

### 3 Project Description

This section describes the proposed onsite wastewater treatment systems (OWTS) Policy. It also provides an overview of the objectives of the proposed Policy and the legal background that requires adoption of standards for OWTS.

#### **3.1 Legal Requirements for the Proposed Project**

The current practice of regulating OWTS has led to inconsistencies among the various regional water boards and among the numerous local agencies in California's 58 counties. For example, although most counties have some type of minimum performance requirements as well as siting and design requirements specifically for OWTS, exemption criteria, corrective actions, and repair and replacement requirements vary greatly from one jurisdiction to another. In fact, California is one of only two states that do not have statewide OWTS standards.

The inconsistency in regional and local OWTS requirements and related lack of statewide standards, along with public health and environmental issues associated with OWTS, were the primary motivation for AB 885, introduced by Assemblymember Hannah Beth Jackson in February 1999 and passed by the California Legislature and signed into law by Governor Gray Davis in September 2000. The State Water Board proposes to adopt both a Policy pursuant to Water Code Section 13291 and a statewide conditional waiver of WDRs pursuant to Water Code 13269 that implements the standards contained in the proposed Policy.

Section 13291 of the Water Code provides specific direction from the legislature to the State Water Board to provide statewide minimum requirements related to the permitting and operation of OWTS. Typically, regional water boards have adopted minimum requirements for OWTS in their water quality control plans (basin plans) and have worked with local agencies (counties, cities, and special districts) through a formal or informal agreement. When a regional water board and local agency enter into such an agreement, the local agency commits to implement basin plan requirements for OWTS at the local level.

Based on the requirements of Water Code Sections 13290 – 13291.7, and the intent of the state legislature in passing the legislation, and in the context of other state laws related to wastewater discharge and water quality, the State Water Board intends to adopt a statewide Policy for permitting and operation of onsite wastewater treatment systems (OWTS). The proposed Policy shall contain the following:

- 1) Requirements for the following types of onsite wastewater treatment systems in the state:
  - New systems,
  - Replaced systems,
  - Systems subject to major repair,
  - Systems that pool or discharge to the surface, and/or

- Systems that, in the judgment of regional boards or authorized local agencies, discharge waste that has the reasonable potential to cause a violation of water quality objectives, or to impair present or future beneficial uses of water, to cause pollution, nuisance, or contamination of the waters of the state.
- 2) Standards for permitting and operation of OWTS that are consistent with provisions of the Porter-Cologne Water Quality Control Act and related state water quality control plans and policies.
- 3) A statewide conditional waiver for OWTS to comply with Section 13269 of the California Water Code.

### **3.2 Project Objectives**

Based on the requirements of Water Code Section 13291 and the intent of the state legislature in passing 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 AB 885, adopt statewide OWTS standards and a statewide conditional waiver that are 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 to ensure that public health and beneficial uses of the state's waters are protected from OWTS effluent discharges.
- ▶ Establish an effective implementation process that considers economic costs, practical considerations for implementation, and technological capabilities existing at the time of implementation.

### **3.3 Project Details**

The proposed Policy is organized into implementation Tiers. Each Tier is applicable to a specific situation as described below. Regardless of which Tier an OWTS is regulated under and how the local governmental entity prefers to operate a program under that Tier, in no case is an OWTS allowed to discharge wastewater or effluent to the ground surface and/or to cause or contribute to an exceedance of water quality objectives in surface water or a groundwater well, or otherwise cause a condition of nuisance or pollution.

#### **3.3.1 Tier Zero (Exempt Existing OWTS)**

Tier Zero is intended to address existing OWTS that appear to be functioning as designed. Existing OWTS are automatically included in Tier Zero as long as a Regional Water Board or local agency has not determined that:

- a) the OWTS is adjacent to a surface water that is polluted due to pathogens or nitrogen compounds,

- b) the OWTS has affected, or will affect, groundwater or surface water to a degree that makes it unfit for drinking or other uses, or is causing a human health or other public nuisance condition, or
- c) the OWTS must undergo a major repair to address surfacing effluent or the failure of a septic tank's structural integrity.

Provided none of the above criteria exist, OWTS in Tier Zero are exempt from requirements under the proposed Policy. However, a local agency or Regional Water Board may adopt requirements for existing OWTS that are outside the scope of the proposed Policy. If a local agency has previously imposed requirements as conditions of permitting an OWTS, those requirements are not superseded by this policy and must continue to be met.

