

Vineyard Environmental Permits List and Questionnaire

California vineyards and wineries must comply with a myriad of environmental legal and regulatory requirements. They can cover areas such as water quality, water supply, air quality, hazardous materials, and hazardous wastes. Keeping a single list with all of the permits and licenses needed to remain in compliance is a simple way to keep track of expiration and renewal dates. Understanding which permits apply to the vineyard and/or winery is also essential for staying in compliance.

The California Sustainable Winegrowing Alliance has worked with experts to develop the following list of the environmental permits that are commonly applicable to a California vineyard that includes information about the applicable regulatory program area, legislation, and relevant regulatory agencies. The list is not necessarily exhaustive and it is the responsibility of the individual vineyard to remain in compliance with all applicable laws and regulations. A simplified questionnaire for determining which permits may be relevant is also provided below.

Environmental Permits List

See tables below for detailed information about each permit.

Does not include permits and regulations administered by Plant Health and Pest Prevention Services - <https://www.cdffa.ca.gov/plant/permitsandregs.html>

WATER SUPPLY

- Appropriative Water Rights
- Riparian Statement of Use
- Dam Safety
- Groundwater Registration and Reporting

WATER QUALITY

- Waste Discharge Requirements (WDR) Permit
- Water Quality Certifications & Nationwide Permits
- Erosion Control
- General WDRs and/or General Conditional Waiver of WDRs (Irrigated Lands Program)

RIPARIAN HABITAT

- Streambed Alteration Permits

AIR QUALITY

- Stationary Diesel /Internal Combustion Engines
- Portable Engines Registrations
- Gasoline Dispensing Facilities
- Burn permits
- Dust Control

HAZARDOUS MATERIALS and HAZARDOUS WASTES

- Conditionally Exempt Small Quantity Generators (CESQG)
- Pressure Vessels permits to operate
- Restricted Materials Permits / Pesticide Use Registrations

Environmental Permits – Vineyards

- Certified Unified Program Agencies (CUPA) programs and EPCRA reporting requirements - hazardous materials, solid and hazardous wastes, petroleum storage tanks, etc.
 - Hazardous Materials Business Plan/Inventory Statement
 - Aboveground Petroleum Storage Tank Registration
 - California Accidental Release Prevention Program
 - SPCC requirements
 - Underground Storage Tank Registration
 - Hazardous Waste Generator

WATER SUPPLY and WATER QUALITY

Area	Relevant Legislation	Responsible Agency	Permit
Water Supply and Storage	<ul style="list-style-type: none"> • CA Water Code 	California State Water Resources Control Board, Division of Water Rights. ⁱ	Appropriative water license or permit; Riparian Statement of Use
Dam Safety	<ul style="list-style-type: none"> • CA Water Code, Division 3; CA Code of Regulations; Title 23 Waters; and Current Practices (Supervision of Dams and Reservoirs) 	California Department of Water Resources, Division of Safety of Dams	Jurisdictional Dam – approval to construct and operate
Groundwater permits	<ul style="list-style-type: none"> • Very location specific and in flux due to Sustainable Groundwater Management Act. • California Water Code, section 4999, et. seq. and the Coachella Groundwater Replenishment Program 	California Department of Water Resources, State Water Resources Control Board, and various Adjudicated Water Basins. ⁱⁱ ⁱⁱⁱ Districts. Also, some counties have special ordinances specific to managing groundwater and groundwater conservation.	Registrations vary. (Local entities are forming as required by the Sustainable Groundwater Management Act. These local agencies may eventually develop new requirements for facilities relying on groundwater.)
Water Quality Certifications & Nationwide Permits	<ul style="list-style-type: none"> • Federal Water Pollution Control Act of 1970 (aka Federal Clean Water Act), Sections 401 & 404 • California Fish and Wildlife Code, Section 1600 	The local California Regional Water Quality Control Board and the U.S. Army Corps of Engineers	Water Quality Certifications
Riparian Habitat	<ul style="list-style-type: none"> • California Fish and Wildlife Code, Section 1600 	The CA Dept. of Fish and Wildlife	Streambed Alteration Permits
Discharges of waste associated with vineyards (Non Point Source Pollution Control Program NPS Policy)	<ul style="list-style-type: none"> • Porter-Cologne Act (aka California Water Code) • Irrigated Lands Program 	The California Regional Water Quality Control Boards	General WDRs and/or General Conditional Waiver of WDRs
Erosion Control Non Point Source (NPS) pollution	<ul style="list-style-type: none"> • Porter-Cologne Act (aka California Water Code)^{iv} • Federal Clean Water Act • Various erosion control ordinances ^v 	Local agencies	Grading permits

