

1 Summary

1.1 Introduction

This preliminary draft substitute environmental document (draft SED) has been prepared by the State Water Resources Control Board (State Water Board) to evaluate the potential environmental effects of the adoption and implementation of a proposed statewide on-site wastewater treatment system policy (OWTS Policy) as required by Assembly Bill 885 (Chapter 781, Statutes of 2000), which was approved by the California State Legislature and signed into law in September 2000 and codified as sections 13290-13291.7, Chapter 4.5, Division 7 of the Water Code, and the adoption and implementation of the proposed statewide waiver.

Because the proposed waiver is included in the Policy, hereinafter, when this SED refers to the proposed project or the proposed OWTS Policy, it means both the proposed OWTS Policy and the proposed waiver. The proposed OWTS Policy would be incorporated into the water quality control plans (basin plans) of all nine Regional Water Quality Control Boards (regional water boards). The regional water boards would implement the OWTS Policy along with those authorized local agencies that would be given authority by the regional water boards to implement and enforce the OWTS Policy.

This draft SED has been prepared in accordance with the requirements of Article 6, Exempt Regulatory Programs, of Title 23, Division 3, Chapter 27 of the California Code of Regulations (23 CCR § 3775 *et seq.*). The State Water Board's approval of policies for water quality control is a regulatory program that has been certified as exempt from the requirements of the California Environmental Quality Act (CEQA) by the Secretary for Natural Resources.

1.2 Project Objectives

Based on the requirements of Water Code Section 13290 *et seq.* and the intent of the state legislature in adopting the legislation, and in the context of other state laws relating to wastewater discharge and water quality, the State Water Board has identified the following objectives for the proposed project:

- ▶ As required by Water Code Section 13290 *et seq.*, adopt a statewide policy for OWTS that is consistent with other provisions of the Porter-Cologne Water Quality Control Act and related state water quality control plans and policies adopted by the State Water Board.
- ▶ Help ensure that public health and beneficial uses of the state's waters are protected from OWTS effluent discharges by meeting water quality objectives.
- ▶ Establish an effective implementation process that considers economic costs, practical considerations for implementation, and technological capabilities existing at the time of implementation.

1.3 Project Characteristics

The State Water Board proposes to adopt an OWTS Policy and a statewide conditional waiver (waiver) that establish minimum requirements for the permitting and operation of OWTS. The waiver allows owners of OWTS to discharge wastewater without having to file a report of waste discharge (and obtain waste discharge requirements [WDRs]) with a regional water board as long as the existing or new OWTS and its owner comply with the applicable minimum requirements set forth in the proposed OWTS Policy.

In some cases, elements of the proposed OWTS Policy may already be in use but may vary around the state. See section 4 for more information on the existing regulatory setting at the regional and local levels, including examples of regulations from representative municipalities in the state, presented for comparative purposes.

The proposed OWTS Policy has been drafted to fulfill the state mandate and address the seven requirements identified in AB 885 (the “seven points”). Table S-1 describes the seven points from AB 885 and where in the proposed OWTS Policy they are addressed. The text that follows describes the major elements of the proposed OWTS Policy as they relate to the potential for the project to have an impact on the physical environment. Section references are references to specific sections in the proposed Policy.

Table 1-1: The Proposed Policy and the Seven Points of Assembly Bill 885

Point 1: Minimum Operating Requirements	Section 7, Low Risk New or Replacement OWTS Section 8, Minimum OWTS Design and Construction Standards
Point 2: Requirements for Impaired Waters, Including Clean Water Act Section 303(d)-listed Waters	Section 10, Advanced Protection Management Program
Point 3: Requirements Authorizing Local Implementation	Section 9, Local Management Program for Minimum OWTS Standards
Point 4: Requirements for Corrective Actions	Section 11, Corrective Action for OWTS
Point 5: Minimum Monitoring Requirements	Section 3, Local Agency Requirements and Responsibilities Section 9, Local Management Program for Minimum OWTS Standards Section 10, Advanced Protection Management Program
Point 6: Exemption Criteria	Section 4, Regional Water Board Functions and Duties Section 10, Advanced Protection Management Program
Point 7: Requirements for Determining when a System is Subject to Major Repair	Section 11, Corrective Action for OWTS

1.4 Implementation of the Proposed Policy

Regional water boards would be required to incorporate the requirements established in the proposed OWTS Policy, or standards that are more protective of the environment and public health than the proposed OWTS Policy, into their basin plans within 12 months of the effective date of the Policy.

