



## TCEQ REGULATORY GUIDANCE

Environmental Assistance Division

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# Wineries: Am I Regulated?

## Who Should Use This Guide?

This guide is intended to inform owners of wineries as to which of their activities may be regulated by the Texas Commission on Environmental Quality (TCEQ). It should also be useful to local health departments.

However, this publication is not a substitute for the rules. You can download the TCEQ's rules at <[www.tceq.texas.gov/rules](http://www.tceq.texas.gov/rules)>. In addition to the TCEQ, local governments and other state and federal agencies also may have rules that apply.

## Is My Winery Regulated by the TCEQ?

The TCEQ recognizes that all wineries are unique, and that there is no one-size-fits-all approach to compliance with environmental rules. Consequently, the rules that may apply, and the manner in which wineries comply with those requirements, will differ from site to site. This guide is intended to identify those requirements that could apply to your operations. These requirements are intended to protect the health of your customers and employees, as well as the environment. Our personnel will help you to identify all of the TCEQ requirements that may apply and give you customized assistance to help you understand the rules.

If you own or manage a winery in Texas, you may be regulated by the TCEQ if any of the following apply:

- You supply water for drinking, hand washing, dishwashing, cooking, or bathing.
- You treat or dispose of wastewater.
- You dispose of waste.
- You disturb one acre or more of land during construction.
- Your Standard Industrial Classification (SIC) code is listed as a regulated activity in the stormwater Multi-Sector General Permit.

## Am I a Public Water System?

If you supply water for drinking, hand washing, dishwashing, or cooking to at least 15 service connections or 25 people for at least 60 days out of the year, and your water comes from a well or a natural water source (such as a spring or a lake) or is hauled in from another water provider, then you meet the TCEQ's definition of a "public water system" and need to comply with the TCEQ's regulations. This status is common among wineries that have tasting rooms open to the public or that have more than 25 employees at least 60 days out of the year.

The actual wine-making process is regulated by the U.S. Food and Drug Administration (FDA) and the Texas Department of State Health Services (DSHS). If you are uncertain as to who has regulatory authority over your facility, contact the TCEQ's Public Drinking Water Section at 512-239-4691.

### How Can I Comply with the TCEQ's Rules for Public Water Systems?

The TCEQ's regulations are put in place to ensure that every public water system provides a safe and adequate supply of water. If your water system meets the definition of a public water system, it must be approved by the TCEQ for compliance with our rules for water treatment, quality, source approval, disinfection, pressure maintenance, distribution, storage, and capacity.

To this end, you must submit an engineering report—including plans and specifications for both existing and proposed public water systems—to the TCEQ's Plan and Technical Review Section for review and approval. The engineering report must be signed by a Professional Engineer (P.E.).

Your priority, when searching for a P.E., should be to find someone who has experience in the TCEQ's approval process for public water systems.

The requirements for public water systems are consistent throughout the state and these rules are not specific to wineries in general.

Our rules for public water systems can be found in Title 30, Texas Administrative Code (30 TAC), Chapter 290. To view 30 TAC 290, visit the Secretary of State's website, at <[texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=4&ti=30&pt=1&ch=290](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=30&pt=1&ch=290)>. After initial approval, further requirements for operating a public water system apply.

### Source Approval and Exceptions

Your options for securing approval of your water source include, but are not limited to, use of an existing well, drilling a new well using plans and specifications approved by the TCEQ, connecting to a neighboring retail

public utility, or constructing an approved purchase-water system that contains a holding tank for potable water.

If you decide to use an existing well as a water source, it may not meet all of the minimum requirements specified in 30 TAC 290.41, since the well was likely not originally intended as a public water source. (It may have been originally drilled for use as an irrigation well or for a private residence.) If this is the case, you may have to make modifications to bring your well into compliance, or you may need to request exceptions to the rules. Typical exceptions to the rules for the use of existing wells include, but are not limited to, sanitary control easements, setbacks, pressure cementing, other construction requirements, and completion data.

