

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

**PROPOSED
ORDER NO. R1-2016-0003**

**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. R1-2016-0003 serves as a Conditional Waiver of Waste Discharge Requirements (hereafter the Conditional Waiver or Order) 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, the types of wine, beverage and food (WBF) processing facilities that are eligible to apply for coverage under this Order include 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.
3. Those eligible WBF processing facilities that produce 1,500 gallons per day (gpd) or less of process wastewater, as measured during the peak production period of the facility, and discharge that process wastewater to land may apply for coverage under this Order.
4. Additionally, wineries that produce 3,000 gpd or less of process wastewater as measured during the peak production period; discharge that process wastewater to land; and produce no more than five gallons of wastewater for each gallon of wine produced annually (5:1 wastewater to wine ratio), may apply for coverage under this Order.
5. Discharges to land from such eligible WBF processing facilities have certain common characteristics, such as similar constituents, concentrations of constituents, flow ranges, and treatment, disposal and reuse techniques.
6. This Order covers the discharge of WBF 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 solid waste as a soil amendment pursuant to best management practices.
7. For the purpose of this Order, WBF processing waste includes but is not limited to pomace, lees, fruit and vegetable matter, soil, washwater, cooling water, and the volume

of stormwater sent to the WBF processor wastewater collection, treatment, and disposal system as per the WBP processor treatment and disposal system design.

8. The discharge of WBF processing solids to land poses a minimal threat to waters of the state provided the facility complies with the conditions of this Order.

LEGAL AND REGULATORY FRAMEWORK

9. California Water Code (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).
10. Pursuant to Water Code section 13263, a Regional Water Board prescribes 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.
11. Water Code 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.
12. Pursuant to Water Code 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 Water Code and other applicable law.
13. 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 Water Code section 13263(g).
14. This Order applies to WBF processor waste discharged to land that poses a low or insignificant risk to groundwater.
15. WBF processing facilities that discharge process waste to land and either; 1) produce process wastewater in excess of the rates established in this Order or 2) potentially poses a significant threat to groundwater or surface water quality may be regulated by General Waste Discharge Requirements (e.g., Order No. R1-2016-0002) or facility-specific WDRs. A discharge of WBF processor waste to waters of the United States requires coverage under a National Pollutant Discharge Elimination System (NPDES) permit.

- 16.** 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 Water Code.

BASIN PLAN

- 17.** 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 Discharger to comply with all applicable Basin Plan provisions, including any prohibitions and water quality objectives governing the discharge.
- 18.** 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

- 19.** State Water Board Resolution 68-16, the Statement of Policy with Respect to Maintaining High Quality Waters of California (hereafter the Antidegradation Policy) requires the disposal of waste into waters of the state be regulated to achieve the highest water quality consistent with the maximum benefit to the people of the state. The quality of some waters is higher than established by adopted policies and that higher quality water shall be maintained to the maximum extent possible consistent with the Antidegradation Policy. The Antidegradation Policy requires the following:
- a.** Higher quality water will be maintained until it has been demonstrated to the state that any change will be consistent with the maximum benefit to the people of the state, will not unreasonably affect present and anticipated beneficial use of the water, and will not result in water quality less than prescribed in the policies.
 - b.** Any activity that produces a waste and discharges to existing high quality waters will be required to meet WDRs that will result in the best practicable treatment or control of the discharge necessary to assure pollution or nuisance will not occur, and the highest water quality consistent with the maximum benefit to the people of the state will be maintained.
- 20.** The discharge of WBF processor waste to land is consistent with the Antidegradation Policy. 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 coverage to WBF processing facilities producing 1,500 gpd or less of process wastewater, or wineries that produce 3,000 gpd or less of process wastewater and achieve a 5:1 wastewater to wine ratio. Therefore, only small WBF processing waste discharges are eligible for coverage. A discharge of a low volume of process wastewater inherently has minimal 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 leaching of excessively applied nutrients 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 land application of process wastewater and solids shall be done in such a manner as to limit potential odors, nuisances and the comingling of constituents of concern with storm water. Discharges to surface waters are prohibited by this Order.
- d. The discharge of process wastewater to a leach field or spreading basin 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 to prevent organic overloading of the soil.
- e. This Order requires that the Discharger 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.

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.

- 21.** Limited degradation of groundwater by some waste constituents associated with wine, beverage and food processor waste, after effective source control, treatment, and control measures are implemented, is consistent with the maximum benefit to the people of the state. The continued economic prosperity of communities and associated industry is of maximum benefit to the people of the state and provides sufficient justification for allowing the limited groundwater degradation that may occur pursuant to this Order. The requirements of the Order are set as to avoid unreasonably affecting present and anticipated beneficial uses, and to prevent exceedances of water quality objectives, and monitoring is established to ensure this compliance. Any change to water quality will be consistent with the maximum benefit of the people of the State, and the highest water quality consistent with maximum benefit to the people of the State will be maintained.

