

APPENDIX D – FACT SHEET ADDENDUM

RESPONSE TO COMMENTS FOR THE

WINERY GENERAL PERMIT

State Waste Discharge General Permit for
Discharges from Wineries

May 17, 2018

State of Washington
Department of Ecology
Olympia, Washington 98504

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1.0 INTRODUCTION

This Response to Comments addresses comments received on the formal draft of the Winery General Permit. It is included as Appendix D to the Fact Sheet for the Winery General Permit.

Ecology considered all of the public comments received prior to finalizing the Winery General Permit. Ecology received comments from 16 commenters, which included roughly 60 separate comments. Comments that were similar in nature were combined and responded to as one comment. Lengthy comments were summarized. The original comments are included as Appendix E to the Fact Sheet.

2.0 OUTREACH

Since 2014, Ecology worked closely with Washington's wineries and industry experts to get to know Washington's diverse wine industry, learn about wineries' waste management systems and best management practices, and hear concerns about complying with an Ecology permit. Based on these discussions and feedback, Ecology developed the Winery General Permit and Fact Sheet.

The public's input was crucial to the development of the permit. In April 2017, Ecology shared a preliminary draft of the permit and invited the public's input during a 60-day comment period. Ecology took their feedback, made improvements to the permit, and in November 2017, issued the formal draft of the permit. The public comment period started on November 1, 2017, and ended on February 14, 2018.

Ecology hosted four public hearings: one in Central Washington, one near Seattle, and two via webinar. The feedback received has been constructive, helpful, and even positive.

Stakeholder involvement and public input have been central to the development of the Winery General Permit. The following examples demonstrate Ecology's commitment to involving the public and stakeholders in this process. Ecology:

- Conducted surveys of the wine industry.
- Presented to stakeholders a dozen times.
- Toured and interviewed dozens of wineries.
- Maintained an informative website.
- Updated interested parties through a listserv that has 200 subscribers.
- And the permit were discussed in numerous media articles including talk radio.
- Worked closely with a workgroup comprised of winery owners (both large and small) and industry experts, including meeting face-to-face 4 times.
- Provided a preliminary draft to the public for 60 days.
- Gave the public 106 days to review the formal draft.
- Hosted 4 public hearings.

After the permit is issued, Ecology will hold workshops to inform winery representatives of the permit requirements. The workshops will cover the following activities.

- Applying for permit coverage.
- Facility inspections.
- Documenting their progress.
- Implementing best management practices.
- Reporting using Ecology's web portal.

Additionally, Ecology will develop guidance and templates for documents required by the Winery General Permit. The permit will **not** be effective until July 1, 2019, to coincide with the timing of Ecology's updates to the permit fees in Chapter 173-224 WAC.

3.0 COMMENTS AND RESPONSES

Ecology modified the Winery General Permit based on comments received from the public. Ecology made additional non-substantive changes to permit wording and punctuation to improve the clarity and readability of the permit. Changes made to the permit in response to a comment received are provided with the comment that initiated the change.

Table 1 – Comments Received – lists the name and affiliation of each commenter, the method of submittal, and the section in this document where each comment and response are stated.

Table 1
Comments Received

Commenter	Comment Method	Section of Response to Comments
Paul Beveridge, Family Wineries of Washington State	eComments	3.1, 3.4
Stuart Childs, Kennedy Jenks	eComments	3.1
Matt Cooper, public	eComments	3.4
Tom Daugherty, public	eComments	3.4
John Eliasson, Washington State Department of Health	eComments	3.4
Chris Espinoza, City of Kennewick POTW	eComments	3.3
John Gbuerski, NorWesEnvironReg Implementation LLC	eComments	3.1, 3.2, 3.4
Brett Isenhower, Isenhower Cellars	Emailed Letter*	3.1, 3.2
Anthony Kolanko, Hydro International	Email*	3.1
Chase Lucas, public	Email*	3.4
Josh McDonald, Washington Wine Institute	Emailed Letter*	3.1, 3.4
CT Moen, Washington Wine Institute	Hearing Testimony	3.1, 3.4
Derek I. Sandison, Washington State Department of Agriculture	Emailed Letter*	3.4
Jim Warram, Ste. Michelle Wine Estates	eComments	3.1, 3.2, 3.3
Daniel Washam, Sun River Vintners	Email*	3.1
Glenn Wensloff, Elutriate Systems	Hearing Testimony	3.4

* = This comment was submitted after the close of the comment period or via an un-approved method.

3.1 Special Conditions

The following comments relate to the Special Conditions in the Winery General Permit.

APPLICABILITY

The following comments relate to the applicability of the Winery General Permit.

Comment #1: Wineries that do not directly discharge to Waters of the State (those that land apply) should not be covered by the permit. (Special Condition S1.A.1.a.i)

Response: Thank you for your comment. If not managed properly, wastewater discharged to vegetation could overload irrigation lands, depleting them of oxygen and causing nuisance conditions and damage to crops and landscaping. It can also cause heavy metals like arsenic and iron to mobilize and contaminate groundwater aquifers.

For this reason, the Winery General Permit requires that a Permittee using this discharge method to comply with discharge limits and not overload the land treatment system. The crops, soil microbes, land treatment systems, and groundwater quality, should be protected if Permittees comply with the requirements in the Winery General Permit.

Additionally, the Fact Sheet contains helpful information that explains the mechanics of land treatment systems and guidance on how to successfully use it as a discharge method.

Comment #2: The beginning of S1.B should be revised as follows: Ecology has determined that the following facilities and activities do not have a reasonable potential to exceed Washington State Water Quality Standards or impact Waters of the State. (Special Condition S1.B)

Response: Thank you for your comment. The Winery General Permit applies to wineries described in Special Condition S1.A in the permit. Those not required to apply for coverage are described in Special Condition S1.B.

Ecology determined that the categories of facilities described in Special Condition S1.B have a lesser potential to impact Waters of the State. However, that does not mean that the facilities not required to apply for permit coverage have been determined to not have a reasonable potential to exceed Washington State Water Quality Standards or impact Waters of the State. For information related to the applicability of the Winery General Permit, see Section 4.1 of the Fact Sheet.

Comment #3: My only question is to make sure or see if my understanding that hard cider is excluded. (Special Condition S1.B.3)

Response: Thank you for your comment. Discharges resulting from the production of hard cider are not covered under this permit.

After reviewing available data and speaking with industry experts, Ecology determined that the production process, annual schedule, and wastewater characteristics from meaderies, cideries, distilleries, and breweries is different enough from wineries, that this first permit cycle should focus on wineries only. In the future, Ecology may consider whether it is appropriate to cover discharges from these facilities by permit.

Comment #4: Mead and cider producers will have a competitive edge. (Special Condition S1.B.3)

Response: Thank you for your comment. The Washington State Legislature gave Ecology the authority to control and prevent the pollution of Waters of the State, as stated in the Water Pollution Control law, Chapter 90.48 RCW (Revised Code of Washington). It is Ecology's intent to work with the regulated community and the public to protect Waters of the State in a manner that minimizes impacts to businesses and the economy. It is not Ecology's intent to give mead and cider producers a competitive edge.

To make the best use of tax payers' dollars, Ecology decided that this permit will cover the discharges that have the greatest potential to impact Waters of the State. Special Condition 1 of the Winery General Permit states who is covered by the permit and includes a list of those not required to apply for coverage. In the future, Ecology may assess whether it is appropriate to broaden the applicability of this permit to cover more types of dischargers.

Comment #5: S1.B (S1.C) or the definitions should specifically state that small wineries are not "significant contributors of pollutants." (Special Condition S1.C)

Response: Thank you for your comment. To make the best use of tax payers' dollars, Ecology decided that this permit will cover the discharges that have the greatest potential to impact Waters of the State. Even though "small wineries" are not required to obtain coverage under the Winery General Permit, it does not mean that they are not a Significant Contributor of Pollutants.

Chapter 90.48 RCW authorizes Ecology to require permit coverage for a winery that discharges to Waters of the State and is unpermitted (or categorized as one of the exceptions listed above), which:

- Ecology determines to be a significant contributor of pollutants to ground or surface Waters of the State; **OR**
- May reasonably be expected to cause a violation of a water quality standard.

Unlike an individual permit that is tailored to each facility, a general permit applies to a category of dischargers. In developing the Winery General Permit, Ecology made assumptions about the potential impact of small wineries on groundwater quality. In order to claim that small wineries are not significant contributors of pollutants, Ecology would have to assess each small winery.

“Small wineries” are not required to obtain coverage under the Winery General Permit. However, if Ecology determines they are a significant contributor of pollutants or may reasonably be expected to cause a violation of a water quality standard, then they will be required to obtain permit coverage, either under the Winery General Permit or an individual permit.

