waiver will be made on a case-by-case basis. In general, discharges from larger operations where more than 1,500 gpd of process wastewater is produced, as measured during the peak production period, will require coverage under these General WDRs.

Discharges from larger processing facilities are typically higher in volume and require the use of a treatment and disposal system appropriately designed to handle the larger volume of waste. These higher volume treatment and disposal systems typically require a greater level of oversight, are more complicated to operate and maintain and when problems occur, have a higher potential to directly impact water quality and beneficial uses.

Wine, beverage and food processor waste authorized for discharge by this Order includes fruit and vegetable matter, pomace, lees, soil, rinse water, wash water, cooling water, and water softener waste brine. The waste produced by agricultural operations associated with the growing of the fruits or vegetables is not covered by this Order.

Wine, beverage and food processing waste can have elevated levels of organic matter, solids, nutrients, and salts with swings in pH requiring physical, biological, and/or chemical treatment. Whether an individual discharge of wine, beverage and food processing waste may affect the quality of waters of the State depends on the quantity of waste, the quality of waste, extent of treatment, soil characteristics, distance to surface waters, depth to groundwater, and other factors.

A Permittee seeking authorization to discharge under this Order shall submit a complete *Notice of Intent (NOI) to Comply with the Terms of the General Waste Discharge Requirements for Wine, Beverage and Food Processor Waste*, which will include the appropriate documentation of CEQA compliance and the first annual fee. The information required with the NOI is equivalent to a ROWD.

This Order applies to both above ground and subsurface discharges of wine, beverage and food processing waste. Aboveground discharges of waste to agricultural lands or landscape irrigation areas will be done at agronomic rates and will comply with the Facility-specific Salt and Nutrient Management Plan (FSNMP).

Coverage under the Order will take effect when the Permittee receives a Notice of Coverage (NOC) letter, the written notification of enrollment, signed by the Executive Officer.

**C. Ineligible Discharges**

Discharges of wine, beverage or food processor wastewater to surface waters is not authorized by this Order.

**III. FINDINGS**

**A. Legal Authorities**

This Order serves as Waste Discharge Requirements (WDRs) for discharges to land issued pursuant to section 13263 of the California Water Code (Water Code).

**B. Basin Plan**

As required by Water Code section 13263(a), these WDRs are crafted to implement the Water Quality Control Plan for the North Coast Region (Basin Plan), and in so doing, the Regional Water Board has taken into consideration the beneficial uses to be protected, the water quality objectives reasonably required for that purpose, other (including previous) waste discharges, the need to prevent nuisance, and the provisions of Water Code section 13241. The Basin Plan contains implementation plans and policies for protecting waters of the basin. The Basin Plan implements State Water Resources Control Board (State Water Board) Resolution No. 88-63, which established state policy that all waters, with certain exceptions, should be considered suitable or potentially suitable for municipal or domestic supply.

Thus, beneficial uses applicable to area groundwater within the North Coast Hydrologic Basin Planning Area (the boundaries of the North Coast Regional Water Board) to be protected are as follows:

1. Municipal and Domestic Supply (MUN)
2. Agricultural Water Supply (AGR)
3. Industrial Service Supply (IND)
4. Industrial Process Water Supply (PRO)
5. Freshwater Replenishment to Surface Waters (FRSH)
6. Aquaculture (AQUA)
7. Native American Culture (CUL)

**C. California Water Code**

The Water Code establishes the authority for the Regional Water Board to establish water quality objectives, impose discharge prohibitions, and prescribe waste discharge and reclamation requirements. Water Code section 13241 requires each regional board to “establish such water quality objectives in water quality control plans as in its judgment will ensure the reasonable protection of beneficial uses and the prevention of nuisance [...]” The control of pollutants discharged is established through effluent limitations and other requirements in WDR permits. Water Code section 13243 provides that “A regional board, in a water quality control plan or in waste discharge requirements, may specify certain conditions or areas where the discharge of waste, or certain types of waste, will not be permitted”. Water Code section 13260 et seq. establishes regulations associated with the prescription of waste discharge requirements.

It is the Regional Water Board’s intent that enrollment under this Order shall ensure attainment of water quality standards, applicable water quality objectives, and protection of beneficial uses of receiving waters. This Order therefore requires the Permittee to comply with all prohibitions, effluent limitations, discharge specifications, reclamation specifications, reclamation provisions and requirements, receiving water limitations, standard provisions, and monitoring and reporting requirements. The Order further prohibits discharges from causing violations of water quality objectives or causing conditions to occur that create a condition of nuisance or water quality impairment in receiving waters as a result of the discharge.

**D. Threat and Complexity**

The threat to water quality (TTWQ) and complexity (CPLX) rating for activities eligible for coverage by this Order are 2-B, 2-C, 3-B, or 3-C, as identified and defined in section 2200 of Title 23, California Code of Regulations. The Executive Officer will determine the annual fee based on the TTWQ and CPLX of the discharge. The assessment will be based on information provided by the Permittee in the Notice of Intent (NOI).

**E. California Code of Regulations (CCR)**

The discharge authorized herein and the treatment and storage facilities associated with the discharge are exempt from the requirements of title 27, CCR, section 20005 et seq. The exemption, pursuant to section 20090(b) of title 27, allows for the exemption of discharges of wastewater if;

1. The applicable Regional Water Board has issued WDRs;
2. The discharge is in compliance with the applicable water quality control plan (Basin Plan); and
3. The wastewater does not need to be managed as a hazardous waste.

**F. Endangered Species Act**

This Order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097). The Discharger is responsible for meeting all requirements of the applicable Endangered Species Act.

**G. Monitoring and Reporting**

Water Code section 13267 authorizes the Regional Water Board to require technical and monitoring reports. The Monitoring and Reporting Program establishes monitoring and reporting requirements to implement federal and State requirements. A Monitoring and Reporting Program is provided in this Order as Attachment B. The Executive Officer of the Regional Water Board is delegated the authority to modify the Monitoring and Reporting Program, as appropriate to protect water quality.

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