

**Regional Water Quality Control Board
North Coast Region
Executive Officer's Summary Report
December 19, 2019
Regional Water Board Office
Santa Rosa, California**

ITEM: 6

SUBJECT: Update on the status of Vineyard Permit Development (*Lynette Shipsey and Jeremiah Puget*)

BOARD ACTION: This is an informational item only; no Board action to be taken.

BACKGROUND: The purpose of this item is to update the North Coast Regional Water Quality Control Board (Regional Water Board) regarding the status of the development of general waste discharge requirements for vineyards in the North Coast Region (Vineyard Permit).

There are approximately 320,000 acres of productive agricultural land in the North Coast Region. Vineyards and orchards comprise 20 percent of this agricultural acreage and have the potential to discharge pollutants to surface water and groundwater through the application and storage of pesticides and fertilizer, erosion of sediment, removal and suppression of riparian vegetation, and rainfall and irrigation runoff.

The Regional Water Board has a statutory obligation under the Federal Clean Water Act and the State's Porter-Cologne Water Quality Control Act to regulate discharges of waste to waters of the state, restore water quality in impaired waters, and maintain existing high-quality waters. Further, the State Water Resources Control Board's 2004 Policy for the Implementation and Enforcement of the Nonpoint Source Pollution Control Program (NPS Policy) states that all non-point source discharges that can affect water quality must be regulated by either waste discharge requirements, waivers of waste discharge requirements, or prohibitions. Under the NPS Policy the Regional Water Board may prescribe general Waste Discharge Requirements (WDRs) and/or a waiver of WDRs for a category of dischargers 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 a general WDR or waiver than individual WDRs.

In February of 2019, technical data from a scoping analysis that was conducted in 2018 was presented to the Regional Water Board and served to verify: (1) that the approximately 75,000 regional vineyard acres comprise over 95 percent of the total combined vineyard and orchard acres and (2) that there is the potential towards expansion of vineyard operations north of Sonoma and Mendocino Counties due to economic benefits and warming trends. As a result, the Regional Water Board endorsed staff's recommendations to revise the scope of current permit development to solely be a regionwide Vineyard WDR (Permit).

There has been no change in staff's recommended approach to key program concepts, which were previously scoped during Stakeholder Advisory Group meetings conducted from 2011-2014. These concepts include the development of water quality farm plans and implementation of best management practices (BMPs) outlined in the farm plans to control discharges of waste; and an option to work with third-party groups or programs to assist land managers and property owners in achieving compliance with Permit requirements.

Since the scoping revision in February 2019, staff have diligently worked to further develop the details of the Vineyard Permit. Targeted tasks completed to date have included meetings with various stakeholders including landowners, environmental groups, Farm Bureaus, Resource Conservation Districts and Regulatory Agencies. These meetings have provided staff with the needed information to develop an outline of the proposed structure of the Permit, establish draft enrollment criteria and thresholds, and identify several key issues that require further refinement to achieve a high level of relevancy to vineyard operations and efficiency in protection against the associated threats to water quality. Staff's presentation will focus on the Permit Structure, Permit Applicability, Permit Components, Outstanding Issues, and Public Participation and Permit Schedule.

Permit Applicability: Staff recommend that Permit enrollment be based on a de minimus threshold relating to planted acreage. Currently staff recommend that vineyard owners with more than 5 acres of planted vines be required to enroll in the Vineyard Permit; and that for vineyards which meet certain conditions that could result in significant water quality impacts, such as steep slopes, timber conversions, and ridgetop development vineyard owners be required to seek coverage under individual WDRs. Staff propose to utilize a tiered permit structure, whereby vineyards that have potential for only minimal water quality impacts to have fewer monitoring and reporting requirements as compared to vineyards that have greater potential for water quality impacts. The criteria and thresholds for designating the tiers are still under development.

Permit Components: Permit components will include: findings supporting the requirements set forth in the Permit; waste discharge requirements that will consist of prohibitions, discharge specifications, waste discharge control requirements, and general provisions; monitoring and reporting requirements; and the third-party roles, qualifications, and responsibilities.