Comment #6: Ecology has grossly overestimated the volume of wastewater produced by the vast majority of Washington wineries. (Special Condition S1.B.7, Fact Sheet)

Response: Thank you for your comment. Literature about the winemaking industry indicates that wineries typically generate between six (6) and ten (10) gallons of water per gallon of wine produced (6:1 to 10:1 ratio).

Representatives of Washington wineries say with new technology and management practices it is more common to generate between four (4) and six (6) gallons of wastewater for every gallon of wine produced (4:1 to 6:1 ratio). But at least one Washington winery uses as little as one (1) gallon of water for every one (1) gallon of wine produced (1:1 ratio).

After reviewing available data and speaking with industry experts, Ecology determined that using a ratio of three (3) gallons of water used per one (1) gallon of wine discharged in the applicability threshold was best to cover the wineries that had the greatest potential to impact Waters of the State. Representatives of wineries and technical experts agreed.

During the review and reissuance process for the next iteration of this permit, Ecology will assess the data submitted by Permittees via their DMR. This includes the volume of wastewater discharged. If the data indicates that Ecology’s assumptions around the volume of wastewater discharged were either too high or too low, Ecology will update the permit accordingly.

Comment #7: Given the lack of demonstrated impact on groundwater, (we) believe the cutoff figure should be much higher. (Special Condition S1.B.7)

Response: Thank you for your comment. Ecology was unable to find documented evidence of a Washington winery polluting ground water. However, the only documentation available comes from the handful of wineries covered by a permit. A lack of evidence does not mean ground water is not being impacted.

There are examples of groundwater contamination from facilities with wastewater that have similar characteristics and that use similar discharge methods. Because the wine production in Washington has increased greatly over the past decade, Ecology decided to develop a permit and establish good waste management practices for this rapidly expanding industry.

To make the best use of tax payers’ dollars, Ecology decided that this permit will cover the discharges that have the greatest potential to impact Waters of the State and therefore established an applicability threshold so that the smallest wineries in Washington are not required to apply for coverage.

Ecology worked with the Technical Advisory Group, representatives of wineries, industry experts, and other agencies to determine the appropriate applicability threshold. Ecology also analyzed data from the Washington State Liquor and Cannabis Board and a survey conducted by Winerywise in 2015. Based on the best available data, Ecology determined that setting the applicability threshold at 53,505 gallons of wastewater discharged in a typical calendar year was appropriate for the first permit cycle. This may change in future permit cycles.

Comment #8: The annual wastewater discharge limit without being covered under the Winery General Permit should be increased to 107,000 gallons per year. (Special Condition S1.B.7)

Response: Thank you for your comment. The data and the analysis you provided was helpful when considering your comment. Your analysis is valid but Ecology's concern is about wineries that discharge close to one hundred thousand (100,000) gallons of wastewater each year and use a discharge method that is not maintained in compliance with the requirements in the Winery General Permit.

A discharge method that is not properly maintained and wastewater that is not managed in compliance with the permit could impact Waters of the State. The Winery General Permit includes requirements such as best management practices and discharge limits. Raising the applicability threshold to one hundred and seven thousand (107,000) gallons of wastewater would increase the number of wineries that may not properly manage their wastewater and increases the risk of potential impacts to Waters of the State.

Ecology decided to take a more conservative approach for the first permit cycle and keep the applicability threshold at fifty three thousand five hundred and five (53,505) gallons of wastewater discharged in a typical calendar year.

During the review and reissuance process for the next iteration of this permit, Ecology will assess the data submitted by Permittees via their DMR. This includes the volume of wastewater discharged. If the data indicates that Ecology's assumptions around the volume of wastewater discharged were either too high or too low, Ecology will update the permit accordingly.

Revision Made in Response to Comment #8: While considering Comment #8, Ecology recognized that the requirement concerning how to determine applicability was unclear. To improve clarity, Ecology added language to footnote 8. Footnote 8 in Special Condition S1.B.7 was changed to read:

Base the applicability determination on data that reflects your typical annual volume of wastewater discharged, **if known. If you do not know your typical annual wastewater generation, you may base the applicability determination** ~~or~~ on your typical annual production.

Revision Made to the Fact Sheet in Response to Comment #8: Ecology adds the following language to Section 4.1 of the Fact Sheet to explain that wineries must use their volume of wastewater discharged in a typical year (if known) to determine if they must apply for permit coverage. Section 4.1 (p25) of the Fact Sheet is changed by reference to read:

Ideally this applicability threshold (wastewater discharged or cases/gallons produced) would be based only on gallons of wastewater discharged. However, Ecology recognizes that **not** all wineries know or have data to support the volume of wastewater they discharge annually. Therefore, in addition to gallons of wastewater, the Winery General Permit also includes the production volumes. **If a winery knows the volume of wastewater discharged in a typical year, they are required to base their applicability determination on that information.** In future permit cycles, the applicability threshold may only be based on gallons of wastewater discharged.

Comment #9: Washington Wine Institute appreciates Ecology raising the exemption threshold to up to 7,500 cases/annually or the equivalent in gallons of juice or wastewater used. (Special Condition S1.B.7)

Response: Thank you for your comment. Ecology worked with the Technical Advisory Group, representatives of wineries, industry experts, and other agencies to determine the appropriate applicability threshold. Ecology also analyzed data from the Washington State Liquor and Cannabis Board and a survey conducted by Winerywise in 2015.

Based on the best available data, Ecology determined that setting the applicability threshold at fifty three thousand five hundred and five (53,505) gallons of wastewater discharged in a typical calendar year was appropriate for the first permit cycle.

During the review and reissuance process for the next iteration of this permit, Ecology will assess the data submitted by Permittees via their DMR. This includes the volume of wastewater discharged. If the data indicates that Ecology's assumptions around the volume of wastewater discharged were either too high or too low, Ecology will update the permit accordingly.

PROHIBITED DISCHARGES AND DISCHARGE LIMITS

The following comments relate to the prohibited discharge requirements and discharge limits of the Winery General Permit.

Comment #10: "Do not accept trucked or hauled waste from off site to be discharged to your Waste management system." What if two neighboring wineries want to share a double lined lagoon so as to decrease the construction and operation costs? Does S2.3C or other regulations preclude wineries sharing a double lined lagoon or other wastewater treatment systems? (Special Condition S2.A.3.c)

Response: Thank you for your comment. Ecology agrees with the suggestion and has revised the draft permit accordingly.

It was not Ecology's intention to prevent wineries from sharing a waste management system. The accepted waste must be managed and the waste management system must be maintained in compliance with the Winery General Permit. It is the responsibility and liability of the owner of the waste management system to properly handle and discharge the wastewater. Additionally, the agreement between the two parties must be documented.

Revision Made in Response to Comment #10: Ecology added language to clarify that a Permittee may accept trucked or hauled waste from off site to be discharged to the Permittee's waste management system if the Permittee shares a waste management system with another winery. Special Condition S2.A.3.c was changed to read:

- c. Do **not** accept trucked or hauled waste from off site to be discharged to your *waste management system*, unless you share a waste management system with another winery.
- d. Owners of a shared waste management system are responsible for managing and discharging the wastewater in compliance with this permit, including complying with the following.

- i. Your waste management system must be designed to manage the wastewater from your winery and the additional wastewater.
- ii. You must have an agreement with the generator of the wastewater and the agreement must be documented in your WPPP.
- iii. The additional wastewater must be in compliance with the requirements in Special Condition S11 (Domestic Sewage).
- iv. Document the volume of additional wastewater hauled and discharged to your waste management system.

Comment #11: It would appear that runoff from composting residual solid winery waste could enter the water supply because compost gets rained and snowed upon and there will be some leaching of the compost into the ground. Therefore composting would not be permitted. It should be cleared up that composting of residual solid winery waste is permitted. (Special Condition S9.A)

Response: Thank you for your comment. Ecology agrees with the suggestion and has revised the draft permit accordingly.

It was not Ecology's intention to prevent wineries from composting residual solid winery waste. The Winery General Permit prohibits runoff from residual solid winery waste from entering surface Waters of the State. However, stormwater runoff from residual solid winery waste may enter the soil because the runoff will be treated by crop uptake and biological processes in the soil as it flows through the root zone and soil matrix.

Revision Made in Response to Comment #11: Ecology added language to be consistent with Special Condition S2.C.1.b.iv. Special Condition S9.A was changed to read:

Handle and dispose of all residual solid waste in compliance with applicable local, state, and federal solid waste regulations. Do **not** allow leachate from residual solid waste to **discharge to surface waters or a collection system associated with a municipality (municipal separate storm sewer system)**~~enter Waters of the State.~~

MONITORING

The following comments relate to the monitoring requirements of the Winery General Permit.