- 22.** The Discharger is required to submit to the Regional Water Board a complete Form 200 (Appendix A) and Technical Information Form (TIF) (Appendix B) when applying for coverage under this Order. The technical information required in the TIF will disclose sufficient information about the operations of the facilities and the waste being generated to demonstrate best practicable treatment and control is being implemented and to allow Regional Water Board staff to determine whether the proposed discharge qualifies for coverage under this Order.
- 23.** Reporting of the Discharger's efforts to achieve sustained water quality protection is required in an Annual Monitoring Report, as per Monitoring and Reporting Program No. R1-2016-0003 (Appendix C) that is due to the Regional Water Board by February 1 of each year. The Annual Monitoring Report shall document compliance with the conditions of this Order.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

- 24.** As lead agency under the California Environmental Quality Act (CEQA), the Regional Water Board provided notice of intent to adopt a mitigated negative declaration for this Order on October 23, 2015 (Cal. Code Regs., tit. 14, § 15072). The mitigated negative declaration reflects the Regional Water Board's independent judgment and analysis. After considering the document and comments received during the public review process, the Regional Water Board hereby determines that the Project, with mitigation measures, will not have a significant effect on the environment and adopts the mitigated negative declaration. The documents or other materials, which constitute the record, are located at 5550 Skylane Blvd, Suite A, Santa Rosa, CA 95403. The Regional Water Board will file a Notice of Determination within five days from the issuance of this Order. Mitigation measures necessary to reduce or eliminate significant impacts on the environment and monitoring and reporting are incorporated as conditions of approval below.

TITLE 27 EXEMPTION

- 25.** 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, spreading basins 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.

MONITORING AND REPORTING PROGRAM

- 26. The monitoring and reporting program requirements in this Order and MRP R1-2016-0003 (Appendix C) are necessary to determine compliance with the conditions of the Order and to determine the facilities impacts, if any, on groundwater.
- 27. As such, the burden, including costs, of this monitoring bears a reasonable relationship to the need for that information and the benefits to be obtained from that information.

PUBLIC NOTIFICATION

- 28. The Regional Water Board has notified the public, all known potential Dischargers and all other known interested parties of the intent to adopt this Order.

PUBLIC MEETING

- 29. The Regional Water Board conducted a public hearing on January 28, 2016, in Santa Rosa, California and considered all evidence concerning this matter.

THEREFORE BE IT ORDERED, that pursuant to 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 Dischargers who:

- a. Comply with the terms and conditions set forth herein, and
- b. Receive a waiver Notice of Coverage (NOC) letter from the Regional Water Board.

APPLICATION PROCESS

- 1. A Discharger seeking coverage under this Order shall submit a complete Form 200 and TIF. The Form 200 and TIF are included as Appendix A and Appendix B of this Order. The information required with the Form 200 and TIF is equivalent to a ROWD.
- 2. Upon review of the Form 200 and TIF, Regional Water Board staff will determine if coverage under this Order is appropriate. The Regional Water Board Executive Officer will issue a NOC letter when coverage under this Order has been authorized. Coverage under the Order will take effect on the issue date of the NOC letter.
- 3. A Discharger covered under the Order shall submit an updated Form 200 and TIF to the Regional Water Board when there is any change in the information submitted within

the original Form 200 and TIF, or any change in activities at the facility, that may affect the quality or quantity of the waste discharge.

4. This Order does not authorize discharges from WBF processing facilities that have not submitted a Form 200 and TIF, and WBF processing facilities that have not received a NOC letter from the Regional Water Board.
5. The Executive Officer may require any Discharger covered under this Order to apply for and obtain coverage under Order No. R1-2016-0002, 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 under the General WDR Order or issuance of individual WDRs for the discharge, coverage under this Order is terminated.

SPECIFIC CONDITIONS

All Dischargers shall comply with the following conditions as well as any site-specific conditions listed in the Notice of Coverage letter.

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", as defined in California Code of Regulations, title 22, section 2521 or Water Code section 13050(p) is prohibited.
4. Bypass or overflow of untreated or partially treated WBF processing waste from anywhere within the collection, treatment, or disposal system is prohibited.
5. The discharge or reuse of WBF processing waste on land that is not under the control of the Discharger is prohibited, unless specifically authorized by the Executive Officer in the NOC letter.
6. The discharge of WBF process wastewater to a subsurface disposal system with less than a five foot separation to groundwater, as measured in wet weather conditions during disposal field site evaluation activities, is prohibited, unless otherwise authorized by the Executive Officer.
7. The reuse or disposal of treated WBF process wastewater to agricultural lands or landscaping shall:
 - a. Not be applied to the land application area within 24 hours of a forecasted precipitation event with a greater than 50-percent probability of occurring; during a precipitation event; within 24 hours after a precipitation event of a ½ inch or more precipitation that results in a storm water discharge from the land application area; and when the land application area surface soil is saturated. The Discharger shall visually observe and inspect the land application area to verify compliance.