#### Other Exceptions

The TCEQ must approve all components of your PWS, but you may make other requests for exceptions. These exceptions may include, but are not limited to, water storage, pressure maintenance facilities, distribution systems, and capacity requirements.

Exceptions may be granted for the requirements outlined in 30 TAC 290, Subchapter D (for example, set-back requirements), but are not permitted for any of the requirements in 30 TAC 290, Subchapter F (such as the public health-based standards the water must meet). TCEQ staff can help you determine which exceptions you may qualify for.

#### Submitting Requests for Exceptions

Requests for exceptions to TCEQ rules must be submitted to the TCEQ's Technical Review and Oversight Team. They do not have to be filed by a Professional Engineer (P.E.). You must submit a request for exception before submitting engineering plans, which do require a P.E.'s seal. We cannot review engineering plans until we complete the review of the exception request. Checklists for PWS well construction and completion are available online.

- Checklist for Well Construction:  
[<www.tceq.texas.gov/goto/well-construction>](http://www.tceq.texas.gov/goto/well-construction)
- Checklist for Well Completion:  
[<www.tceq.texas.gov/goto/well-completion>](http://www.tceq.texas.gov/goto/well-completion)

You can find information regarding the TCEQ's rule-exception process, including checklists and guidance documents, at [<www.tceq.texas.gov/goto/pws-exception>](http://www.tceq.texas.gov/goto/pws-exception). For help understanding and complying with the TCEQ's regulations for public water systems, visit the TCEQ's Web page "Public Water Supply: Compliance Resources," [<www.tceq.texas.gov/goto/help4pws>](http://www.tceq.texas.gov/goto/help4pws), or see our publication *You're a Public Water System . . . Now What?* (RG-496).

## What Are the Rules on Disinfecting Water?

If a winery has one water source, it may have two distribution systems: one for wine making, and one for human consumption. The two water systems need to be separated and not allowed to cross-connect. Also, an air gap or a testable backflow-prevention assembly—such as a Reduced-Pressure Principle Backflow Prevention Assembly—is required at the separation point.

### Disinfecting Water for Wine Making

The actual wine-making process is regulated by the U.S. Food and Drug Administration. So the TCEQ does not require you to use chlorine to disinfect the water that is used to rinse barrels and clean equipment used in the wine-making process.

### Disinfecting Water for Human Consumption

The TCEQ does require you to disinfect all water that may be used for human consumption. This includes water that can be ingested into or absorbed by the human body in any way. Examples of these uses include, but are not limited to, drinking, cooking, brushing teeth, bathing, washing hands, washing dishes (by hand or using a dishwasher), and preparing foods. For wineries, this would encompass all sinks, drinking fountains, showers, and bathrooms.

### Is Chlorine My Only Option for Disinfection?

Yes, chlorine and chloramine are currently the only options for disinfection. The drinking water standards in 30 TAC 290, Subchapter F, require a chlorine residual disinfectant level to be measured and monitored to show compliance. This residual level can only be achieved by the use of chlorine or chloramine.

## I Use Surface Water at My Winery. Do I Need a Water Right?

If you are using surface water—water from a creek or river, for example—to irrigate your vineyards or for other uses at the winery you may need a water right. Contact Small Business and Local Government Assistance to help you determine if a water right is required.

## Is My Wastewater Disposal System Regulated?

It is possible that your wastewater is regulated in some fashion. Wineries can potentially contain multiple sources of wastewater. Wastewater originating from an OSSF (on-site sewage facility, or septic tank) is known

as “domestic” wastewater. Wastewater from industrial activity is called “industrial” or “process” wastewater, and is often present when wine is manufactured. Additionally, any water runoff from rain, ice, or snowmelt at industrial facilities is labeled “stormwater,” and may be regulated under the Multi-Sector General Permit (MSGP).

### **Do I Need a Permit for My OSSF?**

If you conduct on-site treatment or disposal of domestic wastewater from toilets, restroom sinks, or kitchen facilities—for example, using an OSSF—your wastewater system is regulated by the TCEQ or a local authority.