Comment #12: The extensive testing, monitoring and reporting is overkill compared to the potential risk and needs to be greatly reduced. (Special Conditions S2.B, S3.B, S4.B, S7.B, S8.B, S13)

Response: Thank you for your comment. After receiving similar feedback about the preliminary draft, Ecology reexamined the monitoring requirements and found ways to streamline the reporting requirements without lessening the protection to Waters of the State. Reducing these requirements further would likely increase the risk of potential impacts to Waters of the State.

The monitoring and reporting requirements are necessary for Permittees to demonstrate compliance with the Winery General Permit, as required by Section 90 of Chapter 173-226 WAC, and Washington State Groundwater Standards. The following activities are examples of how a Permittee can demonstrate compliance.

- Documenting facility operations and management practices.
- Tracking variations in the quantity and quality of wastewater discharges.
- Evaluating the effectiveness of the waste management system.

For more examples of Ecology's efforts to reduce the compliance burden, see Comment #37.

Comment #13: Wineries should be allowed to perform additional testing without incurring the cost of accreditation. A more cost-effective approach would be to allow wineries to perform testing at the winery's own laboratory, and if the laboratory is not accredited to require, at least once annually, the use of at an accredited laboratory to verify the accuracy of their own tests. (Special Condition S2.B.3.c)

Response: Thank you for your comment. Permittees are required to have their wastewater samples analyzed by an accredited laboratory in accordance with Chapter 173-50 WAC. This is to ensure that the wastewater samples are analyzed by a laboratory that meets certain requirements and standards so the results of the analysis are accurate and dependable.

A winery that decides to use their in-house laboratory to analyze samples of wastewater discharge, may do so, but they must first have their in-house laboratory accredited. Information on how to obtain accreditation is available from Ecology's lab accreditation program by calling 360-871-8840 or visiting the following link.

<https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Laboratory-Accreditation>

Comment #14: All samples must be analyzed by a laboratory registered and accredited for the samples test method being analyzed performed under the provisions. (Special Condition S2.B.3.c)

Response: Thank you for your comment. Ecology agrees with the suggestion and has revised the draft permit accordingly. While considering Comment #14, Ecology recognized that a note was missing from Appendix D. To allow Permittees to use alternate analytical methods, Ecology added the missing note.

Revision Made in Response to Comment #14: Note 1 to Appendix D was changed to read:

1 = Sampling and analytical methods used to meet the wastewater monitoring requirements specified in this permit must conform to the latest revision of the following documents, unless otherwise specified in this permit. **If an alternate method from 40 CFR 136 is sufficient to produce measurable results in the sample, you may use that method for analysis. If you use an alternative method, you must report the test method, DL, and QL in the DMR.**

Comment #15: The owner of a winery may receive permit coverage on the last day of the quarter before the first complete quarter after they receive permit coverage. This would not allow them time to prepare to monitor their wastewater. (Special Condition S2.B.1.a, S13.A.1.b)

Response: Thank you for your comment. Ecology agrees with the suggestion and has revised the draft permit accordingly.

Revision Made in Response to Comment #15: Ecology changed when Permittee's must start monitoring wastewater flow and sampling wastewater discharges. Special Condition S2.B.1.a, S13.A.1.b were changed to read:

At the beginning of the ~~first~~ **second** complete quarter after you receive permit coverage, start monitoring wastewater flow and sampling wastewater discharges (as applicable).

b. On or before the DMR due date (approximately forty (40) days after the last day of the DMR collection period), see **Table 15 – Discharge Monitoring Report Deadlines**. Start monitoring wastewater flow and analyzing wastewater samples at the beginning of the ~~first~~ **second** complete quarter after you receive permit coverage (see Special Condition S2.B (Monitoring Requirements)).

Additionally, when reviewing this comment, Ecology determined that changing the DMR due date from the 10th of the month to the 30th of the month will ensure that staff are available to support Permittees with their submittals. Special Condition S13.A.1.b was changed to read:

a. On or before the DMR due date (approximately ~~forty~~ **sixty** (40 **60**) days after the last day of the DMR collection period), see **Table 15 – Discharge Monitoring Report Deadlines**. Start monitoring wastewater flow and analyzing wastewater samples at the beginning of the second complete quarter after you receive permit coverage (see Special Condition S2.B (Monitoring Requirements)).

Table 15 Discharge Monitoring Report Deadlines		
Group	DMR Collection Period ¹	DMR Due Date
Group 1 and Group 2	Quarter 1 = January 1 – March 31	May 1 30
	Quarter 2 = April 1 – June 30	August 1 30
	Quarter 3 = July 1 – September 30	November 1 30
	Quarter 4 = October 1 – December 31	February 1 30

Revision Made to the Fact Sheet in Response to Comment #15: Ecology adds the following language to Section 4.2 of the Fact Sheet to state when Permittee’s must start monitoring wastewater flow and sampling wastewater discharges. Section 4.1 (p25) of the Fact Sheet is changed by reference to read:

At the beginning of the ~~first~~ **second** complete quarter after the Permittee receives permit coverage, they are required to monitor wastewater flow and analyze samples of wastewater discharged (depending on the discharge method) every quarter that a discharge occurs. This information will demonstrate when the winery discharges wastewater throughout as well as the quantity and strength of each discharge.

Additionally, Ecology adds the following language to Section 4.13 of the Fact Sheet to state when Permittee’s must submit their DMRs to Ecology. Section 4.13 (page 71) of the Fact Sheet is changed by reference to read:

The Winery General Permit requires that a Permittee submit monitoring data to Ecology on a regular basis, approximately ~~forty~~ **sixty** (~~40~~ **60**) calendar days after the last day in each DMR collection period. Permittees in Group 1 and Group 2 have four (4) DMR collection periods each year.

BEST MANAGEMENT PRACTICES

The following comments relate to the best management practices of the Winery General Permit.

Comment #16: Nowhere is listed the opportunity to capture, treat and reuse wastewater. Where am I allowed to treat and reuse wastewater? (Special Condition S2.C.1.b.v.C, Fact Sheet Table 6)

Response: Thank you for your comment. Ecology regulates the release of pollutants into the environment. In other words, Ecology regulates the wastewater that is discharged. Some requirements in the Winery General Permit focus on reducing the strength or volume of the wastewater, but they are included to lessen the potential impact to Waters of the State.

The Winery General Permit does not prohibit a Permittee from cleaning and reusing their wastewater. It directs a Permittee how to properly discharge the wastewater and how to reduce

the potential impacts. If a winery did not discharge wastewater, then they would not be required to apply for coverage under the Winery General Permit.

Comment #17: Suggest adding another type of screen that can be used by wineries to screen their wastewater. (Special Condition S2.C.b.iii)

Response: Thank you for your comment. Ecology agrees with the suggestion and has revised the draft permit accordingly. It was not Ecology's intention to limit the types of screens a Permittee may use to screen their wastewater. Ecology recognizes that wineries that have more compliance options will be more successful at reducing the impacts to Waters of the State by more effectively managing wastewater discharges.

Revision Made in Response to Comment #17: Ecology added language to include another option for Permittees to use to screen their wastewater. Special Condition S2.C.b.iii was changed to read:

Reduce the strength of the wastewater by removing solids (including fine solids) to the extent practicable before discharging wastewater to the waste management system (e.g., screened floor drains, rotary drum screens, **microscreening, rotating belt filter**, and settling basins).

DISCHARGE METHODS

The following comments relate to the discharge methods of the Winery General Permit.

Comment #18: But in **no** case heat in such quantities that the temperature at the WWTP ~~treatment plant~~ exceeds 40°C (104°F) unless Ecology. (Special Condition S3.A.2.a.v)

Response: Thank you for your comment. Ecology agrees with the suggestion and has revised the draft permit accordingly.

Comment #19: Conduct inspections as needed, but at least two (2) times per year, ~~especially during~~ **with emphasis on** periods of wastewater generation and discharge. (Special Condition S3.D.1)

Response: Thank you for your comment. Ecology agrees with the suggestion and has revised the draft permit to clarify the existing requirement.

Revision Made in Response to Comment #19: Ecology edited the existing language to clarify the requirement. Special Condition S3.D.1 was changed to read:

Conduct inspections as needed, but at least two (2) times per year. **Conduct at least one (1) inspection**, ~~and especially~~ during periods of wastewater generation and discharge.

Comment #20: Do not exceed a weekly average loading rate of seventy-five (75) lbs of BODs per acre per day (lbs/acre/day), for each irrigation land. (Special Condition S4.A.1.c.ii)

Response: Thank you for your comment. Ecology agrees with the suggestion and has revised the draft permit accordingly.

