

## 2 Introduction

### 2.1 Purpose of This Document

The State Water Resources Control Board (State Water Board) proposes to adopt a Policy for siting, design, operation and management of onsite wastewater treatment systems (Policy). The proposed Policy focuses on measures to protect water quality, with a particular emphasis on water bodies that are impaired with nitrogen and pathogens. In general, implementation of the Policy will protect the environment by ensuring that regulation of onsite wastewater treatment systems (OWTS) is administered in a manner that protects water quality. This document provides information regarding the potentially significant environmental effects of implementing the proposed Policy to the extent that those effects are reasonably foreseeable.

### 2.2 Statutory Basis for the Policy

Water Code section 13290 *et seq.*, which was added by Assembly Bill 885,<sup>1</sup> requires the State Water Board to develop statewide standards or regulations for permitting and operation of OWTS in consultation with the California Department of Public Health (DPH), California Conference of Directors of Environmental Health (CCDEH), California Coastal Commission (CCC), counties, cities, and other interested parties. The standards adopted must address the following categories of OWTS:

- 1) those that are constructed or replaced;
- 2) those that are subject to a major repair;
- 3) those that pool or discharge waste to the surface of the ground; and
- 4) those that have affected, or will affect, groundwater or surface water to a degree that makes it unfit for drinking water or other uses, or cause a health or other public nuisance condition.

Water Code section 13290 *et seq.*, further requires the Policy to include, at a minimum, the seven types of requirements listed below (often referred to as the “seven points”):

- a) Minimum operating requirements that may include siting, construction, and performance requirements.
- b) Requirements for OWTS adjacent to waters listed as impaired under Section 303(d) of the Clean Water Act.
- c) Requirements authorizing local agency implementation.
- d) Corrective action requirements.
- e) Minimum monitoring requirements.
- f) Exemption criteria.
- g) Requirements for determining when an existing OWTS is subject to major repair.

Water Code section 13290 *et seq.* also requires the regional water boards to incorporate the new statewide Policy into their basin plans. Neither the legislation nor the proposed OWTS Policy would preempt the regional water boards or any local agency from

---

<sup>1</sup> Stats. 2000, ch. 781, § 1.

adopting or retaining performance requirements for OWTS that are more protective of public health or the environment than the new statewide Policy; however, if local agencies or regional water boards retain or adopt requirements that are more protective, certain conditions would apply. These conditions are described in the Policy and are further described in section 3.

## **2.3 CEQA Application**

### **2.3.1 Basic Purposes of CEQA**

When proposing to undertake or approve a discretionary project, state agencies must comply with the procedural and substantive requirements of the California Environmental Quality Act (CEQA)<sup>2</sup>. The State CEQA Guidelines<sup>3</sup> establish procedures to be followed by state and local public agencies in analyzing and disclosing the environmental consequences of activities that an agency proposes to carry out or approve. CEQA applies to discretionary projects that may cause a direct or indirect physical change in the environment. As described in the CEQA Guidelines (§ 15002, subd. (a)), the basic purposes of CEQA are to:

- 1) Inform governmental decision makers and the public about the potential, significant environmental effects of proposed activities.
- 2) Identify ways that environmental damage can be avoided or significantly reduced.
- 3) Prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible.
- 4) Disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved.

### **2.3.2 Requirements for Certified Programs**

State regulatory programs that meet certain environmental standards and are certified by the Secretary of the California Resources Agency are exempt from CEQA requirements for the preparation of environmental impact reports (EIR), negative declarations, and initial studies (Pub. Resources Code, § 21080.5). The CEQA Guidelines (§ 15251) contain a list of certified state regulatory programs. This list includes the Water Quality Control (Basin)/208 Planning Program<sup>4</sup> of the State Water Resources Control Board and the Regional Water Quality Control Boards (§ 15251, subd. (g)). Accordingly, the adoption of this OWTS Policy, which is a policy for water quality control, is exempt from the CEQA requirement to prepare an EIR.

---

<sup>2</sup> California Public Resources Code, section 21000 *et seq.*

<sup>3</sup> California Code of Regulations, title 14, section 15000 *et seq.* (Unless otherwise noted, further references to the CEQA Guidelines refer to title 14 of the California Code of Regulations.)

<sup>4</sup> The 208 Planning Program is a comprehensive regional water quality management plan designed to remedy water pollution derived primarily from non-point sources. The 208 Planning Program is based on regulations set forth in Section 208 of the Clean Water Act.

