

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
NORTH COAST REGION**

**DRAFT  
ORDER NO. R1-2014-0046**

**CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS  
FOR  
DISCHARGES OF WINE, BEVERAGE AND FOOD PROCESSOR WASTE TO LAND  
IN THE NORTH COAST REGION**

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), finds that:

1. Order No. R1-2014-0046 (hereafter, "Order") serves as a Conditional Waiver of Waste Discharge Requirements for eligible wine, beverage and food processing facilities in the North Coast Region that meet the requirements established in this Order.
2. For purposes of this Order, eligible commercial wine, beverage and food processing facilities include but are not limited to wineries, breweries, cider houses, non-alcoholic beverage producers, distilleries, post-slaughter cut and wrap meat processing facilities, fruit and vegetable processors, and dairy product manufacturers that discharge less than 1,500 gallons per day (gpd) of process wastewater to land, as measured during the peak production period of the facility.
3. Discharges to land from such eligible wine, beverage and food processing facilities have certain common characteristics, such as similar constituents, concentrations of constituents, flow ranges, and treatment, disposal and reuse techniques.
4. This Order covers the discharge of wine, beverage or food processing waste to land for the purpose of disposal or reuse. Reuse activities covered by this Order include the use of treated process wastewater as irrigation or frost protection water on agricultural land or landscaping and the use of nonhazardous decomposable waste as a soil amendment pursuant to best management practices.
5. For the purpose of this Order wine, beverage and food processing waste includes but is not limited to pomace, lees, fruit and vegetable matter, soil, washwater, cooling water, and any stormwater sent to the wastewater collection and treatment system.
6. The discharge of wine, beverage and food processing solids to land poses a limited threat to waters of the state provided the facility complies with the conditions of this Order.

## **LEGAL AND REGULATORY FRAMEWORK**

7. California Water Code (CWC) section 13260 subdivision (a) requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the State, other than into a community sewer system, shall file with the appropriate Regional Water Board a Report of Waste Discharge (ROWD) containing such information and data as may be required by that Regional Water Board.
8. Pursuant to CWC section 13260, a Regional Water Board prescribes waste discharge requirements (WDRs) except when it finds, pursuant to CWC section 13269, that a waiver of WDRs for a specific type of discharge is in the public interest.
9. CWC section 13263 subdivision (i) authorizes the Regional Water Board to prescribe general WDRs for a category of discharges if the discharges are produced by the same or similar operations, involve the same or similar types of waste, require the same or similar treatment standards, and are more appropriately regulated under general WDRs than individual WDRs.
10. Pursuant to CWC section 13269, waivers of WDRs may be issued as to a specific discharge or type of discharge. Waivers shall not exceed five (5) years in duration. Enrollment in this Order: (a) is conditional; (b) may be terminated at any time; (c) does not permit an illegal activity; (d) does not preclude the need for permits which may be required by other local or governmental agencies; and (e) does not preclude the Regional Water Board from administering enforcement remedies (including civil penalties) pursuant to the CWC and other applicable law.
11. Any person may be liable for penalties if that person violates a condition of a waiver, discharges waste, or causes waste to be deposited where it is discharged, into the waters of the state and creates a condition of pollution or nuisance.
12. This Order shall not create a vested right, and all discharges covered by it shall be considered a privilege, not a right, as provided under CWC section 13263.
13. This Order applies to wine, beverage, and food processor waste discharged to land that poses a low or insignificant risk to groundwater or surface water. Wine, beverage or food processor waste discharged to land at a rate greater than 1,500 gpd or that potentially poses a significant threat to groundwater or surface water quality may be regulated by General Waste Discharge Requirements (e.g., Order No. R1-2014-0046) or Facility-specific Waste Discharge Requirements (WDRs). Discharges of wine, beverage or food processor waste to waters of the United States require coverage under a National Pollutant Discharge Elimination System (NPDES) permit.