Revision Made in Response to Comment #20: While making the change recommended in Comment #20, Ecology identified an error in the notes in Table 8. Ecology corrected the instructions. Note 2 in Table 2 in Special Condition S4.A.1.b, Special Condition S4.A.1.c.ii, and note 2 in Table 9 were changed to read:

pH	Loading Rate ¹ (for each irrigation land)	Maximum Application Frequency ³
6.0 – 9.0	Weekly average of 75 lbs/acre/day of BOD ₅ ²	4 days/week
<p>1 = See Special Condition S4.A.2 for more requirements related to the discharge of wastewater to irrigation lands.</p> <p>2 = To calculate the weekly average, determine the loading for each day wastewater is discharged to each irrigation land in one week, sum all the daily loadings in one week, and divide the total weekly loading by 7 (number of days in one week). Use the equation in Special Condition S4.A.1.c.ii to calculate the loading rate in pounds per acre per day (lbs/acre/day) for each irrigation land. For more information, see the Fact Sheet for the Winery General Permit.</p> <p>3 = Must have at least one (1) day of rest following each day wastewater is discharged.</p>		

i. Do **not** exceed a weekly average loading rate of seventy-five (75) lbs of BOD₅ per acre per day (lbs/acre/day), for each irrigation land.

~~To calculate the weekly average, determine the loading for each day wastewater is discharged to each irrigation land in one week, sum all the daily loadings in one week, and divide the total weekly loading by 7 (number of days in one week).~~
 Use the following equation to calculate the weekly average loading rate. For more information, see the Fact Sheet of the Winery General Permit.

$$= \frac{\text{Concentration}^a \times \text{Flow}^b \times 8.34^c}{\text{Number of Acres}^d \times \text{Number of Weeks}^e \times 7^f}$$

Notes

a = Concentration is expressed in mg/L. It is the concentration of BOD₅ in the wastewater that was discharged to the land treatment site(s). Use the average concentration of BOD₅ for the quarter, if more than one sample is analyzed.

b = Total flow is expressed in millions of gallons (MG). It is the total volume of wastewater discharged to the land treatment site(s) over the entire quarter.

c = 8.34 is a constant. It is expressed in lbs/gallon. One gallon of water weighs 8.34 pounds.

d = Number of acres of the land treatment site. It is the total area of the land receiving any wastewater discharge.

e = Add the total number of calendar weeks a discharge occurred during that quarter. Dividing the loading rate by the number of weeks a discharge occurred that quarter will provide a weekly loading rate

f = 7 is the number of days in a calendar week. Dividing the weekly loading rate by the number of days in a week will provide an average weekly loading rate in pounds of BOD per acre per day.

Parameter	Unit	Sample Type	Frequency
Total monthly flow ¹	gals/month	See Table 5	Monthly
pH	Standard units	Grab	Continuously / Weekly ³
BOD ₅ concentration	mg/L	Grab	Quarterly
BOD ₅ loading ²	lbs/acre/day	Calculation for each irrigation land	Quarterly

1 = Total monthly flow refers to the volume of wastewater discharged to each irrigation land in a month. This number will be used to determine the BOD₅ loading rate.

~~2 = Use the following equation to calculate the loading in pounds per acre per day for each irrigation land. See the Fact Sheet for more information.~~

~~Lbs/acre/day = (Sum of total monthly flows for the quarter / 1,000,000) multiplied by (BOD₅ concentration (mg/L)) multiplied by (8.34 lbs / gallons) divided by (total number of days a discharge occurred during the quarter) divided by (area (acres) of irrigation land)~~

2 = Use the equation in Special Condition S4.A.1.c.ii to calculate the loading rate in pounds per acre per day (lbs/acre/day) for each irrigation land. For more information, see the Fact Sheet of the Winery General Permit.

3 = A new facility **must** continuously monitor the pH of wastewater discharges. An existing facility **must** continuously monitor the pH of wastewater discharges **or** monitor the pH of wastewater discharges on a weekly basis.

Revision Made to the Fact Sheet in Response to Comment #20: Ecology adds the following language to page 37 in Section 4.2 of the Fact Sheet to amend the existing equation. Section 4.2 (p37) of the Fact Sheet is changed by reference to read:

$$= \frac{\text{Concentration}^a \times \text{Flow}^b \times 8.34^c}{\text{Number of Acres}^d \times \text{Number of Weeks}^e \times 7^f}$$

Notes

a = Concentration is expressed in mg/L. It is the concentration of BOD₅ in the wastewater that was discharged to the land treatment site(s). Use the average concentration of BOD₅ for the quarter, if more than one sample is analyzed.

b = Total flow is expressed in millions of gallons (MG). It is the total volume of wastewater discharged to the land treatment site(s) over the entire quarter.

c = 8.34 is a constant. It is expressed in lbs/gallon. One gallon of water weighs 8.34 pounds.

d = Number of acres of the land treatment site. It is the total area of the land receiving any wastewater discharge.

e = Add the total number of calendar weeks a discharge occurred during that quarter. Dividing the loading rate by the number of weeks a discharge occurred that quarter will provide a weekly loading rate

f = 7 is the number of days in a calendar week. Dividing the weekly loading rate by the number of days in a week will provide an average weekly loading rate in pounds of BOD per acre per day.

Comment #21: For consistency with the horizontal separations requirements in WAC 246-272A and WAC 246-272B, subsurface infiltration systems on page 33 (Section S7.C.2.e.i.D.) must be located at least 100 feet from surface water. (Special Condition S7.C.2.e.i.D.)

Response: Thank you for your comment. Ecology agrees with the suggestion and has revised the draft permit accordingly.

Revision Made in Response to Comment #21: Ecology changed an existing requirement to be consistent with the horizontal separation requirement in WAC 246-272A and WAC 246-272B. Special Condition S7.C.2.e.i.D was changed to read:

D. ~~Not be located within fifty (50) one hundred (100) feet of a surface water or within one hundred (100) feet of a potable water supply well.~~

Comment #22: Can an existing single drain field accommodate treated winery wastewater and treated domestic sewage?

Response: Thank you for your comment. Yes, a Permittee discharging winery process wastewater and domestic sewage to the same subsurface infiltration system is not required to modify the design or construction of the existing system. (Special Condition S7.C.2.e.ii)

Because it is unknown how effectively these systems treat wastewater, the Winery General Permit requires Permittees discharging to an existing subsurface infiltration system to conduct an assessment of that system. Ecology decided that requiring an assessment of each existing subsurface infiltration system is an acceptable method to determine how effectively these systems treat wastewater. During the review and reissuance process for the next iteration of this permit, Ecology will evaluate the assessments and update the permit accordingly.

A subsurface infiltration system constructed six (6) months after the effective date of the permit may treat both winery process wastewater and domestic sewage as long as the system is designed, constructed, and maintained in compliance with the Winery General Permit. For example, the system must be sited, designed, constructed, and operated to ensure desired performance and safety. Additionally, if the system must be designed to treat both waste streams, the Permittee must consult the jurisdictional health department prior to construction.

Ecology recognized that constructing and maintaining separate subsurface infiltration systems to treat each waste stream separately involves significant capital investments. After reviewing the appropriate regulations and available information, and consulting industry experts, Ecology decided that it was appropriate for a new system to treat both waste streams as long as the system is designed and maintained in compliance with the Winery General Permit.

WINERY POLLUTION PREVENTION PLAN

The following comments relate to the Winery Pollution Prevention Plan requirements of the Winery General Permit.

Comment #23

- **Commenter #1**

The requirements of the Winery Pollution Prevention Plan, Sec. S10, are unnecessarily complex and burdensome. The Plan should be limited to steps relevant to preventing inappropriate discharges. It contains redundancies – see S10.B.1.b & S10.B.1.v as an example. It requires production information on the winery (S10.B.1.j.i & S10.B.1.j.ii) that is unrelated to prevention. (Special Condition S10)

- **Commenter #2**

The Winery Pollution Prevention Plan (“WPPP”) provision contained in Sec. S10 is overly broad and complex. Its focus needs to be narrowed to make it both a manageable document to develop and a more useful document for the winery. Therefore, it’s content should be designed around the creation of actionable set of steps to control a release/possible pollution situation involving the winery. (Special Condition S10)

The WPPP also needs to be tailored to the industry for which it is intended to be used. The Washington wine industry is different from other industries under an Ecology wastewater permit. Overall, it is constrained by costs and a limited workforce. Every FTE is a critical expense that will impact the survival of the winery. Ecology has recognized these differences in many ways throughout the current version of the winery wastewater general permit. Unfortunately, the WPPP as currently written is not tailored to the Washington wine industry in the following ways:

- The current set of requirements will force every permittee to hire a new FTE, which is not captured by the current EIA and it unreasonable to assume each impacted winery can afford such a hire
- The vast majority of the requirements within this draft proposal go far beyond what is needed for a winery under permit to take the necessary steps to control a release/possible pollution situation and will overwhelm most employees onsite who turn to the WPPP trying to respond ‘real time’ to preventing and/or stopping a pollution situation from occurring.
- The scope should be refocused on providing a useful, action oriented document that can be used by winery employees ‘real time’ to prevent a pollution situation from occurring or to promptly mitigate any discharge of pollutants to waters of the state.