The proposed OWTS Policy would be largely self-implementing, requiring actions to be completed by the property owner/operator. The proposed OWTS Policy would be overseen by the State Water Board and the regional water boards. Local agencies (e.g., county and city departments and independent districts) would continue to oversee local siting approval and compliance with basin plans and local ordinances, as required under existing law.

The proposed statewide waiver that would be established as part of the proposed project would also be self-implementing. As long as a property owner ensures that his or her OWTS complies with the requirements of the proposed OWTS Policy, no additional permit or review would be required by the state. Failure to comply with the minimum statewide requirements for construction, operation, and maintenance of OWTS could result in enforcement pursuant to Chapters 4 or 5 of Division 7 of the California Water Code. As a result, the property owner could be required to cease the discharge, submit monitoring results, or submit a report of waste discharge to the regional water board, along with the applicable fee, and the OWTS could be subject to individual WDRs as determined by the regional water board.

1.5 Environmental Impacts and Mitigation Measures

Section 6 of this draft SED evaluates in detail the environmental impacts that would result from implementation of the proposed project and sets forth mitigation measures required to avoid or reduce environmental impacts, where feasible. Implementation of the proposed project could significantly affect a number of environmental resources and issue areas, but mitigation is included to reduce these impacts to a less-than significant level, where feasible.

1.6 Alternatives to the Proposed Project

Title 23, Division 3, Chapter 27, Article 6 of the California Code of Regulations (section 3777) requires that an SED contain an analysis of reasonable alternatives to the proposed project. The State Water Board identified five alternatives for analysis in this draft SED:

1.6.1 No-Project (Status Quo) Alternative

The existing regulatory setting as summarized in section 5 and Tables 5-1, 5-2 and 5-3 of this draft SED would continue into the future. No new statewide OWTS requirements would be implemented; existing OWTS-related requirements in the regional water boards' water quality control plans (basin plans) and local agency ordinances would continue to be inconsistent from one jurisdiction to another and would be the primary means by which OWTS are regulated. Therefore, OWTS siting, design, and construction standards would continue to vary around California, along with corrective actions,

exemption criteria, minimum monitoring requirements, and requirements for determining when a system is subject to major repair.

Potential Environmental Impacts of No Project (Status Quo) Alternative

With the No-Project (Status Quo) Alternative, as new OWTS are built, including approximately 110,000 new systems by 2013, the typical environmental impacts associated with new OWTS construction and discharges would continue to occur. These typical OWTS impacts, which are described in section 6, Environmental Impacts, include excavation of trenches and other earthwork that can cause the erosion of soil into nearby surface waters; operation of construction vehicles, resulting in traffic, emission of air pollutants, and generation of noise; and operation of septage pumper trucks, resulting in traffic, emission of air pollutants, generation of noise, and use of space in a landfill or capacity in a wastewater treatment plant. Discharges of effluent would continue at existing OWTS sites.

1.6.2 Prescriptive Alternative

This alternative represents the regulatory approach of providing prescriptive standards for OWTS siting, site monitoring, and performance standards and has been called by some the “one size fits all” approach. Although this characterization is an oversimplification, this approach puts a heavy emphasis on standardized, comprehensive, and detailed requirements for the siting and design of OWTS. These requirements would primarily be based on the existing California Plumbing Code, which has been used by many California counties as the basis for their regulation of OWTS; thus, many of the standards used in this alternative are already being enforced in many of California’s counties.

Potential Environmental Impacts of Prescriptive Alternative

The environmental impacts of the Prescriptive Alternative would for the most part be the same as, or similar to, those resulting from the proposed project. Where existing regulations are less stringent than the prescriptive standards in this alternative, environmental benefit would occur.

