

**MIKE TREINEN, REHS
ONSITE WASTEWATER CONSULTANT
4910 HAYFIELD CT.
SANTA ROSA CA 95404-9550
707-526-0872**

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OWTS Policy Staff

Thank you for the opportunity to respond to the Draft Policy. Understand that though I support the intent of the Policy to protect public health and realize the enormous difficulty of turning that into practice in a state as diverse as California, I have concerns about the functionality and application of the Draft Policy. I am also aware that the state is under suit by environmental groups to finish promulgating the regulations.

In terms of my background, I am a CA Registered Environmental Health Specialist. I worked for a total of 30 years with San Diego County Public Health, Sonoma County Public Health and the Sonoma County Permit and Resource Management Department (PRMD) in well and septic system programs, retired as supervisor of the PRMD Well and Septic Division. I have worked for 10 years in the private sector as an OWTS Consultant and teach OWTS classes for the Santa Rosa Junior College and the California Onsite Wastewater Association. I also had input into the DEIR for the earlier version of this Policy.

I will summarize my broad concerns with more detailed specifics to follow.

- 1) The costs to be borne by affected homeowners, more notably with Tier 3 & 4, could be catastrophic, especially in these hard times. In the EIR section 1.2 "Project Objectives", the policy is to consider economic costs and practical implementation. It is not clear that these objectives have been met. Where else in recent times has a policy been created that will effectively cause potentially large expenditures by average homeowners.
- 2) Local agencies are being pushed toward Tier 2 which will have moderate to major costs to create, implement and maintain programs, monitoring and reporting requirements. There appears to be no money associated with this Policy to create and run these programs and tax increases are not likely. I always understood that new laws could not create unfunded mandates. I believe I see such a mandate here.
- 3) I worry that without the money, manpower and public support, the Policy will not be functionally successful and that the many unknowns will haunt specific homeowners for years.

4) Even though I realize this is a public sewer system regulation, I feel it appropriate to note that every public sewer in the state and country is discharging wastewater into our groundwater basins. In their sewer pipeline designs, engineers include infiltration in the winter which translates into exfiltration in the dry months. Imagine the consequences should that issue become an Assembly Bill.

SPECIFICS:

Definitions

Existing Systems: It is noted that they must have been permitted. Prior to 1963 in Sonoma County, permits weren't required. I believe you'll find similar histories in most counties. Those parcels should not be unduly penalized for having pre-code systems. Lack of proper agency record keeping (or record keeping at all) could be a problem).

Major Repair: Here, and in 11.2, *baffle* failure is listed as a trigger. A simple septic tank inlet or outlet baffle repair or replacement is simple, may cost less than \$100 and is like a flat tire. You don't require a new car. If a *middle* baffle wall is broken in a tank, the tank's structural integrity may be in question and could be defined as a major repair (tank replacement).

Seepage Pit: Is described as 3-6 feet in diameter. The policy assumes they're all round and likely deep, as in LA County. In Sonoma County and probably others, our soils are shallow and we have shallow rectangular seepage pits averaging 4 by 8 feet and 5 feet deep.

Comments by Section

3.1 & 3.2 Notes the Local Agency has five years to develop a LAMP. In practice they have to state intentions and have a document within 36 months. Although it states agencies may continue to use their current policies, the catch is that the policies can't conflict with "applicable minimum standards" (read the very restrictive Tier 1). As I interpret this section, a County effectively must use Tier 1 standards from day one. Most counties today have neither the personnel, money nor time to build a Tier 2 program, especially in a short time period. In the meantime, the public who wants to build a house or replace a system may be negatively impacted both financially or in terms of their construction plans. This could very well impact the local construction industry and economies. Even if a LAMP program is put together quickly, it could be 12 months before it's approved if the local RWB doesn't respond in a timely manner.

3.3 & 3.4 This is a request for moderate expenditures of time and money by local agencies to build and maintain a specific reporting level. Although the goal is laudable, it is an unreimbursed state mandate.

4.3 RWB's have 90 days to respond to a LAMP. What is the penalty for RWB non-compliance? If there is no response, the local agency then has to wait 9 months before

they can appeal to the SWB. In the meantime they and their citizens have to live with the stringent Tier 1 requirements through no fault of their own. Why should agencies have to wait so long to appeal?

4.6 WDR's are required for new or replacement systems prior to a LAMP when the system doesn't meet Tier 1 (See 3.1 above). This added workload will burden typically unresponsive RWB's even more and I didn't see a time limit posted in the Policy for a WDR response. Again, the citizen desiring a house or remodel on a septic system may suffer.

4.7 Tier 3 notification and enforcement are the responsibility of the RWB's. I worry about their proper funding, manpower and training to take on what could be a huge task in counties such as Sonoma which has many 303-d listed water bodies. This will lead to huge time and monetary unknowns for the impaired river-proximate homeowner.