Response: Thank you for your comment. For the following reasons, Ecology will not reduce the requirements of the Winery Pollution Prevention Plan (WPPP).

The WPPP is one of the strongest compliance tools the Permittee has, both for complying with the Winery General Permit and for demonstrating their compliance with the permit. The WPPP is a vital element of the Winery General Permit because it is a site-specific document used by the Permittee to document compliance efforts.

Developing the WPPP requires that Permittees assess their facility and existing waste management practices and document their findings. Permittees must also develop strategies to comply with the permit as well as identify resources needed and create compliance schedules. Creating it is an opportunity for the winery to explain all components of the facility and procedures used at the facility that relate to the management of wastewater.

The WPPP must be a “living” document that the Permittee continuously reviews and revises as necessary to ensure that discharges of wastewater do not degrade water quality. The WPPP can be formatted and organized in whatever way best suits the needs of the Permittee. The Permittee can make it an action-oriented document that can be used in real time, or it can be used as a library that houses all of the Permittee’s compliance records.

The WPPP should be developed and maintained so that it is useful to the Permittee and the people that work at the winery. Pollution prevention requires vigilance and staff participation if it is to be effective. Like maintaining safety at the site, the WPPP is more effective when it becomes part of the daily routine at the winery.

The following is language from the sections of the Winery General Permit referenced by the commenter.

S10.B.1.b

A list or description of major activities that generate wastewater throughout the year. Identify approximately which months these major activities occur.

S10.B.1.v

(S10.B.1.j.v)

(j) Data for every year the facility discharges wastewater.

(v) A list or brief description of the main processes that generated wastewater, including the month the activity occurred.

Special Condition S10.B.1.b refers to a Permittee listing the activities in a typical year that generate wastewater. This requirement is meant to be an account of what typically occurs. Special Condition S10.B.1.j.v refers to a Permittee documenting the activities that have occurred that generated wastewater. One requirement refers to activities that typically occur, and the other refers to activities that actually occurred. Both pieces of information are valuable to the effective management of wastewater and to documenting compliance with the Winery General Permit.

The commenter also referenced Special Conditions S10.B.1.j.i and S10.B.1.j.ii. These refer to documenting volumes of wastewater discharged for the entire facility and for each discharge method as well as the tons of fruit crushed at the facility. Both pieces of information are relevant to the quality and quantity of wastewater discharged.

Crushing fruit at a facility effects the strength of the wastewater. And because the volume of wine produced does not necessarily relate to the tons of fruit crushed (not every facility crushes fruit and some crush fruit for other wineries), it is necessary to document this information.

Commenter #2 states, “A primary purpose of the WPPP is to ‘limit the discharge of pollutants to waters of the state.’” This is true. However, the part of the permit requirement that was not included is, “The WPPP must be designed and implemented for the purpose of complying with state water quality standards and this general permit.” The WPPP is a compliance tool. Ecology requires a Permittee to develop the WPPP so they may thoughtfully consider:

- The best course of action to comply with each element of the permit.
- What tools and processes are in place to manage and discharge wastewater.
- What tools and processes are needed to manage and discharge wastewater.
- What tools and processes are needed to respond to a facility upset or spill.
- What tools and processes are needed to monitor wastewater volumes and analyze wastewater samples.

Commenter #2 also states, “The vast majority of the requirements within this draft proposal go far beyond what is needed for a winery under permit to take the necessary steps to control a release/possible pollution situation.” Special Condition S10.B.1.i requires Permittees to include actions to prevent, contain, or reduce discharges to waters of the state.” This is one element in the WPPP, but it is not the main element.

In addition to the knowledge and experience gained from developing the WPPP, Permittees will also benefit from having their compliance efforts documented in one place. This reduces potential risk liability and will assist them if they are ever challenged by the public, an environmental group, or a government agency at any level (local, state, or federal).

Comment #24: Retain the WPPP on site or electronically accessible from the site and make it available for inspection by Ecology personnel upon request. (Special Condition S.10.A.4)

Response: Thank you for your comment. Ecology agrees with the suggestion and has revised the draft permit accordingly.

Comment #25: Clarify that design volume applies to the typical daily volume of wastewater generated and the typical monthly flow. (Special Condition S.10.B.1.a.i)

Response: Thank you for your comment. Ecology agrees with the suggestion and has revised the draft permit accordingly. Special Condition S.10.B.1.a.i has been changed to read:

a. A description of the facility, including:

i. The maximum volume of wastewater the waste management system was designed to handle, including the design volume for:

- The typical daily volume of wastewater generated (gallons per day).
- The typical monthly flow (gallons per month) during crush and outside of crush.

Comment #26: Add..."Site log book may be maintained in an electronic format, in a non-electronic format such as a binder, or both." (Special Condition S10.B.1.c)

Response: Thank you for your comment. Ecology agrees with the suggestion and has revised the draft permit accordingly.

Comment #27: Clarify what information the Permittee is expected to document regarding weather conditions. (Special Condition S10.B.2.c.vi.E, S10.B.2.e.iii.F)

Response: Thank you for your comment. Ecology agrees with the suggestion and has revised the draft permit accordingly. Special Condition S10.B.2.c.vi.E and S10.B.2.e.iii.F were changed to read:

E. Weather conditions on the day of application. For instance, is the ground frozen or covered by snow, is the ground saturated from a recent rain event, or is it raining on the day of application.

Comment #28: Add..."c. Quantity of wastewater exported, in gallons." (Special Condition S10.B.5)

Response: Thank you for your comment. Ecology agrees with the suggestion and has revised the draft permit accordingly.

Comment #29: (Reorder the wording) Keep ~~on-site~~, all records and documents necessary to demonstrate compliance with this general permit **on site or electronically accessible from the site.** (Special Condition S10.B.7)

Response: Thank you for your comment. Ecology agrees with the suggestion and has revised the draft permit accordingly.

Comment #30: Strike the phrase "original strip chart recordings" and replace with "original chart recording or data file." Basis - Specifying "strip chart" unduly narrows the permittee's choice of instrument. Some circular charts are less expensive than strip charts. Also, use of electronic charts, equipped to automatically transfer data to a secure storage site is common practice; thus eliminating loss of data due to inking failure or running out of chart paper. Several models come with removable data storage (e.g., SD/MMC memory card). (Special Condition S10.B.7.e)

Response: Thank you for your comment. Ecology agrees with the suggestion and has revised the draft permit accordingly.

Revision Made in Response to Comment #30: Ecology changed the requirement to allow for other methods of data collection and storage. Special Condition S10.B.7.e was changed to read:

e. Documentation related to the maintenance of the flow monitoring device (as applicable). Include the name and title/position of the individual monitoring the flow and, if applicable, maintaining the instruments. Include the original ~~strip-chart~~ recordings **or data file (such as strip charts, circular charts, or electronic charts)** for the continuous monitoring instrument and calibration records (as applicable).

RECORDKEEPING

The following comments relate to the recordkeeping requirements of the Winery General Permit.

Comment #31: After phrase "documents at the permitted facility" insert phrase - " or in a manner (e.g., 'cloud' storage) retrievable at the facility. (Special Condition S12.A.2)

Response: Thank you for your comment. Ecology agrees with the suggestion and has revised the draft permit accordingly.

Revision Made in Response to Comment #31: Ecology added language to clarify how/where records could be accessed. Special Condition S12.A.2 was changed to read:

2. Maintain these records and documents **so they can be accessed** at the permitted facility for a minimum of five (5) years. The records and documents may be maintained in an electronic format, in a non-electronic format, or both.

3.2 General Conditions

The following comments relate to the general conditions of the Winery General Permit.

Comment #32: Ecology needs to provide a preferred means of verify that personnel with an Ecology credentials are actually agency personnel. Basis -Ecology identification badges can be faked and industrial espionage is not unheard of. Suggest a sentence - "The Ecology Regional Office can be contacted for verification of personnel. (General Condition G4)

Response: Thank you for your comment. It is important that Ecology inspectors properly identify themselves when conducting an inspection or communicating with wineries. The language suggested by the commenter falls under guidance and is not appropriate for inclusion as a permit condition. Ecology intends to include the commenter's suggestion in future guidance material.

Comment #33: Add F - Authorized representative of Ecology to complete any facility specific training required by WISHA prior to commencing inspection, unless inspection is being performed under warrant. Basis - neither OSHA nor WISHA allow for exempting Ecology authorized representative from training such as using ladders or scaffold, respiratory protection, lockout/tagout for hazardous energy. Dependent on scope of inspection this training may be required to access portions of the facility for an inspection. (General Condition G4)

Response: Thank you for your comment. It is **not** Ecology's intent that Ecology inspectors are "exempt" from training such as using ladders or scaffolds, respiratory protection, or lockout/tag-out.