If your OSSF treats more than 5,000 gallons of domestic wastewater per day, you are required to get a domestic wastewater permit from the TCEQ. For information about domestic wastewater permits, visit the TCEQ’s “Domestic Wastewater Permits” Web page, <[www.tceq.texas.gov/goto/domww\\_permits](http://www.tceq.texas.gov/goto/domww_permits)>.

Before you construct, alter, repair, extend, or install an OSSF, you must obtain a permit. You will need to contact the local authority where the OSSF is located in order to get a permit. You can find your local permitting authority through the TCEQ’s website, at <[www.tceq.texas.gov/goto/oars](http://www.tceq.texas.gov/goto/oars)>.

Wastewater from the wine-making process is considered process wastewater and is not allowed to be discharged to your OSSF.

For more information on the OSSF rules, visit the TCEQ’s website at <[www.tceq.state.tx.us/goto/ossf-rules](http://www.tceq.state.tx.us/goto/ossf-rules)>.

### **Industrial Wastewater Disposal**

At a winery, industrial wastewater can include wastewater generated during tank cleaning, barrel washing, equipment washing, bottle washing, and floor and crush-pad washing, as well as water-softener waste brine, and reverse-osmosis reject water.

#### **Can I Pump and Haul My Process Wastewater?**

Yes. You are not required to obtain authorization from the TCEQ to collect and temporarily store wastewater in a tank that is not subject to OSSF rules. This would include wastewater from the wine-making process. The containment structure should be in good working condition and free from leaks in accordance with 30 TAC 210.23(e). The wastewater can then be pumped and hauled away for proper disposal by a liquid-waste or wastewater transporter.

## Can I Reuse My Process Wastewater?

If you would like to beneficially reuse process (industrial) wastewater outside of the wine-making process, you are required to obtain coverage for reuse under an authorization to use industrial reclaimed water. Examples of beneficial reuse activities include landscape irrigation, dust control, toilet flushing, and irrigation of fields.

To apply for an authorization to use industrial reclaimed water, you must complete and submit the application form TCEQ-20094. Wineries are required to sample the wastewater for the parameters listed in Table 1 below. Once the sample analysis is reviewed by the TCEQ, monitoring requirements and effluent limitations will be determined on a case-by-case basis.

**Table 1. Sampling Parameters**

<b>Pollutant</b>	<b>Average (mg/L)</b>	<b>Maximum (mg/L)</b>	<b>Minimum Analytical Level (mg/L)</b>
Total Organic Carbon			
Nitrate Nitrogen			
Total Phosphorus			
Oil and Grease			
Total Dissolved Solids			
Sulfate			
Chloride			
pH (standard units)			
Total Aluminum			
Total Barium			
Total Chromium			
Total Copper			
Total Nickel			
Total Selenium			
Total Zinc			

A facility can apply for and receive an authorization for beneficial reuse prior to samples being submitted, but actual reuse activities with industrial wastewater are not permitted until the required samples are approved by the TCEQ.

The samples must have been analyzed by an environmental laboratory that is accredited by NELAP (the National Environmental Laboratory Accreditation Program). For a list of accredited laboratories, visit <[www.tceq.texas.gov/assets/public/compliance/compliance\\_support/qa/txnelap\\_lab\\_list.pdf](http://www.tceq.texas.gov/assets/public/compliance/compliance_support/qa/txnelap_lab_list.pdf)>.

General threshold levels are outlined in 30 TAC 210.53(a). The threshold levels must be met for total organic carbon and pH. If you do not initially meet the levels, you can do so by blending the wastewater before beneficially reusing it. These testing requirements are subject to change as the TCEQ receives specific individual sample results from wineries. For monitoring requirements, contact the Water Quality Division at 512-239-4671.