1.6.3 Matrix Alternative:

The intent of the Matrix Alternative is twofold: (1) to minimize the potential for OWTS to contaminate groundwater because systems (particularly OWTS with supplemental treatment components) are sited in areas with inadequate depth to groundwater, and (2) to reduce the potential for OWTS to be sited at a density that could overwhelm the ability of the soil to provide adequate treatment of effluent before it reaches groundwater. The Matrix Alternative focuses on these issues primarily through two mechanisms: restrictions on the size of lots and density of development at which OWTS are permitted, and more strict regulations for the siting and performance of OWTS with supplemental treatment components. It is called the “Matrix” Alternative because the lot size and density restrictions would be presented in a matrix format to accommodate the number of variables that would need to be considered.

Potential Environmental Impacts of Matrix Alternative

Given the restrictions relating to land use, soil percolation rate, engineered fill, and supplemental treatment performance requirements that are included in the Matrix Alternative, this alternative would likely restrict the number of new OWTS constructed in some areas of the state. Because OWTS are often constructed in relatively remote areas where construction or expansion of centralized sewer collection and treatment systems are typically not feasible, the restrictions included in this alternative could result in some lots not being developed at all and, in some areas, a shift in the construction of OWTS onto larger lots and in less dense development patterns than would occur under the proposed project and other alternatives.

1.6.4 Supplemental Treatment Alternative

The Supplemental Treatment Alternative is identical to the proposed project except for one major difference: all new and replaced OWTS throughout the state would be required to use supplemental treatment after the proposed Policy is adopted, and all existing conventional OWTS in the state would be required to be upgraded to include supplemental treatment components within nine years from the date when the proposed regulations go into effect. The performance standards included in the proposed project for supplemental treatment components would be included in this alternative.

Potential Environmental Impacts of Supplemental Treatment Alternative

This alternative has the potential to restrict development in areas throughout the state where conventional OWTS would no longer be allowed and OWTS owners cannot afford the higher costs associated with supplemental treatment. The development-restricting potential of this alternative would likely be greatest in rural counties where personal incomes tend to be lower than in those areas that are within commuting range of higher-paying jobs in urban areas.

1.6.5 2008 Draft Regulations Alternative

This alternative would establish minimum requirements for the permitting, monitoring, and operation of OWTS for preventing conditions of pollution and nuisance. This alternative would require existing OWTS to comply with more extensive requirements than the proposed Policy, regardless of whether the OWTS is contributing to water quality degradation. This alternative would also require OWTS within 600 feet of impaired water bodies to upgrade to supplemental treatment if a TMDL has been adopted for OWTS.

The 2008 Draft Regulations alternative could cause a financial burden on owners of existing OWTS who have to comply with extensive regulations when there is an unknown and possibly absent pollution problem. For this reason, the alternative does not meet the project objective of establishing an effective implementation process that considers economic costs and practical considerations for implementation. In addition, this alternative would affect fewer OWTS near impaired water bodies, where OWTS are likely contributing to water quality degradation. For this reason, the alternative does not meet the project objectives of helping to ensure that public health and beneficial uses of the state's waters are protected from OWTS effluent discharges.

1.6.6 Environmentally Superior Alternative

Section 7 of this draft SED provides a comparative analysis of the proposed project and the five alternatives. Other alternatives were considered but, for various reasons, have been rejected from further consideration in this draft SED. These alternatives are described in section 7.1, Alternatives Eliminated from Further Consideration. In summary, the alternative that would have the fewest environmental impacts while still meeting the project objectives is the Supplemental Treatment Alternative. The Supplemental Treatment Alternative would require statewide supplemental treatment, resulting in reduced pollutant concentrations in groundwater and, potentially, in downstream surface waters.

However, the Supplemental Treatment Alternative could also result in significant and unavoidable impacts relating to conflicts with land use plans and policies of local jurisdictions. In addition, the costs associated with implementing this alternative—in particular, the cost to all OWTS owners of replacing their existing conventional systems with systems that include supplemental treatment components, and also the increased cost to new property owners of installing supplemental treatment instead of conventional OWTS—could make this alternative infeasible as a statewide regulatory approach to OWTS construction and operation. After the Supplemental Treatment Alternative, the environmentally superior choice would be the proposed Policy, which would result in improved conditions compared to existing regulatory structure, even though it would continue to result in some adverse impacts on groundwater and potentially on downstream surface waters.