According to Ecology's Safety Manager, Ecology provides training on all issues mentioned by the commenter. For instance, Ecology manages an extensive respiratory protection program with quantitative respirator fit tests and training by a competent individual. Additionally, in a typical inspection, the facility owner or operator would brief the Ecology inspector about potential hazards at the facility and escort him/her around the site.

If an Ecology inspector is injured on the job, they are covered under Washington's No-Fault Worker's Compensation Program. Additionally, a person who believes they've been harmed or have suffered a loss caused by the state (like an Ecology inspector) can file for remuneration through the Tort Claim process.

Comment #34: What are wineries supposed to do with the removed substances? Toss into a landfill? (General Condition G6)

Response: Thank you for your comment. The focus of the Winery General Permit is to properly manage and discharge wastewater so that it does not impact Waters of the State. The focus is not solid waste management.

However, solids are generated during the winemaking process and they are a component of the wastewater. Ecology also recognizes that a Permittee may store residual solid winery waste at

the winery before it is used or disposed of and that these stored materials can be sources of contamination either by waste liquids leaking from them or by being exposed to rainfall. Therefore, the Permittee is required to manage their residual solid winery waste so that leachate does not enter state ground or surface water.

Because wineries are located throughout the state, a Permittee should contact their local municipality and determine if they have requirements for properly handling residual solid winery waste.

Ecology regulates organic solid waste but not from agriculture. See the agricultural exemptions in the composting regulations, WAC 173-350-220(1)(b)(v) – (x). Found at this web address: <http://apps.leg.wa.gov/wac/default.aspx?cite=173-350-220>

The primary agencies that provide assistance and oversight to agricultural operations are the Natural Resources Conservation Service and the Washington State Department of Agriculture.

Comment #35: This is Orwellian and Draconian. If a winery chooses to go beyond what is required in terms of testing wastewater they should not be compelled by force of law to share data that is not required by DOE. (General Condition G7)

Response: Thank you for your comment. General Condition G7 states that the sampling and analysis of additional monitoring must conform to the EPA standards. This is to ensure the quality of the sample collected and of the analysis of that sample.

General Condition G7 only pertains to “monitoring to document compliance with this permit”. It does **not** require that a Permittee submit information not related to compliance with the Winery General Permit. The intent of this requirement is to share available information so Ecology may accurately characterize the Permittee’s wastewater discharges and determine the effectiveness of the required BMPs and discharge limits.

According to WAC 173-226-090(1), Ecology may establish monitoring requirements for discharges authorized by a permit. Ecology determined it appropriate that samples taken of discharges authorized by the Winery General Permit comply with the test procedures established in 40 CFR Part 136.

Ecology also determined it appropriate that discharges authorized by the Winery General Permit comply with the requirements in 40 CFR 122.41.1.4.ii, which states:

(ii) “If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136, or another method required for an industry-specific waste stream under 40 CFR subchapters N or O, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Director.”

This requirement is not unique to the Winery General Permit. It is included in many general permits and individual permits in Washington State as well as a requirement of the Environmental Protection Agency.

Comment #36: General Condition 8 will allow the Department to arbitrarily require monitoring wells during the life of the permit putting facilities at significant unknown financial risk. General Conditions 11 and 12 already give the Department the authority to revoke or modify the permit, but these changes must be in accordance with RCW 43.21B and/or Chapter 173-226 WAC. (General Condition G8)

Response: Thank you for your comment. According to Chapter 90.48 RCW and Chapter 173-226 WAC, Ecology has the authority to require additional monitoring of a Permittee (or all Permittees) by issuing an administrative order or a permit modification.

General Condition G8 was included to notify Permittees of this possibility. Ecology includes General Conditions in general permits to inform Permittee's of Ecology's authority. They are typically standard language in Ecology's water quality general permits.

Ecology does not anticipate requiring additional monitoring, including groundwater monitoring wells. However, if there is a need to require additional monitoring of an individual Permittee, then issuing an administrative order would allow the Permittee to remain covered by the Winery General Permit while addressing site-specific needs. The alternative is to issue that Permittee coverage under an individual permit.

If there is a need to require additional monitoring of all Permittees, then Ecology may modify the permit through a formal public process, which includes a public review of the draft language. Both administrative orders and permit modifications are appealable.

3.3 Appendices

The following comments relate to the appendices of the Winery General Permit.

Comment #37: Significant Contributor of Pollutants - A facility that Ecology determines to be responsible for the discharge of pollutants to Waters of the State and may reasonably be expected to cause a violation of any Washington State Water Quality Standard. (Appendix A)

Response: Thank you for your comment. Ecology agrees with the suggestion and has revised the draft permit accordingly.

Comment #38: Significant Process Change - then a significant process change would include changing your production volume changes by 25% or more than indicated on your application for coverage. (Appendix A)

Response: Thank you for your comment. Ecology agrees with the suggestion and has revised the draft permit accordingly.

Revision Made in Response to Comment #38: While making the change recommended in Comment #36, Ecology recognized that the requirement concerning "significant process

change” was unclear. To improve clarity, Ecology added language to the explanation of “significant process change.” Special Condition S10.A.5.b was changed to read:

b. Whenever there is a *significant process change*, including changing the volume of wastewater discharged by 25% or more (either increase or decrease) than indicated on your application for coverage.

Comment #39: The City of Kennewick is requesting consideration to be added to Table 6 (Eastern Region) of the Fact Sheet. (Appendix C)

Response: Thank you for your comment. Ecology agrees with the suggestion and has revised the draft permit accordingly.

Ecology determined that the City of Kennewick WWTP has the resources, tools, and programs to effectively regulate wastewater discharges from wineries. It also has adequate infrastructure to effectively handle the volume and strength of wastewater discharges from wineries.

For these reasons, the City of Kennewick WWTP will be a Listed WWTP in the Winery General Permit. Therefore, a winery that discharges all wastewater to the City of Kennewick WWTP is **not** required to apply for coverage under the permit.

Additionally, when considering adding the City of Kennewick WWTP to Appendix C, Ecology reviewed other WWTPs in Washington. On closer examination, Ecology determined that eight (8) WWTPs in the Bellingham region also qualified to be Listed WWTPs. These WWTPs have been added to Appendix C.

Revision Made in Response to Comment #39: Ecology added additional WWTPs to the “Listed WWTPs” in Appendix C. Appendix C of the Winery General Permit and Table 6 of the Fact Sheet were changed to read:

ECY Regional Office ¹	Name of WWTP
Bellingham Field Office	Bellingham (Post Point) WWTP
	Birch Bay Water and Sewer WWTP
	Blaine (Lighthouse Point Water Reclamation Facility) WWTP
	Everson WWTP
	Ferndale WWTP
	Lynden WWTP
	Larrabee State Park WWTP
	Whatcom Co. Water District #13 WWTP
Central Regional Office	City of Kennewick WWTP

3.4 General Comments

The following comments are general comments related to the Winery General Permit and its supporting documents.

Comment #40

- First Commenter

The minimal impact does not justify the costs of the proposed permit.

- Second Commenter

Ecology has grossly overestimated the potential environmental impact posed by winery wastewater to Waters of the State and provided little scientific evidence to back up its claims. Many small wineries have no impact on Waters of the State and no small wineries have more impact than that posed by, for instance, a few typical homes or rural restaurants.

- Third Commenter

There is no conclusion that can be reached other than the proposed Winery General Permit is hugely disadvantageous for small business.

Response: Thank you for your comments.

- Ecology's Authority

The Washington State Legislature gave Ecology the authority to control and prevent the pollution of Waters of the State, as stated in the Water Pollution Control law, Chapter 90.48 RCW. The Legislature also required that industrial and commercial facilities that discharge waste to Waters of the State (including ground water) have a permit.

- Why issue a general permit?

Ecology may issue coverage under a general permit or an individual permit to a single facility. An individual permit may be necessary when wastewater discharges or site-specific conditions at the facility are not typical of the industrial group or they warrant requirements tailored to their specific situation. However, when an entire class of discharges has similar characteristics, coverage under a general permit may be more appropriate. A general permit is designed to provide environmental protection under conditions typical for the covered industrial group. It allows a unified approach to similar facilities and can simplify the permitting process, saving the facility and Ecology time and resources.

- What are the impacts from discharges of wastewater from wineries?

Ecology was unable to find documented evidence of a Washington winery polluting ground water. However, the only documentation available comes from the handful of wineries covered by a permit. A lack of evidence does **not** mean ground water is not being impacted.