5.3 When critical disputes arise between local agencies and RWB's, 12 months is too long for the SWB to arbitrate a dispute. See related comments above.

5.4 & 5.5 I am concerned that one person out of California's 35 million has the power to hold up LAMP programs. Although democracy is great, the time frames attached to these sections has the potential to tie up busy water boards with potentially minor issues better handled like most policy at public hearings.

6.1.4 This policy denies Tier 0 coverage to any system that is soil saturated with groundwater or inundated. Sonoma County has many older basin area properties with shallow soils and elevated seasonal groundwater, although surface discharge is rare. Many of these areas include older homes and lower income individuals. Newer homes often meet groundwater standards with Mounds and other more expensive technology. This section could place many homes into other Tiers that could result in dramatically higher cost systems where repairs may be required.

7.6.4 This section gives the CDPH 5 days (including weekend days?) to respond to OWTS that may be located close to drinking water sources. After giving regional and state water boards 90-365 days for review, a somewhat more reasonable time frame (14-21 days?) would seem more fair.

8.1.1 Qualified professionals are to design new or existing systems where replacement was not previously designated. I find many designated replacement areas were not realistic even when submitted 30 years ago, much less today with generally more stringent agency requirements. What about new or existing systems in general?

8.1.4 & Table 1 For Tier 1, 5 feet of soil and 5-20 feet to groundwater seems excessive when viewed through most studies and most other state and local guidelines related to adequate separations. Tier 1 would make most remaining vacant parcels in our County unbuildable and stop many remodel projects requiring system upgrades. This appears to be more of a push to get agencies to adopt a Tier 2 LAMP with its expensive

implementation (see Section 9 comments). When one looks at this then sees the Policy potential for deep vertical seepage pits, the consistency of the policy begins to unravel and political realities begin to show.

8.1.7 Appears to exclude nonstandard systems which nearly always create less risk than standard systems. Again viewed as a push to Tier 2.

Table 2 Application rates appear excessively conservative, again raising concerns that the push is to Tier 2. Sonoma County adopted a conservative set of rates in the early 90's at the push of the RWB's. Those rates after 20 years appear to be adequate and are moderately more liberal than those proposed in the policy. Unnecessarily large systems will over utilize natural resources.

Section 9 For Tier 2, where the policy pushes local agencies, requires the creation of a public education and outreach program, the monitoring of regional groundwater and surface water, and the review of a myriad of existing and obtained data to analyze the effects of OWTS on these waters. Reports and assessment are to be in EDF and SWAPP formats. This would be a wish list for the Cadillac program if it weren't for the fact that there has been no money provided for what would require a small new division in each local agency to plan for, train staff and implement such a major undertaking. The local agencies are broke. Sonoma County Well and septic staff have lost two of three managerial level staff and half of the field staff. This, in my personal opinion, is the state passing on work it should have been or be doing but has no time or money for and dumping it on the local agencies that have equally no time or money.

Section 10 For Tier 3, systems within 100-600 feet of an impaired waterway (or tributary?) have five years to prove that they are not contributing to pathogens or nitrates at an estimated \$5,000 or install an advanced treatment system that may have to be further upgraded with the subsequent advent of TMDL's. Despite the EIR's cost estimates, advanced treatment systems in Sonoma County can easily approach or exceed \$30-40,000 with design and permit. If the owner is unable to afford these costs, what happens – loss of the house, incarceration, loss of family savings? I understand money is available through the State Revolving Fund, but how much and will it be enough to cover all those involved? In addition, I understand the money has to be administered by the County or other approved entity. How will that administration of money be paid for? Read again unfunded mandates. This program will have monitoring and program costs borne by the agencies. Again, where will the money come from? At least here maybe some money will be paid by the permittee, but not the money to *create* the program.

This section notes existing systems must comply with standards, including for example 3 feet to groundwater and three feet of soil. What if the site doesn't have it? WDR's? Is the state ready to handle the volume in a timely manner?

Attachment 2 More of a question than a comment: Has enough analysis been done to determine that the nitrates and pathogens in 303-d listed waterways are wastewater related as opposed to agriculture and animal?

EIR Estimated Tier 1 Cost Analysis Following is a comparison of the EIR reported cost estimates vs estimates of current costs in the County of Sonoma, CA, including design and permits:

Tanks \$2000 vs \$6500

Leachfields (assume conservatively 300 feet of line) \$1300-4800 vs \$7500-9000

Total systems \$3300-6800 vs \$12000-15000

Nonstandard systems \$22000 vs \$30000-40000

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Thank you for your review of my comments,

Mike Treinen,

California Registered Environmental Health Specialist # 3826