



LOS ANGELES COUNTY ♦ DEPARTMENT OF PUBLIC HEALTH
ENVIRONMENTAL HEALTH



COUNTY OF LOS ANGELES
Public Health

Land Use Program
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May 1, 2012

#24

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board

Via email: commentletters@waterboards.ca.gov.

RE: AB 885 DRAFT OWTS POLICY

Dear Ms. Townsend and State Water Resource Control Board members:

We are committed and will continue to participate in development of a policy that is protective of the waters of California. We'll continue to work very closely with both RWQCBs within the Los Angeles County region in the future to develop an effective Tier-2 local management program. In countless instances, our requirements are more stringent than the policy in respect to the protection of waters. Our OWTS review and approval procedures have been refined over decades to better serve the public and safeguard the environmental and public health within the County of Los Angeles.

Nonetheless, we hereby express few concerns that have paramount importance to us; we request your Board to consider our comments and amend the policy accordingly. The policy contains requirements that are excessive, costly and overly burdensome to property owners, land developers, and to the County as the local implementing agency.

The following are our comments regarding the proposed Draft OWTS Policy:

“Service provider” means a person capable of operating, monitoring, and maintaining an OWTS in accordance to this Policy.

Comment 1:

2 → **As defined, a property owner could be considered qualified to act as a service provider for the OWTS installed at his/her property; hence, creating a “conflict of interest”. We request that the term service provider to be redefined as follows: “Service provider” means a person authorized by the local agency to monitor, and maintain an OWTS in accordance with this Policy and other applicable regulations.**

3.3 All local agencies permitting OWTS shall report annually to the Regional Water Board(s). If a local agency's jurisdictional area is within the boundary of multiple Regional Water Boards, the local agency shall send a copy of the annual report to each Regional Water Board. The annual report shall include the following information (organized in a tabular spreadsheet format) and summarize whether any further actions are warranted to protect water quality or public health:

- 3.3.1 *number and location of complaints pertaining to OWTS operation and maintenance, and identification of those which were investigated and how they were resolved;*
- 3.3.2 *shall provide the applications and registrations issued as part of the local septic tank cleaning registration program pursuant to Section 117400 et seq. of the California Health and Safety Code;*
- 3.3.3 *number, location, and description of permits issued for new and repaired OWTS and which Tier the permit is issued.*

Comment 2:

3 → Annual reporting is unrealistic in respect to staffing and funding available to local agencies. We request that the referenced Section and Sub-Sections to be amended to reflect that the frequency of the reporting and availability of such information to be determined by the respective Regional Water Board(s). The request by the Regional Water Board for such inexhaustible records should be based on justifying reasons. The staffing capability of each local agency must be taken into consideration when such requests are made.

4 → California Health and Safety Code, Section 117435 allows a local environmental health agency to require such information from sewage pumpers, but does not mandate the information to be collected. The collection of this information is not currently required by all local environmental health agencies and should continue to be at the discretion of the local agency.

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7.4 Percolation test results in the effluent disposal area shall not be faster than one minute per inch (1 MPI) or slower than ninety minutes per inch (90 MPI). Other percolation rates may be used under a Tier 2 Local Agency Management Program. All percolation rates shall be based on actual or simulated wet weather conditions by performing the test during the wet weather period as determined by the local agency or by presoaking of percolation test holes and shall be a stabilized rate.

**Comment 3:**

5 → This section prescribes the siting standards and elaborates on the percolation rates. However, this section does not provide guidance as to what method of percolation test should be utilized.

We request that the policy to either establish a standardized method for percolation testing that can be uniformly utilized by all counties, or allow each local agency to continue to utilize the existing procedures or develop new procedures as deemed necessary by the agencies.

Furthermore, the policy does not acknowledge that the “minute per inch” concept does not necessarily correlate with the percolation test for seepage pits. The policy must establish the method of percolation test(s) to be utilized for the seepage pits since mandates a percolation rate range of 1 to 90 MPI.

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7.5.2 100 feet from water wells and monitoring wells, unless regulatory or legitimate data requirements necessitate that monitoring wells be located closer;

7.5.4 100 feet from springs and flowing surface water bodies where the edge of that water body is the natural or levied bank for creeks and rivers, or may be less where site conditions prevent migration of wastewater to the water body;

Comment 4:

6 → The section prescribes the siting standards pertaining to setback requirements to water wells and surface water bodies. However, this section does not make distinctions that the setback from seepage pits should be greater. We request that the policy to include 150 feet of setback to seepage pits in concurrences with the Plumbing Code.

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7.8 The average density for any subdivision of property occurring after the effective date of this Policy and implemented under Tier 1 shall not exceed one single-family dwelling unit, or its equivalent, per 2.5 acres for those units that rely on OWTS.

