

March 17, 2017

## As Newcomers to the Industrial Storm Water Permit, Wineries, Breweries and Distilleries Have Options to Comply

The statewide **Industrial Storm Water permit (Industrial Permit)** provides federal Clean Water Act permit coverage for a host of different industries, including wineries, breweries, and distilleries (alcoholic beverage producers) when producing alcohol is the primary business. As relative newcomers to the Industrial Permit, alcoholic beverage producers have options to comply.

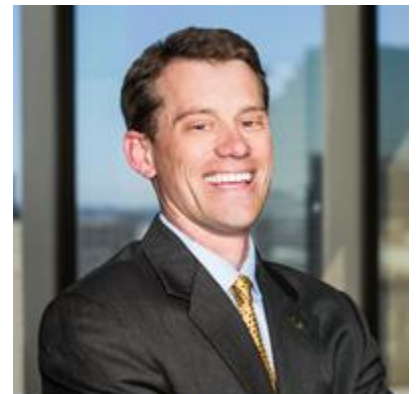
In 2014, the State Water Resources Control Board (State Board) adopted substantial revisions to the Industrial Permit, which had not been updated since 1997. Among a host of important changes to the new Industrial Permit was one of special relevance to alcoholic beverage producers.

Under the 1997 permit, alcoholic beverage producers could self-certify as exempt from the need to obtain coverage if operations did not expose raw materials related to industrial activities to storm water. Furthermore, an exempt alcoholic beverage producer was not required to file anything with the State Board.

The new Industrial Permit does not include this exemption, and requires the following:

- As of July 1, 2015—the effective date of the new Industrial Permit—alcoholic beverage producers are treated as every other industrial category.
- An alcoholic beverage producer must submit a “notice of intent” (NOI) to enroll under the new Industrial Permit unless it qualifies for a “no exposure certificate” (NEC) or a “notice of non-applicability” (NONA).
- To obtain a “no exposure certification” (NEC), an alcoholic beverage producer must certify that any storm water it discharges never comes into contact with its industrial activities.
- To obtain a “notice of non-applicability” (NONA), an alcoholic beverage producer must demonstrate that it does not discharge storm water.
- Any alcoholic beverage producer that cannot qualify for a NEC or NONA must register for coverage under the new Industrial Permit by filing a NOI with the State Board.
- Whether an alcoholic beverage producer is seeking permit coverage under a NEC or a NONA, or by filing a NOI, the permittee must file with the State Board and upload its information to a database called **SMARTS—the California “Storm Water and Multiple Application Report Tracking System”**—an online storm water database maintained by the State Board.

It is important to note that vineyards that make wine and restaurants that brew beer incidental to their primary business—growing grapes or serving food—are not subject to the Industrial Permit. This is because an entity is



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subject to the Industrial Permit based on its Standard Industrial Classification (SIC Code) and only certain industrial SIC Codes are covered by the Industrial Permit.

Given recent rains, many permittees under the Industrial Permit may be evaluating their storm water plans. During this process, alcoholic beverage producers are encouraged to explore ways that they may be able to simplify their compliance obligations under the Industrial Permit.

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