Agencies qualifying for such exemptions must still comply with CEQA goals and requirements, including the requirement to avoid significant adverse effects on the environment where feasible (§ 15250). Agencies must also evaluate environmental effects, including cumulative effects, consult with other agencies, allow public review, respond to comments on the draft environmental document, adopt CEQA findings, and provide for mitigation monitoring and reporting, as appropriate.

The CEQA Guidelines provide for the use of a “substitute document” by state agencies with certified programs (§ 15252). The document is a substitute for an EIR (or negative declaration) and is required to include at least the following:

- 1) A description of the proposed activity, and
- 2) Either:
  - a. Alternatives to the activity and mitigation measures to avoid or reduce any significant or potentially significant effects that the project might have on the environment, or
  - b. A statement that the agency’s review of the project showed that the project would not have any significant or potentially significant effects on the environment and therefore no alternatives or mitigation measures are proposed to avoid or reduce any significant effects on the environment. This statement shall be supported by a checklist or other documentation to show the possible effects that the agency examined in reaching this conclusion.

Accordingly, the State Water Board has prepared this substitute environmental document (SED) in lieu of an EIR or other environmental document for the adoption of a state policy for water quality control.

### *2.3.3 Scoping and Environmental Checklist*

The State Water Board has solicited comments from interested persons and governmental agencies regarding the scope and content of the environmental information to be included in the substitute environmental document. On April 4, 2011, the State Water Board submitted a Notice of Availability of Scoping Document and Notice of Public Scoping Meetings for California Environmental Quality Act Substitute Environmental Documentation (Notice) to the State Clearinghouse, Governor’s Office of Planning and Research. A scoping document, which included an Environmental Checklist based on appendix G of the CEQA Guidelines, was made available to interested parties on the State Water Board’s website. The Notice was circulated to members of the public, government agencies, and other interested persons. The Notice and Scoping Document are included in this substitute document as **Error! Reference source not found.**

Two scoping meeting were held; one was held in Sacramento on May 2, 2011, and the other was held in Riverside on May 5, 2011. The purpose of the meetings was to explain the proposed project and provide related information to resource agency personnel and the interested public and to invite them to submit written comments concerning the range

of actions, Policy alternatives, mitigation measures, and significant effects that should be analyzed in the substitute environmental document<sup>5</sup>.

The scoping period ended on May 19, 2011. A total of 66 public responses were received. Some were received in both written form and verbal form, while some (12) were received only in verbal form at scoping meetings. Comments were received from 21 federal, state and local agencies and elected representatives, 23 nongovernmental organizations and special-interest groups, and 22 individuals.

## **2.4 Potential Effects Not Analyzed In Detail**

The Scoping Document describes the general nature of the project's impacts in each of the environmental issue areas. The project does not change the ordinances or regulations now being implemented by local agencies for review and approval of land use, including siting of residences and septic systems. Typical review processes for such decisions may include approval of an environmental document (categorical exemptions, negative declaration or EIR) that identifies, when relevant, required mitigation measures to address significant environmental impacts and the accompanying mitigation monitoring and reporting plan, approval of a development project that includes conditions of approval, and standard best management practices for construction and storm water treatment. At the site-specific level, local agencies typically enforce local ordinances relating to siting requirements and site inspections, setbacks, and construction practices. Because the proposed Policy would not affect the way in which local agencies address individual OWTS projects, implementing the proposed project either would have no impact or would have a less-than-significant impact on the following environmental issue areas: Agricultural and Forest Resources, Air Quality, Noise, Public Service, Recreation, and Traffic.

Although the Environmental Checklist included in the Scoping Document does not identify any significant or potentially significant impacts to aesthetics or cultural resources, based on comments received during the scoping process, these issues are addressed further in this document (see section 6 Environmental Impact Analysis).

### **2.4.1 Agricultural and Forest Resources**

Following implementation of the proposed project, more OWTS with supplemental treatment components could be installed on a wide variety of soil types throughout the state, including areas that could be categorized under the Farmland Mapping and Monitoring Program as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. However, the proposed project would not be expected to increase the number of OWTS that would be placed on farmland, nor would it meaningfully (if at all) alter the amount of farmland converted to OWTS-related uses. The same is true for forest land. Therefore, the potential impacts of the proposed project on such farmland and forest land are considered less than significant.