**Comment 5:**

7 → The section prescribes a minimum lot size of 2.5 acres as an average density for new subdivision projects. We believe that this requirement is excessively restrictive and will negatively impact the development of great number of rural communities. Under current General Waste Discharge Requirement OWTS is allowed on 1 acre lot. A one acre lot will provide ample area to accommodate all typical horizontal setback requirements. Nonetheless, the restriction should be based on the soil conditions and geological constraints exist on the lot and not the size of the lot; as we may very well have 2.5 acre lot with fractured bedrock that could potentially contaminate the groundwater. Moreover, during the subdivision phase, the information provided regarding the geology is limited and more often is not used at the time of construction of residence as the new owner may choose a new location for the house pad or due to grading the tested area that provided a basis for the subdivision approval is compromised. We cordially request that the lot size requirement to be reverted to 1 acre.

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8.1.5 The minimum depth to the anticipated highest level of groundwater below the bottom of the leaching trench, and the native soil depth immediately below the leaching trench, shall not be less than prescribed in Table 1.

Comment 6:

8 → The information on Table 1 is in conflict with the Appendix K of the California Plumbing Code. We request that the referenced table to be amended to correspond to the Plumbing Code which allows a range of 5 to 60 MPI with 10 feet of vertical separation to the groundwater with a contingency that any MPI beyond 5 to 60 will render the OWTS as Tier 2 system. Similarly, the Plumbing Code provides a range of 0.83 to 5.12 gallons/square foot/day for seepage pits with a minimum 10 feet of vertical separation to the groundwater. We suggest that a similar table to be developed to address the required vertical separation form seepage pits to the groundwater when the application rate is beyond the acceptable range.

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8.1.6 Dispersal systems shall be a leachfield, designed using not more than 4 squarefeet of infiltrative area per linear foot of trench as the infiltrative surface, and with trench width no wider than 3 feet. Seepage pits and other dispersal systems may only be authorized for repairs where siting limitations require a variance. Maximum application rates shall be determined from

stabilized percolation rate as provided in Table 2, or from soil texture and structure determination as provided in Table 3.

**Comment 7:**

9 → The Plumbing Code allows credit for 2 feet of infiltrative sidewall surfaces as well as the 3 feet at the bottom of the trench; no credit is given for the first foot of infiltrative sidewall surfaces directly below the perforated pipe. We request that this section to be amended to allow credit for the infiltrative sidewall surfaces of up to 2 feet in concurrence with the Plumbing Code. This will allow up to 7 square feet of infiltrative area per each linear foot of the trench.

10 → Table 2 is intended to outline different application rates as they relate to their respective percolation rates. However, the table does not make any reference as to the method of percolation test utilized to conclude such results. Moreover, we request that the policy to be amended to either establish a standardized method for percolation testing that can be uniformly utilized by all counties, or allow each local agency to continue to utilize the existing procedures or develop new procedures as deemed necessary by the agencies. We also suggest that a procedure for percolation test for seepage pits to be developed. We would like to take this opportunity and offer the percolation test procedure that we have developed over decades as an example or assist you in development of a different percolation test procedure for seepage pits.

9 → Furthermore, trenches generally extend 3 feet below the perforated pipe; credit for only 6 inches of sidewall is unreasonable. The Plumbing Code allows credit for 2 feet of infiltrative sidewall surfaces as well as the 3 feet at the bottom of the trench; no credit is given for the first foot of infiltrative sidewall surfaces directly below the perforated pipe. We request that this section to be amended to allow credit for the infiltrative sidewall surfaces up to 2 feet in concurrence with the Plumbing Code.

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8.1.10 Rock fragment content of native soil surrounding the dispersal system shall not exceed 50 percent by volume for rock fragments sized as cobbles or larger and shall be estimated using either the pointcount or lineintercept methods.

Comment 8:

11 → This section requires that the information regarding the “soil surrounding the dispersal system” to be provided. The rock content of the soil surrounding a dispersal system is in all probability the same as the trench which constitutes the native earthen material for the area. The soil within the proposed trench will be determined through the percolation test and soil profile study; why do we need to overburden the OWTS designer to perform excavations outside the proposed trench to determine the content for the “surrounding soil”? We suggest that if the term “soil surrounding the dispersal system” is a reference to the soil within the trench that had been tested and/or excavated, the word “surrounding” to be replaced with the word “within”.

