

**Announcements:**

[Four announcements are posted online.](#)

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**Regulating water quality in North Coast vineyards:
One Conditional Waiver is proposed and a second is under development**

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Agricultural operations utilize practices to maintain healthy and productive plants. Normal farming practices often disturb the soil surface, require applications of soil amendments or other agricultural chemicals and use roads to access fields, vineyard blocks and facilities. Precipitation and storm water runoff can deliver sediment and applied materials to surface waters; the latter can also reach groundwater. Such movement is considered a discharge of waste.

Activities that may affect water quality are regulated by the State Water Resources Control Board (Water Board) and Regional Water Quality Control Boards (Regional Boards) by authority granted by the Porter-Cologne Water Quality Control Act.

[California is divided into nine Regional Boards.](#) Sonoma County contains watersheds that fall within the jurisdiction of two regional boards; Regions 1 and 2. Region 1 – North Coast Regional Water Quality Control Board contains the northern portion of Sonoma County including the Mendocino Coast, Russian River and Bodega watersheds. It continues north from Santa Rosa to the Oregon border. Region 2 – San Francisco Bay Regional Water Quality Control Board contains the Marin Coastal and San Pablo Bay watersheds; the later includes Sonoma Creek and its tributaries. Region 2 also contains the Napa River and its tributaries.

The North Coastal Regional Water Quality Control Board (Region 1) is developing an Agricultural Lands Discharge Program to address water quality impacts associated with irrigated agricultural lands. The first Full Advisory Group Meeting was held December 14, 2011. All subsequent meeting agendas, minutes and reports are available at the [Regional Board's Agricultural Lands Discharge Program web site.](#)

On November 16, 2012, the San Francisco Bay Regional Water Quality Control Board (Region 2) proposed a Draft Conditional Waiver of waste discharge requirements for eligible vineyard properties in the Napa River and Sonoma Creek Watersheds. This article describes the Conditional Waiver.

Comments are due on the Conditional Waiver by February 1, 2013. The San Francisco Bay Regional Water Quality Control Board will hold a public hearing in Oakland on March 13, 2013 to consider adopting the Mitigated Negative Declaration and the Draft Conditional Waiver.

The following documents are available online at the [Regional Board's Conditional Waiver Program for Vineyard Facilities website](#).

- Draft Conditional Waiver of Waste Discharge Requirements
- Initial Study and Proposed Mitigated Negative Declaration
- Fact Sheet and FAQ

Background

One method to regulate water quality is the “Total Maximum Daily Loads” (TMDLs), a process which begins with identification of impaired water bodies typically for a specific pollutant such as sediment or nutrients. TMDLs for the Napa River and Sonoma Creek were adopted by the Water Board in 2009 and 2010 respectively and shortly thereafter by the US EPA. The TMDLs identified the Napa River, Sonoma Creek, and their tributaries as being impaired by excess sediment, nutrients and pathogens.

The TMDLs for both the Napa River and Sonoma Creek indicate that viticulture is a major source of fine sediment in the two watersheds (vineyards were not identified as a source of pathogens). TMDLs contain implementation plans to achieve water quality objectives for all causes of impairments. In the case of vineyards in the Napa River and Sonoma Creek TMDLs, a Conditional Waiver program is recommended to achieve the TMDLs’ water quality goals. **This is the draft Conditional Waiver program currently under public review.**

As an alternative to a Conditional Waiver program, the Regional Board can issue waste discharge requirements (WDRs) for existing and proposed waste discharges. This then requires facilities and operations discharging or proposing to discharge waste (other than into a community sewer system) that could affect water quality, to file a report of waste discharge (ROWD with the Regional Board. However, the Water Board can waive WDRs and the required ROWD for specific waste discharges. Such a waiver is conditional on meeting specific water quality objectives. **The Draft Conditional Waiver that is currently before the Water Board describes the vineyard site conditions eligible for the waiver and what is required to be implemented and monitored at those sites.**

What is a Conditional Waiver?

