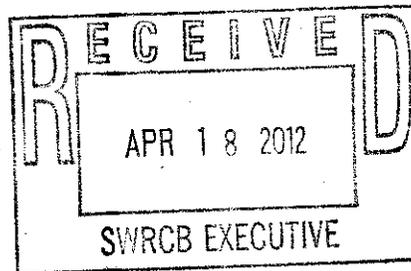




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April 4, 2012



Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
101 I Street, 24th Floor
Sacramento, CA 95814

RE: Water Quality Control Policy For Siting, Design, Operation, And Maintenance Of Onsite Wastewater Treatment Systems (Final Draft)

Dear Jeanine:

Our Center has reviewed the final draft policy that is proposed for governing onsite wastewater treatment systems (OWTS) throughout California. As we've shared previously, our organization is highly involved with land planning and water quality efforts in the rural counties of Tuolumne and Calaveras, both of which rely heavily on septic systems for wastewater treatment. Since this policy has the potential to have a significant effect on water quality and future development projects in our local area, our Center is highly concerned with the content of this important policy.

Compared to the clarity and strong requirements in previous versions of the OWTS policy requirements, the latest current draft appears to be primarily crafted to minimize opposition from local county governments or from realtors, builders, or others who previously led organized resistance to any adoption of earlier OWTS proposed regulations. Nevertheless, we know that comments provide the greatest value if our comments focus on the policy text now available for public input. The following comments highlight where changes or additions can improve the policy.

First and foremost, we are highly concerned that the final draft policy has moved away from establishing minimum standards for the adoption of Local Agency Management Plans (LAMP). Our Center recognizes that California has highly diverse environments and population densities, and accordingly, there may not be a 'one size fits all' policy for all local agencies. **However, in order to protect water resources, we request that the statewide policy be modified so that the Regional Water Board shall only approve a LAMP if it is at least as protective of human health and the environment as the Tier 1 standards.** In particular, Tier 2 standards should include language along the lines of "should the LAMP include standards different than the Tier 1 standards, then the local agency must demonstrate that the alternate standards are at least as protective of human health and the environment." Setting standards for Regional Water Board approval preserves at a minimum the ability to hold local agencies accountable in a meaningful way should the need arise to appeal to the Regional Water Board as specified in Section 4.5 or the State Water Board as shown in Section 5.4.

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Our Center's staff is also concerned with the lack of clear minimum standards for allowing special provisions in a LAMP to address OWTS within areas containing an impaired water body as noted under Tier 3. Similar to our suggestion above, **we request that wording be added under Tier 3, such as "should the special provision in a LAMP include standards different than the standards under Sections 10.9, 10.10, and 7.5.1 to 7.5.5, the local agency must demonstrate that the alternate standards are at least as protective of human health and the environment."** To reemphasize, this would provide a way for concerned parties to hold local agencies accountable.

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With respect to required water quality monitoring by local agencies as described under Tier 2, we ask that California Water Code Section 13269(a)(2) be added to the final policy under Section 9.3. This section of the Water Code provides added clarity as to what is required of local agencies if they are to be operating under a LAMP, including the requirement to make monitoring results publicly available. The following is an excerpt of that section of the Water Code:

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13269(a)(2) A waiver may not exceed five years in duration, but may be renewed by the state board or a regional board. The waiver shall be conditional and may be terminated at any time by the state board or a regional board. The conditions of the waiver shall include, but need not be limited to, the performance of individual, group, or watershed-based monitoring, except as provided in paragraph (3). Monitoring requirements shall be designed to support the development and implementation of the waiver program, including, but not limited to, verifying the adequacy and effectiveness of the waiver's conditions. In establishing monitoring requirements, the regional board may consider the volume, duration, frequency, and constituents of the discharge; the extent and type of existing monitoring activities, including, but not limited to, existing watershed-based, compliance, and effectiveness monitoring efforts; the size of the project area; and other relevant factors. Monitoring results shall be made available to the public.

Under Tier 3, our Center is concerned that Attachment 2 has failed to include known impaired water bodies that are being negatively affected by fecal coliform contamination that may be due to failing OWTS. This is particularly important because Attachment 2 is used to determine which OWTS are subject to Tier 3 requirements. As we've mentioned in previous comments, a water quality monitoring program in Tuolumne County has resulted in several streams being listed as 303(d). Despite the fact that two of these 303(d) listed streams -- Sullivan Creek and Curtis Creek -- flow through residential areas with a high potential for failed septic systems, they were not included in Attachment 2. **We ask at a minimum that Sullivan and Curtis Creeks be added to Attachment 2.** In addition to Sullivan and Curtis Creeks, we realize that there may be other impaired water bodies in our region and throughout California that weren't added to Attachment 2. **For that reason, we also ask that clarity be provided in Section 5.6 with respect to what information or criteria the State Water Board uses to determine whether a stream should be included or not included in Attachment 2.**

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Despite the concerns mentioned above, our Center is supportive of the overall goal of the policy, "to allow the continued use of OWTS, while protecting water quality and public health (p.3)." We hope you will incorporate what we have shared to ensure that those goals are achieved under the final policy.

Thank you for considering these comments,

Heather Campbell, Staff Scientist

John Buckley, Executive Director