

Mariposa County Board of Supervisors



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May 1, 2012

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Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

RE: Letter of Comment on Proposed OWTS Policy

Honorable Members of the Board:

Thank you for providing us with the opportunity to comment on the *Draft Policy for Siting Design, Operation, and Management of Onsite Wastewater Treatment Systems* (OWTS Policy) to implement Assembly Bill (AB) 885. We have reviewed the OWTS Policy and give credit to your Board for your efforts to draft statewide standards that incorporate many of the comments made on the draft regulations released in October 2011, including homeowner financial assistance which our letter dated Nov 8, 2011 urged you to do. However, even though the proposed OWTS Policy is an improvement over the previous versions, we have some serious concerns as follows:

1. The policy still does not provide clear, unambiguous direction to the Regional Water Quality Control boards regarding the approval of Tier 2 Local Management Programs. We urge the State Water Resource Control Board to direct Regional Water Quality Control Boards to refrain from implementing more stringent standards that are applicable "across the board," rather than allowing local programs (especially in areas with no impaired waters) to continue their successful program implementation. Tier 1 standards should not be used to gauge the effectiveness of a Tier 2 plan.
2. The proposed OWTS Policy mandates that the permitting agency conduct, collect, store and transfer data to the Regional Water Boards. This requirement will create a financial hardship on the citizens of our County. The amount of data and man hours involved with such a task is unknown. If our County is required to complete the reporting, we will have little choice but to recover our

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costs through new fees, which will be a burden on our constituents. Due to the current economic situation, this is simply not the time to impose new fees.

3. There are several areas in the Tier 1 section of the policy that refer to other allowances if there is an approved Tier 2 program. The fact that some sections have this language and others don't could be interpreted to mean only the sections that have this language are allowed to deviate from the Tier 1 standards. This needs to be corrected by removing all references to Tier 2 and or a local management plan from Tier 1 and adding a clear, unambiguous section that says Tier 1 Standards do not apply to a Tier 2 program unless the local agency specifically includes them in their program.

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Policy Section Specific Comments:

Definitions: For the most part the definitions are acceptable; however, the definition for domestic waste water includes, in the last sentence, "domestic waste water does not include waste water from industrial process or RV dump stations". Many rural homeowners have dump stations attached to their residential OWTS. The definition should include an exception for these incidental dump stations. (Exception: Private RV dump stations that provide incidental flows to an OWTS may be allowed by the Regional Board or Local Area Management Program Agency in Tier 0, Tier 1 or Tier 2.)

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Section 4.5 Requires the Regional Water Quality Control Board to accept and consider complaints regarding local agencies management programs from any person; however, the section does not provide adequate detail regarding what types of issues are worthy of revoking an existing program and should include some language to avoid landlord tenant disputes resulting in actions being taken against an agency program.

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Section 6.2 states a Regional Water Board or local agency may deny coverage under this policy to any onsite waste water treatment system that is not in compliance with section 6.1. However, section 6.2.2 takes the local agency out of the loop in determining if coverage is allowed and should include language that keeps the local agency involved. Something like, "after consultation with the local agency".

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Section 7.3 states a site evaluation shall determine the anticipated highest level of ground water within the disposal field it is not normal industry practice to determine the anticipated highest level of ground water, instead, what is normally done is to determine if the highest anticipated level of ground water is within five feet of the bottom of the proposed disposal field. The language should be changed to reflect this issue.

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Section 7.5.9 requires a setback of 400 feet from the high water mark of a reservoir, lake or flowing water body, including all tributaries, when they are within 1200 feet of a public water systems surface water intake and within the catchment of the drainage. This will require us to know the exact location of surface water intakes. Since many rural counties do not regulate water

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systems and CDPH does not share this information because of security concerns against terrorist attacks some language changes are prudent. **Recommend adding: CDPH drinking water division shall provide local agencies with exact coordinates of water intakes within the local agencies jurisdiction. Local agencies shall treat the location coordinates as confidential information.**

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Section 7.5.10 has the same issue however; the distance that we must look is between 1200 and 2500 feet. **Recommend adding: CDPH drinking water division shall provide local agencies with exact coordinates of water intakes within the local agencies jurisdiction. Local agencies shall treat the location coordinates as confidential information.**

Sections 7.6.1 thru 7.6.4 require us to notify and provide copies of the permit application for OWTS's within 1200 ft of the water intake to the owner of the public water systems and CDPH Drinking Water Division and allows for a comment period; however, because septic permits are ministerial permits we can not hold permits and/or add discretionary conditions to the permit. Also section 7.6.2 details components of the application that are not otherwise required. **Recommend deleting section 7.6.2 thru 7.6.4.**

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Section 7.7 uses a 25% slope as the greatest slope an onsite sewage disposal can be installed under tier 1. This is an arbitrary decision by the Water Board based on equipment operation parameters. 30% is common in most local agency programs and is the standard typically used to avoid breakout which is the real public health and water quality issue. **Recommend changing this to 30%.**

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Section 7.8 usurps the County's local land use authority. It specifically limits density for new subdivisions using Tier 1, 7.8 states, "The average density for any subdivision of property occurring after the effective date of this policy and implemented under Tier 1 shall not exceed 1 single family dwelling unit or its equivalent, per 2.5 acres for those units that rely on OWTS." This section usurps local land use policy and fails to recognize that land divisions procedures and density are determined in the County's general plan which is supported by an EIR which specifically addresses density of dwellings with respect to onsite sewage disposal systems. **Recommend adding language "unless there is an environmental review document supporting greater density."**

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Section 9.2.11 requires a local agency to identify procedures for notifying the owner of a public water system prior to issuing an installation or repair permit if the OWTS is within the 1200 feet of the intake for surface water treatment plant. Again without exact coordinates as previously discussed comments for Section 7.5.9 above we can not implement this section.

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In closing, while we acknowledge that the proposed OWTS Policy does provide a more reasonable overall approach to AB 885 implementation in comparison to previous proposals; it still contains requirements that are costly and overly burdensome to property owners, and to the County as the local implementing agency. Therefore, Mariposa County opposes adoption and implementation of the OWTS Policy as currently presented and requests your Board consider our comments and concerns in reviewing the proposed policy.

Sincerely,

A handwritten signature in black ink that reads "Janet Bibby". The signature is written in a cursive, flowing style.

Janet Bibby, Chair
Mariposa County Board of Supervisors

/dc

cc: California State Association of Counties (CSAC)
Regional Council of Rural Counties (RCRC)