AIR QUALITY

Area	Legislation	Agency	Permit
Stationary Diesel /Internal Combustion Engines greater than 50 horsepower (Standby Generators Engines, Firewater Pump Engines	<ul style="list-style-type: none"> • Air Toxic Control Measures (ATCM) • Title 17, California Code of Regulations section 93115 • Individual Air District Rules and Regulations 	California Air Resources Control Board and the local Air District.	Diesel Engine permit to operate
Statewide Portable Equipment Registration Program (PERP)	<ul style="list-style-type: none"> • Air Toxic Control Measures (ATCM) • Title 17, California Code of Regulations section 93115 	California Air Resources Control Board ^{vi}	Fleet Compliance Report
Gasoline Dispensing Facilities	<ul style="list-style-type: none"> • Title 17 of the California Code of Regulations (CCR)) and rules adopted by the California Air Resource Board • Various Rules and Regulations adopted by local Air Districts 	California Air Resources Control Board and the local Air District.	Permit to Operate
Large Spark Ignition Mobile Engines	<ul style="list-style-type: none"> • California Code of Regulations, Title 13, section 2433 	California Air Resources Control Board and the local Air District.	Average Fleet Emission Inventory
Smoke Management Program	<ul style="list-style-type: none"> • Title 17, California Code of Regulations, Sections 80100, • Various Rules and Regulations adopted by local Air Districts 	California Air Resources Control Board and the local Air District.	Burn Permits
Fugitive Dust	<ul style="list-style-type: none"> • Ambient air quality standards (AAQS) for particulate matter (PM) as in established in the Federal Clean Air Act and Title 17, California Code of Regulations • Various Rules and Regulations adopted by local Air Districts 	California Air Resources Control Board and the local Air District.	Conservation Management Plans Dust Control Plans

HAZARDOUS MATERIALS and WASTES

Area	Relevant Legislation	Responsible Agency	Permit
<p>Certified Unified Program Agencies (CUPA) programs and EPCRA reporting requirements</p>	<p>Varies and includes^{vii}:</p> <ul style="list-style-type: none"> • Final Rule for the SPCC Plan Requirements, 40 CFR 112 • California Health and Safety Code, Division 20, Chapters 6.67 and 6.95 • CCR, Title 23, Division 3, Chapter 16 • Aboveground Petroleum Storage Act (AB 1130) 	<p>CUPA agency varies based on location.^{viii} The California Department of Toxic Substance provides the CUPA agencies with technical support.</p>	<ul style="list-style-type: none"> • Hazardous Materials Business Plan/Inventory Statement • Aboveground Petroleum Storage Tank Registration • California Accidental Release Prevention Program • SPCC requirements • Underground Storage Tank Registration • Hazardous Waste Generator
<p>Small Quantity Generators (SQG)</p>	<ul style="list-style-type: none"> • Part 262 of the Code of Federal Regulations (40 CFR Part 262)^{ix} 	<p>California Department of Toxic Substance Control</p>	<p>California EPA Identification Number</p>
<p>Pressure Vessels – air compressors and liquid propane tanks, boilers</p>	<ul style="list-style-type: none"> • Labor Code sections 7620-7771 	<p>California Department of Industrial Relations, Pressure Vessel Unit</p>	<p>Pressure Vessel Permit</p>
<p>Restricted Materials / Pesticide Use</p>	<ul style="list-style-type: none"> • Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the regulations in the Code of Federal Regulations, Title 40. • California Food and Agricultural Code (FAC) Divisions 6, 7, and 13; the regulations are in Title 3, CCR Division 6. 	<p>California Department of Pesticide Regulations and local Agriculture Commissioner.^x</p>	<p>Restricted Materials Permits / Pesticide Use Registrations / Pesticide Use Reporting / and Applicator License</p>