14. This Order does not cover discharges associated with activities that are not described in this Order. For example, it does not cover discharges of hazardous material. Discharges of waste not specifically covered under this Order are prohibited, except as in compliance with the CWC.

### **BASIN PLAN**

15. All Orders adopted by the Regional Water Board are required to implement the Water Quality Control Plan for the North Coast Region (Basin Plan). Therefore, this Order requires the Permittee to comply with all applicable Basin Plan provisions, including any prohibitions and water quality objectives governing the discharge.
16. This Order establishes minimum standards for the discharge of wine, beverage and food processor waste to land only. The Permittee shall comply with any more stringent standards in the Basin Plan. In the event of a conflict between the provisions of this Order and the Basin Plan, the more stringent provisions prevail.
17. Pursuant to the Basin Plan, the existing and potential beneficial uses of groundwater within the North Coast Region include: Municipal and Domestic Supply (MUN), Agricultural Supply (AGR), Industrial Supply (IND), Industrial Process Supply (PROC), Freshwater Replenishment (FRSH), Aquaculture (AQUA), and Native American Culture (CUL).

### **ANTIDegradation ANALYSIS**

18. The State Water Board established California's Antidegradation Policy in State Water Board Resolution No. 68-16. Resolution No. 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings. The Regional Water Board's Basin Plan implements, and incorporates by reference, the State antidegradation policy. The discharge of wine, beverage or food processor waste to land is consistent with the provisions of State Water Board Resolution No. 68-16. Discharges covered by this Order have a potential to degrade localized groundwater, however compliance with the conditions of this Order will ensure that any degradation will be consistent with the maximum benefit to the people of the State, will not unreasonably affect present and anticipated beneficial use of such water, and will not cause an exceedance of applicable groundwater quality objectives. The following best practicable treatment and control requirements will be implemented to minimize degradation, prevent exceedance of any water quality objectives and prevent impacts to beneficial uses:
  - a. This Order limits the discharge rate to less than 1,500 gpd, as measured during the peak production period for the facility, therefore, only small wine, beverage and food processing discharges are eligible for coverage. A discharge of a low volume of process wastewater inherently has limited potential to significantly degrade water quality.

- b. The reuse of process wastewater and solids on agricultural lands at an agronomic rate for the vegetation being grown ensures that excessive leaching will not carry pollutants to shallow groundwater. It will also ensure that degradable organic matter is transformed in the unsaturated zone in a way that benefits soil structure and can be utilized by vegetation rather than migrating into shallow groundwater.
  - c. The discharge of process wastewater to a subsurface leachfield or drip disposal system shall be designed in such a manner as to adequately treat and dispose of the specific type of process wastewater originating from that facility. Systems shall include pre-screening for solids removal, adequate separation to groundwater and in some instances dual disposal fields so as not allow organic overloading of the soil.
  - d. The land application of process wastewater and solids will be done in such a manner as to limit potential odors, nuisances and the comingling of constituents of concern with storm water. Direct discharges to surface waters are prohibited by this Order.
  - e. This Order requires that the Permittee utilize a pollutant source reduction strategy and limit the amount of cleaning, disinfection, neutralizing, and other types of chemicals in the process wastewater that could possibly impact groundwater.
19. This Order is consistent with the Antidegradation Policy because it includes specific requirements and conditions of discharge to minimize water quality degradation. The Monitoring and Reporting Program will confirm that best practicable treatment and control methods are implemented, that any degradation is detected, and water quality objectives are not exceeded. Permittees regulated under this Order are subject to enforcement action for any violations and coverage under the conditional waiver can be terminated if the requirements and conditions are not met.
20. The Permittee is required to submit to the Regional Water Board a complete Notice of Intent (NOI) (Attachment A) when applying for coverage under this Order. The technical information required in the NOI will disclose sufficient information about the operations of the facilities and the waste being generated to allow Regional Water Board staff to use best professional judgment to determine whether additional information is needed to show that the proposed discharge will be consistent with the condition of this Order, and to determine whether coverage should be granted.
21. Reporting of the Permittee's efforts to achieve sustained water quality protection is required in an Annual Monitoring Report, as per Monitoring and Reporting Program No. R1-2014-0046 (Attachment B) that is due to the Regional Water Board by February 1<sup>st</sup> of each year. The Annual Monitoring Report shall assess compliance with the conditions of this Order.

**CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

22. The adoption of this Order is intended to protect water quality. The Regional Water Board finds that discharges authorized under this Order from existing wine, beverage and food processors are categorically exempt from the provisions of the California Environmental Quality Act ("CEQA", Public Resources Code sections 21000 et seq.). The Regional Water Board finds discharges from existing facilities are exempt pursuant to California Code of Regulations, title 14, sections 15301, existing facilities, and section 15304, minor alterations to land.
23. New and expanded wine, beverage and food processing facilities are eligible for coverage under this Order if the Permittee submits, along with the complete NOI, the CEQA documents adopted and certified by a local lead agency. Alternatively, the Regional Water Board may require the Permittee to prepare CEQA documents adequate for the Regional Water Board's use or determine the facility is exempt from CEQA.

**TITLE 27**

24. The wastewater treatment, storage, and disposal activities described in this Order are exempt from the requirements of Consolidated Regulations for Treatment, Storage, Processing, or Disposal of Solid Waste, as set forth in California Code of Regulations, title 27, section 20005, et seq. (hereafter title 27). The activities are exempt from title 27 requirements pursuant to section 20090 so long as the activity meets, and continues to meet, all preconditions listed:
  - a. Subparagraph (b) Wastewater—Discharges of wastewater to land, including but not limited to evaporation ponds, percolation ponds, or subsurface leach fields if the following conditions are met:
    - i. the applicable Regional Water Board has issued WDRs, reclamation requirements, or waived such issuance;
    - ii. the discharge is in compliance with the applicable water quality control plan; and
    - iii. the wastewater does not need to be managed according to California Code of Regulations, title 22, chapter 11, division 4.5, as a hazardous waste.
  - b. Subparagraph (f) Soil Amendments—Use of nonhazardous decomposable waste as a soil amendment pursuant to applicable best management practices, provided that Regional Water Boards may issue waste discharge or reclamation requirements for such use.

**WATER CODE Section 13267**

25. The monitoring and reporting program requirements in this Order and MRP R1-2014-0046 (Attachment B) are necessary to determine compliance with the conditions of the Order and to determine the facilities impacts, if any, on groundwater. The evidence in support of requiring these reports is discussed in the above findings.

**PUBLIC NOTIFICATION**

26. The Regional Water Board has notified all known potential Permittees and all other known interested parties of the intent to adopt this Order.

**PUBLIC MEETING**

27. The Regional Water Board conducted a public hearing on November 20, 2014, in Santa Rosa, California and considered all evidence concerning this matter.

THEREFORE BE IT ORDERED, that pursuant to California Water Code section 13269, the North Coast Regional Water Board adopts this “Conditional Waiver of Waste Discharge Requirements for the Discharge of Wine, Beverage and Food Processor Waste to Land” and waives the requirement to obtain WDRs for those eligible Permittees who:

- a. Comply with the terms and conditions set forth herein, and
- b. Receive a Waiver Notice of Coverage (NOC) letter signed by the Executive Officer.

**APPLICATION PROCESS**

1. A Permittee seeking coverage under this Order shall submit a complete “Notice of Intent (NOI) to comply with the terms of the Conditional Waiver of Waste Discharge Requirements for the Discharge of Wine, Beverage and Food Processor Waste to Land”. The NOI form is included as Attachment A of this Order. The information required with the NOI is equivalent to a Report of Waste Discharge.
2. Under Water Code section 13269 subdivision (a)(4), a regional water board may include as a condition of a waiver the payment of an annual fee. Annual fees are established by the State Water Board in accordance with Water Code section 13260 subdivisions (d) and (f). At this time, the State Water Board has not established a fee schedule for the discharges covered by this Order. When such a fee schedule is adopted, a Permittee seeking coverage under this Order will be required to pay an annual fee as set forth in California Code of Regulations title 23, section 2200.7.
3. Coverage under the Order will take effect when the permittee receives written notification of coverage from the Executive Officer in the form of an NOC letter.