### 3.3.2 Tier One (Low Risk OWTS)

Tier One is intended to apply to new and replaced OWTS. New and replaced OWTS would be included in Tier One automatically as long as they meet the following criteria:

- 1) A Regional Water Board or local agency has not determined that:
  - a) the OWTS is adjacent to a surface water that is polluted due to pathogens or nitrogen compounds,
  - b) the OWTS has affected, or will affect, groundwater or surface water to a degree that makes it unfit for drinking or other uses, or is causing a human health or other nuisance condition, or
  - c) the OWTS must undergo a major repair to address surfacing effluent or the failure of a septic tank's structural integrity, and
- 2) A qualified professional determines that specific low-risk site and design standards are met, including:
  - a) the percolation must be adequate and not too fast or too slow,
  - b) specific horizontal setbacks contained in section 7.5 of the proposed Policy are met,
  - c) the ground slope doesn't 25%,
  - d) the OWTS is properly designed for the specific location and wastewater characteristics,
  - e) the native soil depth to groundwater is greater than 5 feet,
  - f) the dispersal system has at least 12 inches of soil cover to protect against surfacing effluent,
  - g) the density is less than 1 dwelling units (single-family residence) per 2.5 acres,
  - h) application rates are as specified in Table 2 or Table 3 of the proposed Policy,
  - i) the septic tank meets specified design and performance standards per the California Plumbing Code.

### 3.3.3 Tier Two (Local Agency OWTS Management Program)

Tier Two is intended for OWTS that are placed in a setting that ranges from less than optimal to potentially problematic. This Tier is implemented by local government and

supported by enforceable local ordinances and covenants. New and replaced OWTS are included in Tier Two as long as they meet the following eligibility criteria:

- 1) a Regional Water Board or local agency has not determined that:
  - a) the OWTS is adjacent to a surface water that is polluted due to pathogens or nitrogen compounds,
  - b) the OWTS has affected, or will affect, groundwater or surface water to a degree that makes it unfit for drinking or other uses, or is causing a human health or other nuisance condition, or
  - c) the OWTS must undergo a major repair to address surfacing effluent or the failure of a septic tank's structural integrity, and
- 2) The OWTS meets the requirements of an approved Tier 2 local agency management program.

#### ***3.3.4 Tier Three (Impaired Areas and Discharge Prohibition Zones)***

OWTS are included in Tier 3 if they are located near waterbodies that are impaired by nitrogen compounds or pathogens, unless there is an existing TMDL for the waterbody, in which case the TMDL would supercede Tier 3. OWTS modifications would be required if the State Water Board or a Regional Water Board determines (either presumptively based on the Policy, or on the basis of a watershed-specific assessment) that the OWTS is contributing pathogens or nitrogen compounds to polluted surface water. Also, if found to be contributing to the pollution, the OWTS may be required to comply with the terms of any Total Maximum Daily Load (TMDL) or other watershed-specific requirements adopted by a Regional Water Board, or within a specified time schedule, connect to a sewage treatment plant collection system if available.

#### ***3.3.5 Tier Four (OWTS Requiring Corrective Action)***

OWTS that require corrective action or are failing or fail at any time during the life of the Policy would be included automatically in Tier Four. This would include any OWTS that has pooling effluent or that discharges effluent to ground surface. Such OWTS are no longer meeting its primary purpose to protect public health and the environment and require major repair, such as replacement or modification to return to proper function and comply with Tier 1, 2, or 3 as appropriate. In addition to the above stated conditions that will place an OWTS into this Tier, additional problems that would place an OWTS in this Tier include:

- a) OWTS tank failure, such as a baffle failure or tank structural integrity failure such that either wastewater is exfiltrating or groundwater is infiltrating;
- b) any OWTS that has affected, or will affect, groundwater or surface water to a degree that makes it unfit for drinking or other uses, or is causing a human health or other public nuisance condition;
- c) If not able to comply with corrective action requirements, the owner of the OWTS may be required to submit a report of waste discharge to the appropriate Regional Water Board. In all cases, owners of OWTS must

comply with the time schedule of any corrective action notice received from a local agency or Regional Water Board to retain coverage under this Policy.