Staff recommend that the Permit require BMP implementation and effectiveness monitoring in addition to the development and implementation of individual farm plans as one element of the adaptive management approach to water quality protection. Required components of Executive Officer-approved farm plans will include an inventory of site conditions and all roads, a description of best management practices addressing erosion control, fertilizer and pesticide management, identification of potential water quality impacts, prioritization of necessary corrective actions, and development of timelines for those actions.

Monitoring and reporting is a critical component of the Permit which can be used in an adaptive management framework to address waste discharges and associated water quality problems. Staff propose that some monitoring and reporting requirements may either be met through group programs or individual monitoring. Staff are also considering developing numeric action levels for some monitoring parameters which, if exceeded, would trigger adaptive management of BMPs and a requirement to develop water quality management plans to address the observed surface and/or groundwater quality conditions.

Outstanding Issues: Some of the Vineyard Permit discharge specifications and general provisions that have yet to be determined include:

- Stream buffers
- Nutrient use and uptake calculation requirements
- Timelines for completion of certain permit requirements

It is the intent of staff to propose stream buffers that are sufficiently protective of riparian areas and that consider geomorphological conditions, applicable beneficial uses, and land-owner benefits. In developing a recommendation for stream buffers staff are considering the buffers established in the Sonoma County Vineyard Erosion and Sediment Control (VESCO) program, and those included in other Regional Board adopted agricultural permits such as the State Cannabis General Order and the San Francisco Bay Regional Water Board's vineyard permit.

Nutrient use and uptake calculations are essential in determining potential leachate and transport of pollutants into groundwater such as nitrogen and total suspended solids, which are a measure of salts; and for identifying protective measures to reduce impacts to groundwater quality. Issues concerning salt and nutrient groundwater contamination from agricultural operations are prevalent in the Central Valley and other commercial agricultural regions, and as a result, the State Water Board issued a precedential Order in 2018, the "East San Joaquin Order" that addresses discharges from irrigated lands.¹ The Order provides direction and guidance to Regional Water Boards on the requirements that must be included in irrigated lands programs implemented by Regional Water Boards. Staff propose to incorporate requirements established by the State Water Board in that Order into the Vineyard Permit in a manner that is appropriate for maintaining our Region's high-quality groundwater and surface water. Staff are considering a long-term approach to groundwater protection with respect to agricultural operations that includes the development of groundwater protection target values and action levels, the collection of baseline groundwater quality data, and calculation and calibration of uptake and usage ratios for historical and future agricultural operations. Staff propose to establish these requirements in group or individual monitoring programs that will be a part of the Vineyard Permit program as a way to meet the precedential requirements in the East San Joaquin Order.

¹ State Water Board Order No. 2018-0002, usually referred to as the "East San Joaquin Order".

Some of the requirements set forth in the Permit will have associated deadlines for reporting and BMP implementation. Staff are considering an enrollment deadline of one year after the Permit is adopted. Additionally, staff are considering varying deadlines for development and implementation of farm plans based on the potential for water quality impacts from vineyard operations.

Public Participation and Permit Schedule: Key milestones of the Permit development schedule are listed below. Staff will continue to have targeted stakeholder meetings throughout the development of the Permit. As part of the public engagement process, staff plan to hold a public workshop during the summer of 2020 to seek input on the draft Permit. Staff plan to hold a second public workshop during the 30-day public comment period in the spring of 2021. A series of multi-lingual press releases will be issued that will include radio, printed, and community bulletin versions that will serve to notify vineyard property owners of the upcoming workshops and public review period. A Lyris list email will also be sent out as notification. Subscription to this list is available at:

https://www.waterboards.ca.gov/northcoast/water_issues/programs/agricultural_lands/

Process/Milestone	Time Frame
Outreach to Stakeholders	Spring 2019 - Winter 2020
Development of Draft Permit	Winter 2019 – Winter 2020
CEQA Development	Winter 2019 - Winter 2020
Tribal Consultations	Beginning Spring 2020
Public Comment Period (30 days)	Spring 2021
Public Workshops (2)	Summer 2020 & Spring 2021
Adoption Hearing	Winter 2021

RECOMMENDATION: Informational item only. No Board action will be taken at this time.

SUPPORTING DOCUMENT: None