In the Napa River and Sonoma Creek watersheds, the Draft Conditional Waiver implements the sediment TMDLs and protects beneficial uses including cold water fish habitat. It is specific to vineyards. It requires management practices and changes in vineyard operations so that discharges and erosion from existing and proposed vineyards will subsequently meet requirements of the Water Quality Control Plan for San Francisco Bay Basin (Basin Plan), including TMDLs for sediment in the Napa River and Sonoma Creek.

What vineyard site conditions are eligible to be covered by the Conditional Waiver?

Both vineyard slope and parcel size that contains the vineyard are criteria which determine eligibility. Erosion potential is also a factor.

In the Draft Conditional Waiver, vineyard slope is specific to the “vineyard facility”. As defined in the Conditional Waiver:

“Vineyard Facility. The permanent, semi-permanent, or temporary physical features of a vineyard, such as land, crops, drainage systems, roads, reservoirs, diversion structures/equipment, etc., that are established or maintained for the purpose of growing grapes. **Vineyard Facilities** include existing and **New Vineyards**, as well as **Vineyard Replants.**”

The Conditional Waiver defers to the definition of slope in county agricultural or land use regulations in the applicable county.

Slope and parcel size (the latter is the acreage of one or more parcels) determine if vineyards are “covered” (eligible for the Conditional Waiver) “not covered” or “excluded” (not eligible for the Conditional Waiver).

Vineyards covered by the Conditional Waiver:

- a) Grapevine acreage equal to or greater than 5 acres **and**
- b) Vineyard facility is located on one or more parcels totaling 40 acres or more and the vineyard facility is on less than 5% slope; **or**
- c) Vineyard facility is located on one or more parcels totaling 20 or more acres and the vineyard facility is on 5% slope or greater.

Vineyards not covered by the Conditional Waiver:

- a) Grapevine acreage is less than 5 acres regardless of slope or parcel size; **or**
- b) vineyard facility is located on one or more parcels totaling less than 40 acres and the vineyard facility is on less than 5% slope; **or**
- c) vineyard facility is located on one or more parcels totaling less than 20 acres and the vineyard facility is on 5% slope or greater.

Vineyards excluded by the Conditional Waiver are new vineyards and vineyard replants (each established after adoption of the Conditional Waiver) of one acre or greater planted on slopes of 30% or greater and have soils with “high,” “very high,” or “extreme” erosion hazard ratings.

These sites are not eligible for the Conditional Waiver. Growers with vineyard sites that fall into this category must submit a ROWD, which requires sufficient information to determine compliance with the California Environmental Quality Act.

Vineyard facilities on less than 5% slope regardless of parcel size that have stream setbacks that meet specific criteria may be determined to be exempt from a Conditional Waiver. If this is the case, a grower submits a Notice of Non- applicability to the Regional Board.

Conditional Waiver requirements

Growers with vineyards that are eligible for the Conditional Waiver must comply with its requirements. The waiver regulates discharges of waste from the “vineyard property” and “roads” on the vineyard property.

As defined in the Conditional Waiver:

“Vineyard Property. One or more parcels of land in Napa or Sonoma Counties containing, in whole or in part, a **Vineyard Facility.**”

“Roads. Roads include (1) access routes through a vineyard that are graded to accommodate vehicular traffic (farmed areas between grape vine rows are excluded from this definition); (2) roads that provide access to **Vineyard Facilities** from other parts of the **Vineyard Property**; and (3) roads that serve, or once served, other uses on the

Vineyard Property. For the purposes of this Conditional Waiver, only roads that are under ownership and control of the **Landowner/Operator** are included (do not include roads that are maintained by other entities under property easement(s) or other legally binding agreements).”

What follows is a **brief** list of requirements for vineyards that are eligible for coverage under the Conditional Waiver.