4. Regional Water Board staff will periodically review enrollments and may revoke any enrollment deemed inappropriate.
5. A Permittee covered under the Order shall submit an updated NOI to the Executive Officer when there is any change in the information submitted within the original NOI, or any change in activities at the facility, that may affect the quality or quantity of the waste discharge.
6. This Order does not authorize discharges from facilities that have not submitted a NOI and that have not received a NOC letter from the Executive Officer.
7. The Executive Officer may require any Permittee covered under this Order to apply for and obtain coverage under Order No. R1-2014-0046, General Waste Discharge Requirements for the Discharge of Wine, Beverage and Food Processor Waste to Land (General WDR Order) or individual WDRs. Immediately upon receiving coverage by the General WDR Order or issuance of individual WDRs for the discharge, applicability of this Order is terminated.

#### **SPECIFIC CONDITIONS**

All Permittees shall comply with the following conditions as well as any site-specific conditions listed in the Notice of Coverage letter signed by the Executive Officer.

1. The discharge of any waste not specifically regulated by this Order is prohibited.
2. The discharge of wastes to surface waters or surface water drainage courses is prohibited.
3. The discharge of waste classified as “hazardous”, or “designated”, as defined in California Code of Regulations, title 22, section 2521 or as “designated” under CWC section 13173, respectively, is prohibited.
4. Bypass or overflow of untreated or partially treated wine, beverage, or food processing waste from anywhere within the collection, treatment, or disposal system is prohibited.
5. The discharge or reuse of waste on land that is not under the control of the permittee is prohibited unless specifically authorized by the Executive Officer in the NOC letter.
6. The discharge of process wastewater to a subsurface disposal system must maintain a five foot separation to groundwater unless otherwise authorized by the Executive Officer.

7. The reuse or disposal of treated process wastewater to agricultural lands or landscaping shall:
  - a. Not be applied within 48 hours of a forecasted rain event, during times of rainfall, 48 hours after a rainfall event or when the land application area soils are saturated.
  - b. Be applied at a rate consistent with or less than the nutrient agronomic rate for nitrogen and the water need of the crop or vegetation being grown.
  - c. Not be applied within 25 feet of surface water or a surface water drainage course unless the land application area is graded or bermed to prevent runoff into the surface water or drainage course.
  
8. The reuse of non-hazardous, decomposable, process solid wastes to land as a soil amendment shall:
  - a. Not be applied to land within 48 hours of a forecasted rain event, during times of rainfall, 48 hours after a rainfall event or when the land application area soils are saturated.
  - b. Be applied in accordance with the application methods, rates, and management practices proposed in the NOI unless the Permittee finds that specific changes are necessary to ensure compliance with the conditions of this Order.
  - c. Be applied at or less than the nutrient agronomic rates for the crop or vegetation being grown.
  - d. Not be applied within 25 feet of a surface water drainage course unless the land application area is graded or bermed to prevent runoff into the drainage course.
  
9. Process wastewater treatment pond systems covered by this Order shall be designed and operated to:
  - a. Maintain at least a two-foot freeboard at all times.
  - b. Maintain a dissolved oxygen concentration in the upper zone (one foot) of not less than 1.0 mg/l at any time.
  
10. The temporary storage of wine, beverage and food processing solid waste on-site prior to land application or off-site disposal shall be fully contained and stored in such a way that leachate or stormwater coming in contact with the waste is managed in accordance with this Order as process wastewater.
  
11. The discharge shall not create or threaten to create a condition of pollution, contamination, or nuisance as defined by CWC section 13050.
  
12. The Permittee shall take all reasonable steps to reduce any salinity and chemical inputs to the wastewater treatment and disposal system such as minimizing the use of non-biodegradable cleaners, chemicals and salt-containing additives.