Sometimes there is too much rain for some reuse activities to be beneficial. Because of this, an authorization to reuse industrial wastewater also requires that a facility have a primary method of disposal for its wastewater. The primary method of disposal can be via a publicly owned treatment works (POTW), a wastewater transport (pump and haul) company, a Texas Pollutant Discharge Elimination System (TPDES) permit, a Texas Land Application Permit (TLAP), a Wastewater Evaporation General Permit, or internal recycling with no possibility of discharge.

Additional requirements apply if the wastewater is going to be used off-site or held in a pond, or if there is domestic wastewater mixed with it. For more information on requirements for reusing industrial wastewater, visit the TCEQ's "Requirements for Reclaimed Water" Web page, <[www.tceq.texas.gov/goto/reclaimed-water](http://www.tceq.texas.gov/goto/reclaimed-water)>.

I Have an Evaporation Pond for My Process Wastewater. Is That Regulated?

An evaporation pond is any surface impoundment that stores and evaporates process wastewater. Evaporation of wastewater generated from wineries is authorized under a Wastewater Evaporation General Permit (WQG100000) or an individual industrial wastewater permit. The general permit is a no-discharge permit and does not authorize discharging wastewater into water in the state or onto land adjacent to water in the state. Also, concentration limits apply; for example, the wastewater concentration cannot have a pH less than 5.0 standard units or more than 10 standard units.

If you do not qualify for the Wastewater Evaporation General Permit, or one of the other options mentioned in this subsection, you must apply for an individual industrial wastewater permit to dispose of wastewater.

For more information on evaporation ponds, visit the TCEQ's "Industrial Wastewater Discharges" Web page, <[www.tceq.texas.gov/goto/iww-discharges](http://www.tceq.texas.gov/goto/iww-discharges)>.

### Can I Discharge My Process Wastewater?

If you would like to discharge your wastewater into waters of the state or into lands adjacent to waters in the state, you are required to obtain an individual industrial Texas Pollutant Discharge Elimination System (TPDES) permit. For information about industrial wastewater permits, visit the TCEQ's "Industrial Wastewater and Stormwater Regulations" Web page, <[www.tceq.texas.gov/goto/iwsr](http://www.tceq.texas.gov/goto/iwsr)>.

### What Can I Do with My Graywater?

TCEQ regulations allow for the reuse or recycling of graywater from wineries for process water or activities such as landscape maintenance, dust control, toilet flushing, irrigation of fields, and similar uses, provided certain conditions are met.

Graywater includes wastewater from showers, bathtubs, hand-washing sinks, sinks that are not used for the disposal of hazardous or toxic ingredients, sinks that are not used for food preparation or disposal, and clothes-washing machines. However, graywater does not include wastewater from the washing of material, including diapers, soiled with human excreta or wastewater that has come into contact with toilet waste.

Graywater systems must be designed so that 100 percent of the graywater can be diverted to an organized wastewater collection system when not in use. The discharge for the graywater system must enter the wastewater collection system through two backwater valves or backflow preventers.

An authorization for the use of a graywater system is not required if the conditions in 30 TAC 210, Subchapter F, are met, which in certain instances includes monitoring, treatment standards, or discharge limits. Additionally, graywater systems must comply with any requirements of the local authority.

### What Can I Do with My Garbage?

In wineries, trash and garbage of any kind must be properly collected in a closed receptacle, and transported to a TCEQ-authorized transfer station or landfill.

## Burning Trash and Vegetation

The TCEQ, as well as many local and county governments, has very strict rules regarding outdoor burning. Although the TCEQ allows residents of private homes to burn their domestic waste under certain circumstances, the regulations prohibit wineries from burning trash, because wineries are considered commercial properties.

On-site burning of trees, brush, grass, leaves, branch trimmings, or other plant growth generated in the property may be conducted by the owner of the property or any other person authorized by the owner, in accordance with 30 TAC 111.209.

In addition, all outdoor burning is subject to local ordinances. For more information, contact your local fire marshal.