1. Submit a Notice of Intent (NOI) to the Regional Board. (**Due no later than April 30, 2013, or within 60 days of acquiring ownership/control.**)
2. Complete and file on-site a “Farm Water Quality Plan” (farm plan) that addresses sediment and includes management practices that will result in progress toward achieving water quality objectives contained in the sediment TMDLs and the Conditional Waiver. (**Due April 30, 2014, or within 6 months of filing an NOI if the NOI was filed after April 30, 2013.**) The farm plan will describe measures to reduce erosion from vineyard facilities and all roads on the vineyard property. In addition the farm plan must address how storm water runoff is managed to prevent erosion.
3. Implement the management plan and practices outlined in the farm plan. Identify the process used to select specific practices and the process used to verify if the practice was properly implemented and/or maintained.
4. Prepare a time schedule to measure progress toward achieving water quality objectives contained in the sediment TMDLs and the Conditional Waiver.
5. Monitor the implementation and effectiveness of the implementation of selected practices by visual inspection of the property and the practices.
6. File an Annual Compliance Form to the Regional Board on the status of selected management practices with regard to achieving water quality objectives and plans for the following year. (**Due within one year of completion of the farm plan.**)

For vineyards that are eligible for coverage under the Conditional Waiver, there are additional requirements for vineyard properties containing streams or which are located adjacent to riparian areas. The establishment of stream setbacks is not required by the Conditional Waiver; however, setbacks are addressed in the farm plan for vineyard properties that contain or abut a stream. If vineyard facilities are located on less than 5% slopes and stream setbacks (**as defined in the Conditional Waiver**) are in place at the time the Conditional Waiver is adopted, then vineyard facilities may be considered exempt from the Conditional Waiver. Under these circumstances, a Notice of Non-Applicability with

supporting documentation may be submitted by **April 30, 2013**. If stream setbacks are established after the Conditional Waiver is adopted, the vineyard facility may then be considered exempt from the Conditional Waiver. Newly established setbacks are evaluated after a Notice of Termination is submitted.

Inspections

The Water Board will conduct Conditional Waiver compliance monitoring. Farm Plans are to be kept at the vineyard facility and must be made available for inspection by Water Board staff. Inspections will include upslope effectiveness monitoring to evaluate sediment delivery to channels.

Technical assistance for growers

Farm Water Quality Plans may be developed and implemented with third-party technical assistance groups. Traditionally, in the Napa River and Sonoma Creek watersheds such groups include Resource Conservation Districts, Fish Friendly Farming and UC Cooperative Extension. All third party groups must be approved by the Water Board. Several of these and other groups have expressed interest in applying for approval to assist growers in these two watersheds as Conditional Waiver third-party assistance groups. The Water Board does not require participation with third party groups; however it is encouraged.

Fees

Annual fees are required to be paid to the Water Board by dischargers with sites which are covered by a Conditional Waiver or that are excluded from a Conditional Waiver as previously described. Fees are reduced if a discharger is a member of an approved third-party technical assistance group and further reduced if that group manages fee collection. Fees are much higher if a discharger is not a member of a third party group. Section 2200.6 of the California Water Code contains the [Fee Schedule](#).

The future

Conditional waivers expire 5 years after adoption. After 5 years the Water Board will review the effectiveness of the Conditional Waiver and may revise, renew, terminate, or otherwise alter the vineyard waiver program.

Next steps

Read the Draft Conditional Waiver and if warranted, submit written comments outlining concerns, need for clarification, applicability under your conditions, etc. Written comments are due no later than 5 p.m. February 1, 2013. Oral comments may be given to the Water Board at the public hearing in Oakland on March 13, 2013.

Written comments may be submitted by letter, fax or e-mail to:

San Francisco Bay Regional Water Quality Control Board
Attn: Sandi Potter
1515 Clay Street, Suite 1400
Oakland, CA 94612

Fax: 510-622-2460
Email: Smpotter@waterboards.ca.gov