---

<sup>5</sup> A PowerPoint presentation delivered at the scoping meetings is posted on the State Water Board's website for OWTS at [http://www.waterboards.ca.gov/water\\_issues/programs/owts/index.shtml](http://www.waterboards.ca.gov/water_issues/programs/owts/index.shtml). Also available on this website are the Notice, the Scoping Document, Frequently Asked Questions, and a Fact Sheet on the proposed Policy.

Implementation of the proposed project would not affect zoning designations established by local land use jurisdictions. The proposed Policy does not address the types of land uses for which OWTS are appropriate; rather, it establishes consistent standards for the functioning (i.e., construction, operation, and maintenance) of treatment systems in whatever locations the local agency or regional water board chooses to approve them. Under existing conditions, most jurisdictions allow OWTS in conjunction with residences in agricultural areas, including properties with Williamson Act contracts; this situation would not change under the proposed Policy. Therefore, the project would have no impact on agricultural zoning or Williamson Act contracts.

#### ***2.4.2 Air Quality***

The operation of OWTS does not generate criteria pollutants specific to air quality. For these reasons, implementing the proposed project would not affect applicable air quality plans, violate any air quality standard or contribute substantially to an existing or projected air quality violation, result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in nonattainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors), or expose sensitive receptors to substantial pollutant concentrations. The proposed Policy also contains specific requirements for maintenance and repair of faulty systems. Odors could occur for brief periods in areas immediately surrounding OWTS when septic tank cleanout operations are in progress, but this condition is present under existing conditions. This impact is considered less than significant.

#### ***2.4.3 Noise***

Operation and maintenance of OWTS are not typically noise-producing activities. OWTS with supplemental treatment components may include mechanical components that produce a low level of noise during operation. Because OWTS are generally installed near residences and small commercial enterprises, the sound levels produced by the system are designed to be minimal. Maintenance activities, such as pumping of septic tanks, could involve higher levels of noise disturbance, but these activities are temporary and occur only periodically (in the case of pumping, once every few years). Similarly, operation and maintenance of OWTS would generate only minimal groundborne vibration or noise levels. For these reasons, the proposed project is considered to have a less-than-significant noise impact.

In addition, installation, operation, and maintenance of OWTS under the proposed project would not involve any activities that could specifically expose people residing or working near an airport to excessive noise levels. No impact would result.

#### ***2.4.4 Public Service***

OWTS are privately-owned facilities operated by individual homeowners or small businesses. These systems do not require fire or police protection, educational services, or recreational services to construct, operate, or maintain. Thus, no impacts would occur related to these types of services.

### *2.4.5 Recreation*

Installation of OWTS generally occurs in rural areas as part of new home or small business construction. In general, OWTS are designed for the purpose of treating domestic wastewater but are occasionally constructed in connection with developed recreational facilities. The proposed Policy would not be expected to increase the pattern or frequency of this use of septic systems. For this reason, implementing the proposed project would have no impact on the use of recreational facilities.

### *2.4.6 Traffic*

OWTS are generally installed in rural areas where traffic loads are relatively light; in nearly all circumstances, urban areas are served by municipal wastewater treatment plants, rather than by OWTS. Construction activities associated with installation of a system with supplemental treatment components would generally include use of a backhoe, a dump truck, and possibly one additional piece of construction equipment operating for less than 1 week. Operation and maintenance activities would include an increase in septic tank inspections and perhaps pumping, but related vehicle trips would occur infrequently and on roads where traffic loads are relatively light. For these reasons, the proposed project would have a less than significant impact on traffic conditions. In addition, installation of OWTS would have no impact on air traffic patterns.

All OWTS are subject to local codes, and most local codes do not allow OWTS to be installed directly adjacent to a roadway. Accordingly, implementing the proposed project would have no impact on traffic hazards beyond that taking place under existing conditions. Therefore, the proposed project would likely not affect traffic hazards through introduction of a hazardous design feature or incompatible uses.

Because the proposed project would not be expected to increase the number of OWTS installed over time, OWTS-related traffic patterns or emergency access to either the site of a treatment system or surrounding areas would likely not be affected.

As stated above, OWTS-related construction and maintenance activities could increase slightly with implementation of the proposed project, but these activities would involve a minimal number of workers in rural areas for brief periods. This potential impact would be less than significant.

For the reasons described above, and because alternative transportation systems are typically found in more urbanized areas than those where OWTS are typically found, implementation of the proposed project would likely have no impact on alternative transportation systems.