- 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 the land application area within 24 hours of a forecasted precipitation event of a ½ inch or more precipitation with a greater than 50-percent probability of occurring; during a precipitation event of a ½ inch or more precipitation; within 24 hours after a precipitation event of a ½ inch or more precipitation or that results in a storm water discharge from the land application area; and when the land application area surface soil is saturated. The Discharger shall visually observe and inspect the land application area to verify compliance.
 - b.** Be applied in accordance with the application methods, rates, and management practices proposed in the TIF unless the Discharger 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.** WBF process wastewater treatment pond systems covered by this Order shall be designed and operated to:
 - a.** Maintain a dissolved oxygen concentration in the upper zone of the pond (within one foot depth) of not less than 1.0 mg/l at any time.
 - b.** For ponds without an overflow pipe, maintain at least two (2) feet of freeboard, defined as the elevation difference between the liquid level in the pond and the top of the bank, at all times.
 - c.** For ponds with an overflow pipe, maintain at least two (2) feet of freeboard, defined as the elevation difference between the liquid level in the pond and the bottom of the overflow pipe, at all times.
- 10.** The temporary storage of WBF 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 Water Code section 13050.
12. The Discharger shall take all reasonable steps to reduce any nutrient, salinity and chemical loadings to the wastewater treatment and disposal system and the underlying groundwater by implementing water conservation and waste minimization measures such as pressure washing, wash water reuse, and minimizing the use of non-biodegradable cleaners, chemicals and salt-containing additives.

GENERAL CONDITIONS

1. Each Discharger granted coverage under this Order shall comply with Monitoring and Reporting Program No. R1-2016-0003 (Appendix C), 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 these documents.
3. If the Discharger wishes to terminate coverage under this Order, the Discharger 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 of coverage. Termination of coverage from the Order will become effective 30 days from the date requested in the Discharger's letter, unless the Water Board notifies the Discharger otherwise. All discharges shall cease before the effective date of termination, and any discharges on or after this date shall be considered in violation of the California Water Code section 13260 unless covered by another Waiver of WDRs or WDR Order.
4. In the event of any change in control or ownership of land or waste discharge facilities presently owned or controlled by the Discharger, the Discharger shall notify the Water Board of such changes in writing, and shall also notify the succeeding owner or operator of the existence of this Order and current compliance status in writing. The succeeding owner or operator, in order to obtain authorization for discharges regulated by this Order, must apply in writing to the Executive Officer, requesting transfer of the Order. This request must include the submittal of a complete Form 200 which includes identification of the new owner or operator, the reasons for the change, and the effective date of the change. Discharges conducted without submittal of this request will be considered discharges without waste discharge requirements, which are violations of the California Water Code section 13260.
5. The Discharger 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 characteristics, volumes or concentration of pollutants in the discharge.
6. The Discharger shall take all steps to prevent any discharge in violation of this Order.

7. The Discharger shall at all times properly operate and maintain the wastewater treatment and disposal system to achieve compliance with this Order.
8. The Discharger 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 record any discharge, waste, waste management unit, or monitoring equipment.
9. All technical and monitoring reports submitted pursuant to this Order are required pursuant to Water Code section 13267. Failure to submit reports in accordance with schedules established by this Order, the appendices 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 Water Code section 13268.
10. The Form 200, TIF, monitoring reports, and any other information required 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.
11. The Discharger shall implement the project as described in the Form 200 and TIF. Violation of any requirements contained in this Order subject the Discharger to enforcement action, including civil liability, under the Water Code.
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, the information is, to the best of my knowledge and belief, 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 Water Code section 13269, this action waiving the issuance of WDRs for small WBF 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, state or federal agencies; (e) requires monitoring and (f) does not preclude the Regional Water Board from administering enforcement remedies (including civil liability) pursuant to the California Water Code.

- 14.** The Executive Officer or North Coast Regional Water Quality Control Board may terminate the coverage of this 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 January 28, 2016 and shall expire on January 27, 2021, unless terminated or renewed by the Regional Water Board prior to that date.
- 16.** The Regional Water Board may review this Order at any time and may modify or terminate this Order in its entirety, as applicable for a specific type of WBF 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 January 28, 2016.

Matthias St. John
Executive Officer