Environmental Permits Questionnaire

Water Quality Permits

A. Waste Discharge Requirements (WDRs) Permit - Land that is irrigated to produce crops for commercial purposes is regulated under the Irrigated Lands Program.*

1. Are you in Region 3, 4, and 8?
 - If so, enroll in and comply with your Regional Board's Agricultural Order (No. R3-2012-0011, No R4-2015-0202, or No. R8-2016-0003)
2. Are you in Region 5?
 - Join a third-party coalition group or obtain coverage (WDR) as an individual grower.
3. Are you in Region 1, 2, or 9?
 - These regions are currently developing their programs to regulate discharges of waste associated with vineyards.

* Water discharges from agricultural operations include irrigation runoff, flows from tile drains, and storm water runoff. These discharges have the potential to carry sediment, nutrients, and agri-chemical to local surface water and groundwater resources.

http://www.swrcb.ca.gov/water_issues/programs/agriculture/

B. 404 Permits & 401 Certifications

1. Has surface waters (including wetlands) on your property been dredged or filled? This can include work in drainage ditches and stream crossings for transportation and water supply pipelines.

If 'yes', you may need:

- Certification from the state verifying that the activity will comply with state water quality standards (401 certification) and that discharges to the waters of the United States are appropriate (404 permits).
- Contact your Regional Water Quality Control Board and Army Corps of Engineers.

C. Grading

1. Have you recently planted new vineyards or recently replanted existing vineyards?
 - If yes, check with your local Building Department or Planning Department about relevant ordinances.

Water Supply Permits

A. Appropriative Water License

1. Do you take water from a lake, river, stream, or creek for use on your property?
 - If you answered 'yes', you may need to establish a water right with the State Water Resources Control Board. Individuals can hold riparian water rights, appropriative rights, and prescriptive water rights. Do not assume that you have a water right just because you have a water diversion or a dam on your property. You can check with the Division of Water Rights to determine if you have a water right permit, license, certificate or registration. If you can't find documentation that you have an established water right permit, license, certificate or registration contact an expert – lawyer or engineer – to assist you in assessing your water rights. You may need to begin the application process which will require significant documentation.

http://www.waterboards.ca.gov/waterrights/board_info/faqs.shtml

B. Jurisdictional Dams

1. Do you have a water reservoir with a dam height of 25-feet or greater (dam height is measured from the downstream toe to the maximum storage elevation/spillway)?
2. Do you have a water reservoir that has a storage capacity of more than 50 acre-feet?
 - If you answered ‘yes’ to either questions 1 and 2, you may need to a permit from the CA Division of Safety of Dams. You should start by notifying the respective Area Engineer.

C. Groundwater Registrations & Reporting

- Local entities are forming as required by the Sustainable Groundwater Management Act. These local agencies may eventually develop new requirements for facilities relying on groundwater.
- There are few areas that have had groundwater registrations and reporting for decades, like the Coachella Valley.
- There are areas with Water Right Determinations:
http://www.waterboards.ca.gov/waterrights/board_decisions/adopted_orders/judgments/docs/judgments_map.pdf
- Watermaster Service Area on the map:
http://www.water.ca.gov/watermaster/ND_Watermasters/ServiceAreas/index2.cfm

Air Quality Permits

A. Permit to Operate – Stationary Diesel Engines

1. Do you have a diesel fired engine used to pump water or provide power for growing crops*?
2. Are any of the diesel engines 50 horsepower or greater?
 - If you answered ‘yes’ to both questions, you likely require a permit from the local air district and need to comply with the State’s Stationary Diesel Engine Air Toxic Control Measures. This may involve simply registering your engines.