There are examples of groundwater contamination from facilities with wastewater that have similar characteristics and that use similar discharge methods. Such as a few large wineries in California that land applied wastewater and caused impacts to groundwater

quality. Also, a food-processing plant in Michigan contaminated ground water with metals after spray-irrigating their wastewater on nearby fields.

Additionally, wastewater from wineries has high levels of organic matter that deplete oxygen in water. It also has a high pH range and it can contain cleaning agents and additives from the winemaking process. It is well documented that discharges of wastewater with these characteristics damage soil and crops, kill aquatic life, degrade the infrastructure in wastewater treatment plants, and can mobilize metals from the soil into ground water which can harm human health.

Because the wine production in Washington has increased greatly over the past decade, Ecology decided to develop a general permit and establish good waste management practices for this rapidly expanding industry.

- Why aren't all wineries covered by the Winery General Permit?

To make the best use of tax payers' dollars, Ecology decided that this permit will cover the discharges that have the greatest potential to impact Waters of the State. Rather than requiring all wineries that discharge wastewater to be covered by the permit, Ecology established a threshold that seemed reasonable.

It is our intent to provide permit coverage to facilities that have dischargers that are more likely to impact groundwater quality. Providing permit coverage to facilities that produce greater than 7,500 cases of wine per year will meet Ecology's intent and avoid causing a hardship to wineries that have small annual production.

- What has Ecology done to lessen the regulatory burden on wineries?

Ecology heard from representatives of the winemaking industry that the vast majority of wineries in Washington have very low annual production volumes and are already heavily regulated. Another regulation demanding resources be spent on facility upgrades, monitoring equipment, management plans, and wastewater analysis would force many to close their business. The Winery General Permit, in this first permit cycle, includes flexibility, compliance options, benchmarks, and appropriately scaled requirements for small producers and existing facilities; and focuses on best management practices and data collection.

Ecology took the following actions to mitigate the compliance cost of the permit. These actions were taken during the development of the permit, as Ecology incorporated input from wineries to best achieve environmental protection while reducing compliance burden.

- Allowing Permittees to collect a grab sample (one single sample) rather than a composite sample (a combination of three separate samples).
- Not requiring Permittees discharging to WWTPs to sample their wastewater. They are only required to report the results of the WWTP's analysis.
- Not requiring permittees discharging to lagoons or other liquid storage structures to sample their wastewater.

- Reducing the frequency of wastewater sample analysis. Permittees required to analyze wastewater samples are only required to do so on a quarterly basis.
 - Not requiring Group 1 Permittees that discharge as irrigation to managed vegetation to analyze wastewater samples to determine how much wastewater they are permitted to discharge in order to not overload their crop/soil. The permit now contains application rates and application frequencies.
 - Not requiring Permittees that discharge as road dust abatement to analyze wastewater samples to determine how much wastewater they are permitted to discharge. The permit now contains application rates and application frequencies.
 - Not setting a minimum annual frequency for Permittees that discharge to a subsurface infiltration system to clean the tanks. They may clean on an as-needed basis.
 - Not requiring an annual report in addition to Discharge Monitoring Reports.
 - Not requiring Permittees installing a new subsurface infiltration system to treat domestic sewage separate from wastewater.
 - Not requiring Permittees discharging to an existing subsurface infiltration system to retrofit their existing system or to treat domestic sewage separate from wastewater.
 - Establishing differing reporting requirements for small wineries.
 - Not covering wineries producing less than:
 - 53,505 gallons of wastewater per calendar year.
 - 7,500 cases of wine or juice per calendar year.
 - 17,835 gallons of wine or juice per calendar year.
 - Not covering wineries discharging to delegated POTWs or Listed WWTPs.
 - Designing requirements for lagoon and subsurface infiltration systems to be able to be done by winery staff or management, without hiring outside engineers or other contractors.
 - Requiring only adaptive management when benchmarks are exceeded.
 - Allowing small wineries to estimate wastewater flow.
 - Phasing in requirements for removal of fine solids and design of a waste management system that accommodates future growth and beneficially reuses wastewater.
 - Phasing in assessment requirements.
 - Establishing different benchmarks for Group 1 Permittees for some types of wastewater discharge.
 - Not requiring Permittees to conduct inspections more frequently than twice per year.
- Future opportunities to comment

Ecology is delaying the effective date of this permit to coincide with the timing of Ecology's updates to the permit fees in Chapter 173-224 WAC. During the rulemaking, Ecology will issue the proposed rule revisions to the public, provide a public comment period, and host a hearing. Additionally, on April 3, 2018, Ecology sent a message to the Winery Listserv inviting subscribers to suggest fee categories for the permit fees for the Winery General Permit. Individuals may voice their concerns and ideas to Ecology while

rule revisions are being crafted, or by commenting on the proposed rule when it is available for public comment.

Comment #41

- **First Commenter**
Ecology should think of more mitigation measures to continue reducing the burden of the new permit.
- **Second Commenter**
Outreach and workshops are needed during the time when the permit is active but not effective.
- **Third Commenter**
The Washington Wine Institute asks DOE to invest in staff time and resources to hold seminars in each major wine region tailored to training and education for winery owners and staff.
- **Fourth Commenter**
The creation and distribution of simple, one page forms every permitted winery can use, file, and stay in compliance will be critical to the success of the first permit cycle.

Response: Thank you for your comments. Ecology intends to continue working with the winemaking industry to develop additional tools like templates and guidance to assist wineries with compliance. Ecology also intends to host workshops and to assist wineries with compliance.

When the Winery General Permit is revised five (5) years after the effective date of the permit, Ecology will again work with the winemaking industry to identify additional mitigation strategies.

Comment #42: The permit and fact sheet are really long.

Response: Thank you for your comment. The Winery General Permit was written to be user friendly, easy to read, and well organized. But more importantly, it includes flexibility, compliance options, benchmarks, and appropriately scaled requirements for small producers and existing facilities; and focuses on best management practices and data collection.

Ecology heard from representatives of the winemaking industry (especially the small facilities) that flexibility and options are essential. Without them, compliance with the Winery General Permit would be very difficult and could cause a small winery to close their doors. It is **not** Ecology's intention to regulate a winery out of business, therefore, the Winery General Permit includes flexibility and compliance options wherever possible.

The Fact Sheet is a reference document; it is not a regulation. Ecology intended the Fact Sheet to contain helpful information about the winemaking industry, the characteristics of

wastewater, and each discharge method. It also contains explanations of how certain decisions were made and the justification of requirements.

Comment #43: If discharging winery wastewater onto the surface is a danger to ground water, adopt a rule prohibiting such a practice, but don't create an entire bureaucracy that comes with a permitting system and requirement.

Response: Thank you for your comment. Prohibiting these discharges would significantly impact the winemaking industry. Ecology heard from representatives of the winemaking industry (especially the small facilities) that flexibility and options are essential. Without them, compliance with the Winery General Permit would be very difficult and could cause a small winery to close their doors. It is **not** Ecology's intention to regulate a winery out of business.

For these reasons, the Winery General Permit conditionally allows Permittees to discharge wastewater to land treatment via irrigation to managed vegetation. To protect Waters of the State, the Winery General Permit includes best management practices and discharge limits so the wastewater discharges are properly managed.

Comment #44: Trump is getting RID of ecology. It is too late, all you people did was pocket money and cause fines to get money. IT IS TOO LATE FOR ECOLOGY. NOT TO MENTION THE RUB AND TUG YOU GUYS HAD GOING ON IN THE BASEMENT OF ECOLOGY HEADQUARTERS. MUCH TOO LATE!

Response: Thank you for your comment. The Winery State Waste Discharge General Permit establishes waste management practices for wineries to prevent pollution and protect Waters of the State. The permit conditionally authorizes discharges of winery process wastewater to land, ground water, and wastewater treatment plants. Ecology is authorized by the State Legislature under the authority of Chapter 90.48 RCW to issue permits to commercial and industrial facilities that discharge pollutants to Waters of the State.

Stakeholder involvement and public input have been central to the development of the Winery General Permit. The following examples demonstrate Ecology's commitment to involving the public and stakeholders in this process. Ecology:

- Conducted surveys of the wine industry.
- Presented to stakeholders a dozen times.
- Toured and interviewed dozens of wineries.
- Maintained an informative website.
- Updated interested parties through a listserv that has 200 subscribers.
- And the permit were discussed in numerous media articles including talk radio.
- Worked closely with a workgroup comprised of winery owners (both large and small) and industry experts, including meeting face-to-face 4 times.
- Provided a preliminary draft to the public for 60 days.
- Gave the public 106 days to review the formal draft.
- Hosted 4 public hearings.

Comment #45: We ask that you postpone finalizing the permit until true cost proportionality can be achieved.