### **GENERAL CONDITIONS**

1. Each Permittee granted coverage under this Order shall comply with Monitoring and Reporting Program No. R1-2014-0046 (Attachment B), which is attached hereto and made a part of this Order and with any revisions thereto as ordered by the Executive Officer.
2. A copy of this Order and the NOC letter shall be kept at the facility for reference by operating personnel. Key operating and site management personnel must be familiar with the documents.
3. If the Permittee wishes to terminate coverage under this Order, the Permittee shall submit a letter to the Executive Officer requesting such termination. A Regional Water Board staff inspection of the facility may be required prior to termination coverage. Termination of coverage from the Order will occur on the date specified in the Permittee's letter, unless notified otherwise. All discharges shall cease before the date of termination, and any discharges on or after this date shall be considered in violation of this Order unless covered by another Waiver or WDR Order.
4. The Permittee is required to notify the Regional Water Board of any change in ownership or control of land or waste discharge facilities presently covered by this Order. Coverage under this Order is not transferable. In the event of any change in control or ownership, the Permittee shall also notify the succeeding owner or operator of the existence of this Order by letter and shall inform the new owner or operator of the requirement to submit a NOI at least **120 days** before commencing operation of the facility. A copy of the letter shall be immediately forwarded to the Executive Officer.
5. The Permittee is required to notify the Regional Water Board of any material change in the type of waste being discharged or any planned alteration to the facility that may change the nature or concentration of pollutants in the discharge.
6. The Permittee shall take all reasonable steps to prevent any discharge in violation of this Order.
7. The Permittee shall at all times properly operate and maintain the wastewater treatment and disposal system to achieve compliance with this Order.
8. The Permittee shall comply with all federal, state, county, and local laws and regulations pertaining to the discharge.
9. The Permittee shall allow Regional Water Board representatives to: (a) enter premises where wastes are stored or disposed of; (b) copy any records required to be

kept under the terms of this Order; (c) inspect monitoring equipment required by this Order; and (d) sample, photograph, and video tape any discharge, waste, waste management unit, or monitoring equipment.

10. All technical and monitoring reports submitted pursuant to this Order are required pursuant to CWC section 13267. Failure to submit reports in accordance with schedules established by this Order, the attachments of this Order, or failure to submit a report of sufficient technical quality to be acceptable to the Executive Officer, may subject the Discharger to enforcement action pursuant to CWC section 13268.
11. The NOI, monitoring reports, and any other information requested by the Regional Water Board shall be signed as follows:
  - a. For a corporation: by a principal executive officer of at least the level of senior vice-president or a duly authorized representative of that person.
  - b. For a partnership or sole proprietorship: by a general partner or the proprietor or a duly authorized representative of that person.
  - c. For a municipality or public agency: by either a principal executive officer or ranking elected or appointed official or a duly authorized representative of that person.
12. Any person signing a document required by this Order shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."
13. Pursuant to CWC section 13269, this action waiving the issuance of WDRs for small wine, beverage and food processors is: (a) conditional; (b) may be terminated at any time; (c) does not permit an illegal activity; (d) does not preclude the need for permits which may be required by other local or governmental agencies; (e) requires monitoring and (f) does not preclude the Regional Water Board from administering enforcement remedies (including civil liability) pursuant to the CWC.
14. The Executive Officer or North Coast Regional Water Quality Control Board may terminate the applicability of the Order for any individual discharger at any time when such termination is in the public interest or the activity could affect the quality or beneficial uses of the waters of the State.
15. This Order shall become effective on November 20 2014 and shall expire on November 19, 2019, unless terminated or renewed by the Regional Water Board prior to that time.

16. The Regional Water Board may review the Order at any time and may modify or terminate the Order in its entirety, as applicable for a specific type of wine, beverage or food processing discharge, or for individual dischargers, as appropriate.

I, Matthias St. John, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, North Coast Region, on November 20, 2014.

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Matthias St. John  
Executive Officer

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