

Ecology Releases the Formal Draft Winery General Permit

Legal Alert
December 14, 2017

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Compliance cost estimated at \$4,000 for small wineries and \$8,000-\$14,500 for larger wineries

Washington State's Department of Ecology (Ecology) continues to make headway toward releasing its Winery General Permit (Permit). If adopted, this Permit will be mandatory for wineries discharging wastewater into the ground, but it will not be required for wineries that release water into a municipality's wastewater system. Below are some of the highlights regarding Ecology's latest steps and what they mean for wineries:

Formal Draft and Second Comment Period

A formal draft of the Permit was released on November 1, 2017. This draft was designed to take into account comments received after the preliminary draft was issued in April 2017. Along with the issuance of the formal draft, a second public comment period has commenced. Comments will be accepted until February 14, 2018, and an online comment forum has been set up on Ecology's website. In addition, several in-person and webinar hearings have been [scheduled](#), which will allow the opportunity to engage in discussions and provide evidence regarding the terms and what compliance will mean for winery owners and operators.

General Requirements

The Permit generally requires that wineries:

- Meet benchmarks for various pollutants, with different benchmarks for wineries producing more than or less than 600,000 gallons of wastewater, respectively
- Develop a winery pollution prevention plan (WPPP) to meet benchmarks
- Meet volumetric limits on the amount of wastewater that may be discharged to irrigate vegetation and to abate road dust (large wineries only)

- Sample and monitor for pollutants, and submit results to Ecology
- Submit annual reports
- Implement adaptive management actions if benchmarks are exceeded

Draft Economic Impact Analysis

In compliance with federal and state statutory requirements, Ecology published a draft economic impact analysis (EIA) of the costs to comply with the Permit, in order to determine whether the cost of compliance disproportionately affects small businesses (those businesses with 50 or fewer employees). Compliance costs estimated by Ecology include the following:

Ecology determined that the costs of compliance per *employee* seemed proportionate between small and large wineries, and that, based on this determination, it was not required to mitigate the impact on small businesses.

Conclusion

Ecology has stated in its Fact Sheet that the Permit may become more prescriptive over time to become more protective of water quality. While the above costs may not be overly burdensome for most wineries, this estimate does not include the costs of proper treatment and storage of wastewater under the terms of the permit, which can range from \$75,000-\$300,000. Therefore, it is important that wineries examine what the costs of compliance will be for them, and provide comments to Ecology regarding the terms of the Permit while it is still in the first iteration.

If you have questions, please contact [Tacy Hass](#), Attorney at Foster Pepper PLLC, at (206) 447-8978.