1.7 Means of Compliance and Cost Analysis

The State Water Board, regional water boards, and local agencies will all have duties to perform in order to comply with the proposed Policy. These duties are:

State Water Board

- periodic review and renewal of the Policy;
- approve or reject regional water board basin plans amendments;
- adjudicate disputes between the regional water boards and the local agencies; and,
- accept or revoke local agency management programs, and consider requests for modification.

Regional Water Boards

- incorporate the proposed Policy into the basin plan within 12 months of adoption;
- approve or reject local agency management plans;
- accept or revoke local agency management programs, and consider requests for modification;
- issue or deny waste discharge permits;
- implement Tier 3; and,
- adopt waste discharge requirements or waivers when needed.

Local Agencies

- determine which tier their local jurisdiction will be allowed to perform under;

- report annually to the regional water board on issues regarding complaints, septic tank pumping, number of repair permits, and the number and location of new permits issued; and,
- retain reporting records for 20 years;

All OWTS owners will need to comply with the proposed Policy. The means by which they will comply depends upon which tier of the Policy their OWTS will be regulated. The expected methods of compliance for each tier are outlined below:

Tier 0

No action is required, except maintaining their system in good operating condition.

Tier 1

New and replaced OWTS must meet the siting and design criteria for a standard OWTS.

Tier 2

New and replaced OWTS must meet the siting and design criteria of the local agency management program. The management program may allow for alternative siting and design criteria than that of Tier 1, and may also allow for the use of alternative treatment systems (*e.g.*, disinfection, aerobic treatment, mound or drip systems, *etc.*), thereby allowing for a wide variety of OWTS under this tier.

Tier 3

Demonstrate that the OWTS is not contributing to the pollution of the impaired water body, or provide supplemental treatment to reduce or remove the loading from the OWTS to the affected water body.

Tier 4

Tier 4 requires the replacement of failing OWTS. The means of compliance will depend upon which tier the replacement OWTS will be constructed under.

The cost of compliance will depend upon which tier a new or replaced OWTS will be covered under, the type of system, and the capacity of the system. Tier 0 OWTS will have no new costs associated with the proposed policy. Repairs for Tier 4 OWTS will consist of potential costs of whatever is appropriate under Tiers 1, 2, or 3. Estimated costs for OWTS under Tiers 1, 2, and 3 have a significant range (Table S-1).

Table 1-2: Estimated Cost of Compliance.

	Tier 1	Tier 2	Tier 3
Home	\$1,300-\$6,800	\$6,800-\$22,000	\$5,000* - >\$22,000
Restaurant	\$12,350-\$62,000	\$23,000-\$138,000	\$5,000* - >\$151,000
School	\$12,600-\$188,000	\$54,000-\$188,000	\$5,000* - >\$560,000
*Estimated cost for conducting an assessment of whether the OWTS is contributing to the pollution of an impaired water body			

1.8 Public Participation and Additional Steps in the Review Process

This SED is being circulated to local, state and federal agencies involved with the project and is being made available to interested organizations and individuals who may wish to review and comment on the report. The public review period begins September 30, 2011 and ends November 14, 2011. For more information, see the notice below.

Staff workshops are planned at the locations and times listed below to gather input from public agencies and interested persons on the content of the OWTS Policy and associated SED. Staff will conduct two separate sessions at each location in order to accommodate different schedules. Each session will have identical content. Times for the workshops are 1:00 p.m. to 4:00 p.m. and 6:00 p.m. to 9:00 p.m. Recipients of this notice are encouraged to inform others who are interested in OWTS issues about this notice.

Monday, October 24, 2011

San Luis Obispo Performing Arts Center
Harmann Hall
1 Grand Avenue
San Luis Obispo, CA
Map: <http://g.co/maps/pye2s>

Friday, October 28, 2011

David Marr Theater at the Shasta Learning Center
2200 Eureka Way # B
Redding, CA
Map: <http://g.co/maps/8cst>

Wednesday, November 2, 2011

Wells Fargo Center
Ruth Finley Person Theater
50 Mark West Springs Road
Santa Rosa, CA
Map: <http://g.co/maps/9jhx>

Monday, November 7, 2011

University Theater
University of California, Riverside
400 Humanities Riverside, CA
Map: <http://culturalevents.ucr.edu/directions.htm>

Although a quorum of the State Water Board may be present at any workshop, the State Water Board will not take an action during any workshop. A separate State Water Board adoption hearing will be scheduled in the future, at which the State Water Board will consider adoption of the final OWTS Policy and SED. The adoption hearing will be noticed separately. State Water Board staff anticipates that the adoption hearing will be scheduled in spring, 2012.