* agricultural wind machines or tractors or harvesters are excluded

B. Gasoline Dispensing Facilities

1. Does your facility maintain a fueling area that includes gasoline dispensing?
2. Do you use this gasoline facility to fuel vehicles others than farm equipment? This includes trucks and over-the-road vehicles that transport farm equipment.
 - If you answered ‘yes’ to both questions, you should contact your local air district.

C. Mobile Emissions

1. Does the operation have four (4) or more forklifts, sweepers, scrubbers, or industrial tow tractors with large spark ignition (LSI) engines of 25 horsepower (19 kilowatt) or greater*?
2. Do you have several facilities, that together maintain 4 or more LSI engines of 25 horsepower or greater?

- If you answered “yes” to both questions, then you should follow the directions on the Air Resources Control Board’s website to calculate a baseline inventory, determine if your LSI average fleet emissions is within the appropriate range:
<http://www.arb.ca.gov/msprog/offroad/orspark/orspark.htm>

*Agricultural fleets are not required to comply with the fleet average, but must address all 1990 and newer uncontrolled forklifts.

D. Smoke Management Program

1. Is agricultural burning conducted to dispose of agriculture waste generated in the process of growing of crops?
2. Is land management burning conducted to dispose of woody waste cleared from ranch lands?
 - If you answered ‘yes’ to both questions, you should contact your local air district for a burn permit which are allowed only on permissive burn days. Also, you may need to check with the local Fire District to make sure conditions are safe for burning and to obtain any required Fire District permits.

E. Fugitive Dust

- Your Local Air District may have Fugitive Dust Rules, which prohibits the transport of dust off your property and requires you to "take every reasonable precaution to minimize emissions." Other districts may use the State Nuisance law or the Visible Emissions/Opacity rule to regulate fugitive dust emissions. Some districts may attach dust control measures to your Permit to Operate and require Conservation Management Plans and Dust Control Plans.
- Check with your local air district for requirements.

Hazardous Materials and Wastes

A. Small Quantity Generators (SQG)

1. Does your facility generate less than 1,000 kg of hazardous waste per month, excluding universal wastes, and/or 1kg or less of acutely or extremely hazardous waste per month. This includes wastes from equipment maintenance and farm shop.
 - If so, you are a Small Quantity Generators (SQGs). You need an EPA ID number and must comply with the appropriate requirements:
 - <http://www.dtsc.ca.gov/IDManifest/index.cfm>
 - <http://www.dtsc.ca.gov/HazardousWaste/upload/California-Generator-Chart.pdf> and
 - https://www.dtsc.ca.gov/HazardousWaste/upload/HWM_FS_Generator_Requirements.pdf

B. Pressure Vessels Permits

1. Does your facility have any boilers (pressure vessel used to generate steam pressure by the application of heat), air pressure tanks, or liquefied petroleum gases (LPG) tanks? For example, to run wind machines.
2. Are the air tanks or LPG propane storage tanks over 125 gallons?
3. Are the high pressure boilers over 15 psig steam.

- If you replied ‘yes’ to questions 1 and question 2 or 3, then permit is likely needed. Contact the Department of Industrial Relations, Pressure Vessel Unit:
<https://www.dir.ca.gov/dosh/pressure.html>

C. Pesticide Use

1. Do you apply pesticides and/or restricted use materials on your vineyard?

- If ‘yes’, you need to ensure you are using a product that has been approved and registered, that a registered and license pesticide applicator is overseeing the use, and that appropriate reports are provided to the agricultural commissioner office.