Response: Thank you for your comment. Ecology issued the permit on May 17, 2018, and the permit will **not** be effective until July 1, 2019. Ecology is delaying the effective date of this permit to coincide with the timing of Ecology's updates to the permit fees in Chapter 173-224 WAC. Wineries may use this time to prepare for compliance. Additionally, Ecology will hold workshops and develop tools and guidance material to assist wineries.

During the rulemaking, Ecology will issue the proposed rule revisions to the public, provide a public comment period, and host a hearing. Additionally, on April 3, 2018, Ecology sent a message to the Winery Listserv inviting subscribers to suggest fee categories for the permit fees for the Winery General Permit. Individuals may voice their concerns and ideas to Ecology while rule revisions are being crafted, or by commenting on the proposed rule when it is available for public comment.

Individuals interested in receiving updates about the rulemaking may subscribe to the Winery Listserv by clicking on the following link.

<http://listserv.ecology.wa.gov/scripts/wa-ECOLOGY.exe?A0=ECY-WINERY-PERMIT>

Comment #46: In connection with this joint goal to lessen the financial burden of these new requirements, the Washington Wine Institute will continue to pursue the establishment of reasonable and appropriate permit fees.

Response: Thank you for your comment. Ecology intends to work with the winemaking industry to establish reasonable and appropriate permit fees. See Comment #42 for more information.

Comment #47: Notice of Intent. Section H 'Certification' - Delete the last sentence, ' "Unless the Department of Ecology Aquatic \=Invasive Species Management General Permit has a more stringent requirements, all FIFRA label directions and requirements will be followed" '. (NOI)

Response: Thank you for your comment. Ecology agrees with the suggestion and has revised the draft permit accordingly.

Revision Made in Response to Comment #47: The Application for Coverage (Notice of Intent) was changed to read:

“I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. ~~Unless the Department of Ecology Aquatic Invasive Species Management General Permit has more stringent requirements, all FIFRA label directions and requirements will be followed.~~”

Comment #48: Notice of Intent. Mailing address on forms conflicts with the directions in permit on where to send form. Suggest form be revised to say "See Permit for mailing address." (NOI)

Response: Thank you for your comment. Ecology agrees with the suggestion and has revised the draft permit accordingly.

Revision Made in Response to Comment #48: The Application for Coverage (Notice of Intent) was changed to read:

~~Washington Department of Ecology
Water Quality Program
Aquatic Pesticides
PO Box 47600
Olympia, WA 98504-7600~~

Washington Department of Ecology
Water Quality Program
Winery General Permit
PO Box 47600
Olympia, WA 98504-7600

Comment #49: Economic analysis should address the cost of fire-proof file cabinets for records or cost of maintaining duplicate hard or electronic copies in separate areas as compared to cloud storage.

Response: Thank you for your comment. The Winery General Permit does not require a winery owner to maintain records in a way other than how they maintain records for other aspects of their business. Because maintaining records is a normal cost of doing business, Ecology did not include the cost of maintaining records in the Economic Impact Analysis.

Comment #50

- **First Commenter**

Certain cost estimates within the Economic Impact Analysis are not reflective of current construction costs or other present day costs based on 2018's economy. These cost estimates need to be updated to reflect current day costs.

- **Second Commenter**

Important alternatives for many wineries in handling their wastewater discharges is consideration of a subsurface infiltration system or evaporation pond. The draft Economic Impact Analysis cost information for this alternative is significantly out of date. Please secure current cost estimates for revitalizing as well as constructing a subsurface infiltration system or an evaporation pond.

Response: Thank you for your comment. Ecology bases the economic analysis on the best available information at the time of publication. Ecology gathered cost information from available resources including speaking with winery representatives, industry experts, and Ecology staff.

Additionally, Ecology invited members of the Technical Advisory Group to provide data such as cost estimates to better inform the economic analysis. For example, Ecology specifically asked for costs and staff time related to upgrading or constructing a waste management system. Ecology was not presented with more current or accurate economic data during the 60-day preliminary draft review period or the 106-days formal draft review period.

When present-day cost estimates are not available, such as the cost of constructing a lagoon in 2018, Ecology adjusts the cost estimates of available data. For instance, Ecology used cost estimates for constructing a lagoon in 2001 and updated those costs for inflation. Even though the original data set included costs from 2001 (reported in 1997 dollars), the data used in the Winery General Permit economic analysis were increased by 154% and reflect 2018 costs. This was adjusted for economy-wide price level increases. It is also consistent with, or exceeds, growth rates for the prices of durable goods or construction compensation costs.

During the development of the general permit and the economic analysis, Ecology received input on the costs associated with the construction of lagoons. However, Ecology determined that the costs provided for a large, double-lined lagoon reflected the costs of avoiding the need for coverage under the general permit, rather than the earthen-lined lagoon sufficient for permit compliance. Therefore, that cost estimate is not reflected in the Economic Impact Analysis.

Comment #51: Economic analysis needs to address cost of either training winery staff to meet requirements for obtaining wastewater samples that comply with required analytical methods, or of hiring a firm with personnel trained to obtain samples per analytical method.

Response: Thank you for your comment. The Economic Impact Analysis includes costs related to the training of employees. See section 2.1.3 of the Economic Impact Analysis.

Ecology assumed one hour of training, four times per year allowing for turnover, involving one manager and one employee. Based on the median hourly wage for agricultural and food science technicians of \$18.03, and a median managerial hourly wage of \$53.88, four hour-long training events per year would cost \$287.62 annually.

Comment #52: I wish to view and read the winery permit development and fact sheet documents but they are 404 links.

Response: Thank you for your comment. Ecology's website was redesigned at the same time that the public draft of this permit was available for comment, which caused numerous glitches, including not being able to access some of the permit development documents. The broken links were promptly repaired and the documents were made available. Click the following link to visit the Winery General Permit webpage.

<https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Winery-permit>

Comment #53

- First Commenter

I think it's really good you guys are getting wastewater regulations out there. I think it's a little bit disingenuous to not have them. Where someone can come in and set up operations and run and the rules change halfway through what they are doing. I support what you guys are doing.

- Second Commenter

We appreciate the willingness demonstrated by the Department of Ecology ("DOE") to learn about the wine industry and the open and frank discussions that DOE has encouraged with wine industry members. The process has provided a good exchange of ideas that has resulted in numerous improvements to the content of the General Permit as it has evolved.

We acknowledge the tremendous amount of work DOE has put into the permit for the past four years, but more needs to be done before we can confidently say this permit is not overly harmful to our wineries across the state, especially our small wineries.

Washington Wine Institute supports the lengthy number of mitigation measures Ecology is proposing to minimize the amount of burden this permit may put upon our wineries trying to be in compliance.

It is clear Ecology is focused on creating as much flexibility and options to compliance as possible. Washington Wine Institute asks that Ecology continue in this spirit as the permit continues to evolve.

- Third Commenter

Ecology's collaborative approach with the wine industry is greatly appreciated and I look forward to similar relationships on future permit actions that impact Washington's agricultural community.

I have therefore been very pleased with Ecology's willingness to work closely with the Washington wine industry to implement numerous mitigation measures that lessen the financial and operational burden on impacted wineries.

Response: Thank you for your comments. The public's input was crucial to the development of the permit.

In April 2017, Ecology shared a preliminary draft and invited the public's input during a 60-day public comment period. Ecology took their feedback, made improvements to the permit, and in November 2017, shared the formal draft of the permit and other permit development documents with the public. An extended comment period (106 days) was offered to allow wineries ample time to review the permit development documents.

Ecology hosted four public hearings: one in Central Washington, one near Seattle, and two via webinar for those unable to travel. The feedback received has been constructive, helpful, and even positive.

Stakeholder involvement and public input have been central to the development of the Winery General Permit. The following examples demonstrate Ecology's commitment to involving the public and stakeholders in this process. Ecology:

- Conducted surveys of the wine industry.
- Presented to stakeholders a dozen times.
- Toured and interviewed dozens of wineries.
- Maintained an informative website.
- Updated interested parties through a listserv that has 200 subscribers.
- And the permit were discussed in numerous media articles including talk radio.
- Worked closely with a workgroup comprised of winery owners (both large and small) and industry experts, including meeting face-to-face 4 times.
- Provided a preliminary draft to the public for 60 days.
- Gave the public 106 days to review the formal draft.
- Hosted 4 public hearings.

After the permit is issued, Ecology will hold workshops to inform winery representatives about:

- Applying for permit coverage.
- Conducting facility inspections.
- Documenting their progress.
- Implementing best management practices.
- Reporting using Ecology's web portal.

Ecology will also hold workshops and develop tools and guidance material to assist wineries. The permit will **not** be effective until July 1, 2019, to coincide with the timing of Ecology's updates to the permit fees in Chapter 173-224 WAC. Wineries may use this time to prepare for compliance.