## Compost and Land Application

If your winery composts organic by-product from wine making, or applies it to land, you will generally not need an authorization or be required to notify the TCEQ. If, however, you add anything to the compost other than the by-products of wine making, (e.g., food scraps), additional requirements may apply. Also keep in mind that it is your responsibility to ensure that these activities do not create a nuisance or result in a discharge to surface water.

## Am I Required to Obtain a Stormwater Permit?

Rain and snowmelt runoff may become contaminated with potential pollutants from manufacturing and processing activities or raw materials stored at an industrial facility. Certain industries, including wineries, as described in Title 40 of the Code of Federal Regulations (40 CFR), Section 122.26, must have permits that specify how facility operators will limit stormwater pollution to improve the quality of streams, lakes, and rivers where the stormwater eventually flows.

The activity of manufacturing wine falls under SIC (Standard Industrial Classification) code 2084, which is listed in the Multi-Sector General Permit (MSGP). If you primarily operate under a different SIC code, review the list of SIC codes in the MSGP to see if this permit applies to you. See <[www.tceq.texas.gov/goto/tpdes-codes](http://www.tceq.texas.gov/goto/tpdes-codes)>. For help determining the SIC code for your facility, please visit the U.S. Occupational Health and Safety Administration (OSHA) SIC Search page, at <[www.osha.gov/pls/imis/sicsearch.html](http://www.osha.gov/pls/imis/sicsearch.html)>.

## **My SIC Code Is on the List, but Most or All of My Activities Are Conducted Indoors**

If most or all of your activities are conducted indoors, your winery is still subject to the TPDES Multi-Sector General Permit (MSGP) for stormwater discharges, but you may qualify for the conditional no-exposure exclusion. If you do qualify, the conditional no-exposure certification (NEC) is an alternate option for authorization under the MSGP.

“No exposure” means that all industrial activities are either conducted indoors or protected by a storm-resistant shelter to prevent exposure of those activities to rain, snow, snowmelt, or runoff. In this context, growing grapes is considered an agricultural, not an industrial, activity and therefore will not disqualify a winery from NEC eligibility.

However if you want to claim no exposure, no by-product, such as must and lees, can be stored or stockpiled unless stormwater (including run on and runoff) is prevented from contact with the by-products. If the by-product is exposed and can therefore become mobile by wind or runoff, you must request coverage under the MSGP by filing a Notice of Intent (NOI).

To apply for an NEC, you have to fill out application form TCEQ-10383. Operators that obtain the no-exposure exclusion must ensure that the facility continually meets the qualifying conditions.

For more information on the conditional no-exposure exclusion, visit the TCEQ’s “Conditional No Exposure Exclusion from Permit Requirements” Web page, <[www.tceq.state.tx.us/goto/exposure-exclusion](http://www.tceq.state.tx.us/goto/exposure-exclusion)>.

## **I Compost On Site: Is that Regulated under the MSGP?**

The composting of must, lees, and other plant waste is an activity regulated under the Multi-Sector General Permit (MSGP), due to the potential for contamination of nearby surface waters. If the compost is covered and cannot become mobile by wind or stormwater runoff, the no-exposure exclusion may apply. However, if the compost is exposed and can therefore become mobile by wind or runoff, you must request coverage under the MSGP by filing a Notice of Intent (NOI).

For assistance making this determination, refer to our “Stormwater Discharges from Industrial Facilities: Am I Regulated?” Web page, at <[www.tceq.texas.gov/goto/msgpcov](http://www.tceq.texas.gov/goto/msgpcov)>.

## Is a Permit Required for Construction Activities?

If you are building a winery, and the construction (excluding the vineyards) will disturb one acre or more of land, the activity is regulated under the TCEQ's Construction General Stormwater Permit. The permit requirements are based on the amount of land that will be disturbed according to the development plan. Additional permit requirements through your local health department, city, or county may apply. You can determine whether the TCEQ regulates your construction site by consulting the agency's Web page "Stormwater Discharges from Construction Activities," <[www.tceq.texas.gov/goto/construction](http://www.tceq.texas.gov/goto/construction)>.