D. Certified Unified Program Agencies (CUPA) program - the next six sections cover:

- Hazardous Materials Business Plan/Inventory Statement
- Aboveground Petroleum Storage Tank (AST) Registration
- California Accidental Release Prevention (CAL-ARP) Program
- SPCC requirements
- Underground Storage Tank (UST) Registration
- Hazardous Waste Generator

E. Hazardous Materials Business Plan / Inventory Statement

1. Does your vineyard or vineyard shop handle hazardous materials in quantities equal to or greater than:

- 55 gallons of a liquid,
- 500 pounds of a solid, or
- 200 cubic feet of compressed gas,
- or extremely hazardous substances above the threshold planning quantity,

- If ‘yes’, you need to submit a Hazardous Materials Business Plan (HMBP) electronically to the statewide information management system (California Environmental Reporting System, or CERS).
- For help in doing this, contact the local implementing agency (Certified Unified Program Agency or CUPA)

F. Spill, Prevention, Control and Countermeasure (SPCC) plan requirements

1. Does your vineyard property maintain aggregate aboveground petroleum storage capacities of 1,320 gallons or more? This includes aboveground storage containers or tanks with petroleum storage capacities of 55 gallons or greater and also includes portable tanks.

2. Does your facility maintain aggregate aboveground petroleum storage capacities above 10,000 gallons?

- If you responded ‘yes’ to question 1, you will need to register with the local CUPA agency, pay a fee, and develop and implement a SPCC plan
- If you responded ‘yes’ to question 2, your SPCC will need to be developed, signed, and stamped by a licensed Professional Engineer as well as register with the local CUPA agency and pay an annual fee.
- All regulated facilities must meet the federal SPCC rule requirements.

G. California Accidental Release Prevention (CAL-ARP) Program

1. Does your property have more than a threshold quantity of a regulated substance (listed in Tables 1-3, Title 19 § 2770.5 (note that Ammonia and Sulfur Dioxide have a threshold quantity of 500 lbs)
 - If yes, you may want to contact your CUPA agency for guidance. Or, try to reduce the regulated substance to below the threshold quantity. <http://www.caloes.ca.gov/cal-oes-divisions/fire-rescue/hazardous-materials/california-accidental-release-prevention>

H. Underground Storage Tank (UST) Registration

1. Does your facility maintain UST for activities other than sanitary waste?
 - If you replied ‘yes’, the UST should be registered with the SWRCB and/or the appropriate CUPA agency.

I. Aboveground Petroleum Storage Tank (AST) Registration

1. Does your facility maintain aggregate aboveground petroleum storage capacities of less than 1,320 gallons of petroleum, but has an underground storage tank?
 - If ‘yes’, the property is regulated under APSA (Aboveground Petroleum Storage Tank Act) and you should contact your local CUPA.

J. Hazardous Waste Generator

- See Small Quantity Generators (SQG) above.
- The local CUPA agency enforces the regulations associated with hazardous waste. This includes permits, inspections, and issuing violations.

ⁱ SWRCB, Division of Water Rights home page: <http://www.waterboards.ca.gov/waterrights/>

ⁱⁱ Adjudicated Basin Reporting <http://www.water.ca.gov/groundwater/sgm/adjudicated.cfm>

ⁱⁱⁱ Adjudicated Basins list - http://www.water.ca.gov/groundwater/docs/List%20of%20adjudicated%20basins%20and%20subbasins_01012014.pdf

^{iv} SWRCB – Nonpoint Source Pollution and agriculture - http://www.waterboards.ca.gov/water_issues/programs/nps/docs/plans_policies/nps_iefs.pdf

^v Napa County Erosion Control - <file:///C:/Users/SusanneZ/Downloads/1On%20Line%20ECP.pdf> and Sonoma County Ordinance <http://www.sonoma-county.org/agcomm/vesco.htm>

^{vi} ARB Agricultural Engines home page - <http://www.arb.ca.gov/diesel/statport.htm>

^{vii} CUPA regulations - <http://www.calepa.ca.gov/CUPA/LawsRegs/>

^{viii} CUPA Directory - <http://cersapps.calepa.ca.gov/Public/Directory/>

^{ix} CESQG - <http://www.epa.gov/osw/hazard/generation/sqg/handbook/insert.pdf>

^xPesticide Use Reporting - <http://www.cdpr.ca.gov/docs/pur/purmain.htm>