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8.2.4 New and replaced OWTS septic tanks shall be designed to prevent solids in excess of threesixteenths (3/16) of an inch in diameter from passing to the dispersal system. Septic tanks that use a National Sanitation Foundation/American National Standard Institute (NSF/ANSI)

*Standard 46 certified septic tank filter at the final point of effluent discharge from the OWTS and prior to the dispersal system shall be deemed in compliance with this requirement.*

**Comment 9:**

1 → **This section requires each OWTS to be equipped with a filtration system. It's perceived to be impossible to prevent solids in excess of 3/16 of an inch in diameter from passing to the dispersal system without use of filters. Typical conventional septic tanks are not designed with access compartment to house filters. We request that the referenced filter requirements to be waived for OWTS classified under Tier 1.**

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Tier 2 – Local Agency OWTS Management Program

Local agencies may submit management programs for approval, and upon approval then manage the installation of new and replacement OWTS under that program. Local Agency Management Programs approved under Tier 2 provide an alternate method from Tier 1 programs to achieve the same policy purpose, which is to protect water quality and public health. In order to address local conditions, Local Agency Management Programs may include standards that differ from the Tier 1 requirements for new and replacement OWTS contained in Sections 7 and 8. As examples, a Local Agency Management Program may authorize different soil characteristics, usage of seepage pits, and different densities for new developments. Once the Local Agency Management Program is approved, new and replacement OWTS that are included within the Local Agency Management Program may be approved by the Local Agency. A Local Agency, at its discretion, may include Tier 1 standards within its Tier 2 Local Agency Management Program for some or all of its jurisdiction. However, once a Local Agency Management Program is approved, it shall supersede Tier 1 and all future OWTS decisions will be governed by the Tier 2 Local Agency Management Program until it is modified, withdrawn, or revoked.

Comment 10:

12 → **We respectfully request that usage of seepage pits not to be generalized as an oddity under Tier 2. Only seepage pits that do not meet the required application rate should be categorized as problematic and placed under Tier 2.**

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*9.3.3 Submit an annual report by February 1 to the applicable Regional Water Board summarizing the status of items 9.3.1 through 9.3.2 above. Every fifth year, submit an evaluation of the monitoring program and an assessment of whether water quality is being impacted by OWTS, identifying any changes in the Local Agency Management Program that will be undertaken to address impacts from OWTS. The first report will commence one year after approval of the local agency's Local Agency Management Program. In addition to summarizing monitoring data collected per 9.3.8 above, all groundwater monitoring data generated by the local agency shall be submitted in EDF format for inclusion into Geotracker, and surface water monitoring shall be submitted to CEDEN in a SWAMP comparable format.*

**Comment 11:**

13 → This sections mandate an annual reporting to Regional Water Board summarizing items 9.3.1 through 9.3.8 and an assessment of whether the water quality is being impacted by OWTS and the remediation measures taken by the local agency. Although a system to collect the data for sections 9.3.1 thru 9.3.7 is already in place, we believe the requirements specified under this section, particularly sections 9.3.8 thru 9.3.9 are excessive. The policy presumes seepage pits as Tier 2 OWTS and realizing that within our jurisdiction approximately 50% of the dispersal systems are composed of seepage pits, this will create an enormous workload, requiring financial means and greater number of personnel that currently is not available. We request that this requirement to be limited only to Tier 3 and the OWTS installed within the setback to 303(d) impaired water bodies.

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10.12 Prior to the installation of any proprietary treatment OWTS in an Advanced Protection Management Program, all such treatment components shall be tested by an independent third party testing laboratory.

Comment 12:

15 → This section establishes equivalency between NSF and "an approved third party tester". However, the policy does not establish standards for approval of a third party tester. We cordially point out that the third party testers hired by the manufactures of the products could possibly be biased to the product being tested; hence, generating reports that are unreliable and influenced by the obligation to their clients. We suggest that the State Water Board to compile a list of approved third party testers and furnish such data and periodic updates to all local agencies or remove the third party tester approval presented as an alternative to NSF approval.

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10.14 OWTS in an Advanced Protection Management Program with supplemental treatment components shall be equipped with a visual or audible alarm as well as a telemetric alarm that alerts the owner and service provider in the event of system malfunction. OWTS using supplemental treatment shall, at a minimum, provide for 24hour wastewater storage based on design flow as a means to minimize pollution from overflow discharge after a system malfunction or power outage. Where telemetry is not possible, the owner shall inspect the system at least monthly as directed and instructed by a service provider and notify the service provider not less than quarterly of the observed operating parameters of the OWTS.

**Comment 13:**

14 → This section states that where telemetry is not possible, the owner shall inspect the system at least monthly as directed and instructed by a service provider and notify the service provider not less than quarterly of the observed operating parameters of the OWTS." We believe this statement conflicts with the principle of having a telemetry component in order to warn the service provider of an urgent situation and to ensure timely maintenance and the proper operation of the supplemental treatment unit. The referenced statement contradicts with the basis of having a certified service provider in charge of monitoring the OWT. We request that this statement to be removed.

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We understand that this is an evolving process and the proposed policy could change as the process continues. Therefore, our comments may also change based upon future amendments of the proposed policy.

Again, we appreciate the opportunity to comment on the proposed draft policy. Should you have any questions regarding the abovementioned comments, please contact me at 626-430-5390 or write to pnejadian@ph.lacounty.gov.

Respectfully,

A handwritten signature in dark ink, consisting of several overlapping loops and flourishes, positioned above a horizontal line.

Patrick Nejadian, Chief REHS
Environmental Health, Land Use Program