The purpose of the staff workshops is to seek input and answer questions from public agencies and members of the public on the OWTS Policy and SED. In May 2011 the State Water Board held public scoping meetings on the SED to seek input on the range of project actions, alternatives, reasonably foreseeable methods of compliance, significant impacts to be analyzed, cumulative impacts, if any, and mitigation measures that will reduce impacts to a less than significant level; and to eliminate from detailed study issues found not to be important.

The OWTS Policy and SED Documents may be viewed and downloaded from the State Water Board's website at: http://www.waterboards.ca.gov/water_issues/programs/owts/.

Paper copies or compact disc of the OWTS Policy and SED Documents are available upon request by writing to: OWTS Policy, Division of Water Quality, State Water Resources Control Board, P.O. Box 2231, Sacramento, CA 95812, or by calling (916) 445-9187 or by emailing your request to owts_commentletters@waterboards.ca.gov.

The OWTS Policy and SED Documents are being made available for a 45-day public review and comment period. Comment letters **must be received by 12:00 noon on Monday, November 14, 2011**. After the deadline, State Water Board staff will not accept additional comments on the draft documents.

Please send comments on the OWTS Policy and SED by email to, owts_commentletters@waterboards.ca.gov (if 15 megabytes in size or less). Electronic submission of comments by email is preferred. Please indicate in the subject line, "**Comment Letter – DRAFT OWTS Policy Documents.**" Please identify a contact person who would be available to answer any questions regarding your comments.

Comments may also be submitted by mail or hand delivery addressed to:
OWTS Policy

State Water Resources Control Board

P.O. Box 2231, Sacramento, CA 95812 (by mail)

1001 I Street, 15th Floor, Sacramento, CA 95814 (by hand delivery)

Hand and special deliveries should be addressed to the address above. Couriers delivering comments must check in with lobby security and have them contact (916) 341-5455.

Email List Serve

Interested persons are encouraged to subscribe to an email list serve for future notices about the OWTS Policy at:

http://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.shtml, under Water Quality Topics choose *Onsite Wastewater Treatment Systems (OWTS)-Septic Systems*. The email list serve will be the primary method for providing future notices related to the proposed OWTS Policy. Persons without access to email may request paper copies of future notices by mail such request to the above address.

Special Accommodations

Wheel-chair accessible seating is available at all workshop locations. Individuals requiring special accommodations are requested to contact Ms. Hoffman at (916) 341-

5908 or mhoffman@waterboards.ca.gov at least five working days prior to the meeting. Persons with hearing or speech impairments can contact us by using the California Relay Service Telecommunications Device for the Deaf (TDD). TDD is reachable only from phones equipped with a TDD Device.

HEARING IMPAIRED RELAY SERVICE: TDD to voice 1 800-735-2929; voice to TDD 1-800-735-2922.

Workshop Location Information

Parking at the San Luis Obispo location

The Performing Arts Center, San Luis Obispo is located on the Campus of California Polytechnic Institute. Parking at the lot adjacent to the Center is \$6.00. Directions to the Performing Arts Center, San Luis Obispo are located at this website:

http://www.pacslo.org/tickets/directions_parking

Parking at the Redding location

There is no cost to park at the Shasta Learning Center; however, parking in the lots may be limited for the earlier session (1:00 p.m. to 4:00 p.m.) as school will be in session. Ample street parking is available, which is closer to the entrance than the campus parking lots.

Parking at the Santa Rosa location

The Wells Fargo Center for the Arts offers free parking. Directions to the center are available at this website: <http://wellsfargocenterarts.org/directions.html>

Parking at the Riverside location

University of California Riverside parking costs \$8.00 in lot 6 per vehicle during the day. Pay entering lot 6 to student attendant on duty. Directions to University Theater and nearby parking is located at this website: <http://culturalevents.ucr.edu/directions.htm>