### Construction Sites Located over the Edwards Aquifer

When construction activities are slated to occur over the recharge, transition, or contributing zones of the Edwards Aquifer, you may need to submit an Edwards Aquifer Protection Plan to the TCEQ regional office in San Antonio or Austin. Construction sites located in Williamson, Travis, Hays, Comal, Bexar, Medina, Uvalde, or Kinney counties may be subject to the TCEQ's Edwards Aquifer rules. You can determine whether your site is located over the Edwards Aquifer by consulting the TCEQ's Edwards Aquifer Map Viewer, at <[www.tceq.texas.gov/goto/eapp/mapviewer](http://www.tceq.texas.gov/goto/eapp/mapviewer)>.

For assistance in determining whether the Edwards rules apply to your activities and in complying with the rules, see the TCEQ's pamphlet *Rules Protecting the Edwards Aquifer* (RG-011), available online at <[www.tceq.state.tx.us/goto/rg-011](http://www.tceq.state.tx.us/goto/rg-011)>.

## For More Information

- For confidential assistance with the TCEQ's regulations for drinking water, garbage disposal, outdoor burning, stormwater, or wastewater treatment, or with any other environmental concern, call the TCEQ's Small Business and Local Government Assistance hotline, at 800-447-2827, or go online to <[www.TexasEnviroHelp.org](http://www.TexasEnviroHelp.org)>.
- For more information about outdoor burning, see the TCEQ's booklet *Outdoor Burning in Texas* (RG-049), available online at <[www.tceq.texas.gov/goto/rg-049](http://www.tceq.texas.gov/goto/rg-049)>, or the actual outdoor burning rules, 30 TAC 111B, at <[www.tceq.texas.gov/goto/30TAC/111](http://www.tceq.texas.gov/goto/30TAC/111)>.

- To view the TCEQ's Rules for Public Water Systems, 30 TAC 290, visit the TCEQ's website at <[www.tceq.texas.gov/goto/30TAC/290](http://www.tceq.texas.gov/goto/30TAC/290)>.
- To find out if your groundwater well will be subject to the rules of a local groundwater-conservation district, visit the Texas Water Development Board's Web page on groundwater-conservation districts, at <[www.twdb.texas.gov/groundwater/conservation\\_districts/](http://www.twdb.texas.gov/groundwater/conservation_districts/)>. Contact your groundwater-conservation district early in the development of your winery to find out which requirements you must follow and which applications and fees you may need to submit.
- For more information about getting an OSSF permit, visit the TCEQ's "Permitting an On-Site Sewage Facility" Web page, <[www.tceq.texas.gov/goto/ossf/permits](http://www.tceq.texas.gov/goto/ossf/permits)>.
- To determine if an Edward's Aquifer permit is needed, visit the TCEQ's "Edwards Aquifer Protection Program" Web page, <[www.tceq.texas.gov/goto/eapp](http://www.tceq.texas.gov/goto/eapp)>.
- To report an environmental complaint, you can contact your local law-enforcement office, or call the TCEQ's Environmental Complaints reporting line, at 888-777-3186. You can also submit a complaint electronically, at <[www.tceq.texas.gov/goto/report\\_problem](http://www.tceq.texas.gov/goto/report_problem)>.
- For more information on food manufacturing regulations, visit the Texas Department of State Health Services (DSHS) Web page <[www.dshs.state.tx.us/foods](http://www.dshs.state.tx.us/foods)>.
- To determine your city or county's health codes pertaining to your facility, contact your local health department. For a list of these, see the DSHS Web page <[www.dshs.state.tx.us/regions/lhds.shtm](http://www.dshs.state.tx.us/regions/lhds.shtm)>.
- For more information on how the wine-making process is regulated, visit the U.S. Food and Drug Administration (FDA) website, <[www.fda.gov/](http://www.fda.gov/)>.
- For more information on existing water wells in your area, visit the "Water Well Report Viewer" Web page, <[www.tceq.texas.gov/goto/waterwellview](http://www.tceq.texas.gov/goto/waterwellview)>.