



COUNTY OF SONOMA

PERMIT AND RESOURCE MANAGEMENT DEPARTMENT

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May 4, 2012

#75

OWTS Policy
Jeanine Townsend, Clerk of the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95812



Subject: Comments on AB 885 Draft Policy

Dear Ms. Townsend

The County of Sonoma appreciates the opportunity to provide comments on the Draft Policy crafted to implement AB 885. Our comments are included below. There are provisions of concern to Sonoma County and there are provisions where we seek clarification. Should you have any questions, I can be reached at (707) 565-3507.

Sincerely,

Nathan Quarles
Engineering Division Manager

Cc: Sonoma County Board of Supervisors
Sonoma County Land Use Advisory Panel
Mr. Pete Parkinson, Director of Permit and Resource Management Department
Mr. DeWayne Starnes, Deputy Director of PRMD

Section 4

4.2 This section requires the Regional Water Boards to amend their Basin Plans within 12 months and affords the Regional Water Board the ability to create more restrictive requirements. This creates uncertainty and will delay the creating of

1 → Local Agency Management Programs that may need to be altered to address any changes in new or more restrictive requirements created by the Regional Water Boards. The Policy should specify a timeframe for LAMP submittal contingent upon completion of Basin Plan amendments, or give extensions of time for LAMP completion based on any delay by Regional Board to amend Basin Plan.

2 → Also, the exemption under Section 4.2.1 for the North Coast Regional Water Board within the Russian River watershed does not detail what happens with respect to the Basin Plan and LAMP time frames within the North Coast Region, but outside of the Russian River watershed. Does the LAMP in this area simply follow the existing North Coast Basin Plan since it will not change until the TMDL is complete for the Russian River? It would be a good idea to allow the various Regional Boards to provide for extensions to the LAMP timelines based on justification provided by the local agencies.

3 →

4.7 Section 4.7 requires the various RWBs will notify and enforce requirements for existing OWTS determined to be in Tier 3. We again encourage the SWRCB to provide resources and funding so that the nine RWBs can adequately staff and implement the applicable sections of this Policy.

Section 5

5.7 Section 5.7 states that Clean Water State Revolving Funds will be made available and that local agencies will operate a mini-loan program. While making funds

4 → available to home owners, via a loan program, is probably necessary, how will the mini-loan program at the local level be funded? How do the local agencies apply for such a program? How will local agencies be funded by the state and/or reimbursed by the state? More thought and/or guidance needs to be provided to ensure home owners can receive these loans.

5 → What if the funds are not available from the Clean Water State Revolving Funds and/or the home owners do not have access to state loans. We recommend that a provision be added to exempt or provide a time extension to home owners until such time funds are made available.

Section 7 (Tier 1)

7.6 This section requires the local agency to determine if the OWTS is within 1200 of

an intake for a surface water treatment plant for drinking water. Section 7.6.4 ← 6 refers specifically to *public* water systems, but this is the first place public or private is mentioned and this is in a subservient provision. Does section 7.6, apply to public or private drinking water treatment plants? In the rural setting there are many private water intakes with small water treatment systems. Many of these serve just one house or family and the treatment could be for any number of parameters (disinfection, pH adjustment, water softening, etc). Identifying all of these small private water systems would be virtually impossible. Please be more explicit on which type of water treatment systems this provision applies to: private or public.

7 → 7.6.4 Five days for public water system owner to respond seems too short of a time frame to provide input to the permitting agency.

Section 8

8 → 8.1.4 This section and others, refer to “dispersal systems.” Are gray water systems as allowed under Ch 16 of the Plumbing Code considered a dispersal system as a part of the OWTS? If gray water systems are considered a dispersal system, which set of regulations apply: Ch 16 of the Plumbing Code or this Policy?

9 → 8.1.6 Please clarify the infiltrative area per linear foot. Does the infiltrative area include the side walls, trench bottom or both? We recommend that the trench bottom area not to be included in the infiltrative area calculation due to biomat buildup along bottom inhibiting infiltration.

Section 9 (Tier 2)

10 → 9.1 Many of the descriptors within section 9.1 are vague. For example section 9.1.4 discusses OWTS is located in area with high domestic well usage. What is a high usage? Section 9.1.5 discusses dispersal system located in areas with fractured bedrock. How are these areas to be determined? Section 9.1.7 discusses surface water that is vulnerable to pollution. How will the local agencies determine vulnerability? Or how vulnerable? Section 9.1.9 discusses areas of high OWTS density? What is a high density for OWTS?

11 → 9.2.6 This section requires local agencies to analyze disposal locations for septage, including anticipated volume and adequate capacity. Septage disposal facilities should be covered under Waste Discharge Requirements or waivers by the local Regional Water Boards. As such each Regional Water Board should have this information. It seems redundant to have local agencies analyze these facilities.

12 → 9.3.2 The creation and maintenance of a water quality assessment program is an

- 12 → onerous, unfunded mandate. Possible violation of Proposition 26 where the local authority has the burden to show fees are not taxes and that there is a nexus to benefit. Simply increasing fees on permits unfairly assesses those obtaining a permit for a regional program which has benefit to the entire county. Raising fees
- 13 → is also not supported by local industry and local politicians in the current economic downturn. Local authorities, especially counties with very large
- 14 → geographic jurisdictions do not have resources to implement this program, even so, this program would run in the red for years before becoming sustainable if possible. Current budget constraints make this impossible.

15 → Section 9.3.2 goes on to list various types of monitoring data that may be used. Many of the listed data types are not readily available such as groundwater sampling performed as part of WDRs or sampling performed as part of a NPDES permit. This data is not in electronic format and is housed at various Regional Boards and would entail file searches and data entry to use. Further, the list of existing data likely is not relatable to OWTS in terms of spatial or temporal associations. While the intent of using existing data is appreciated, it does not seem that practicable.

Sonoma County encompasses 1,768 square miles and has approximately 50,000 OWTS currently in place. Sampling 10% of these as well as receiving waters could easily cost \$500,000 (\$100 per 5,000 samples). Conducting regional and localized monitoring across the entire jurisdiction is potentially very expensive and staff intensive.

Our recommendation is to revise the policy to allow the Regional Boards to work in conjunction with the local agency to develop a monitoring and assessment program that is feasible for the local agency, given financial and staffing constraints.

16 → 9.3.3 This section refers to section 9.3.8 which does not appear to exist. This appears to be a typographical error, but it is unclear to which section the reference is intended.

17 → 9.4.3 "Post installation ground surface" should be defined, we assume this is intended to include mound, engineered fill or other types of alternative OWTS systems. Also, does this include gray water systems discharging to the ground such as a mulch basin or surface infiltration area?

18 → 9.4.9 Sewer availability should not only be linked to a distance from the public sewer (200 feet), but linked to available trunkline and treatment plant capacity. Sewer may be within 200 feet, but there may not be capacity in the sewer system itself.

Sewer availability typically is determined by the sanitation district who owns or operates the treatment plant. This provision should be revised so that the sanitation district must grant approval to the connection in order to be "available."

18

There is the additional issue of annexations or outside service area agreement and approval of these by the sanitation district and the Local Area Formation Committee. Just because a parcel may be within a short distance of the sewer main does not necessarily mean that parcel is within the sanitation district or that there is treatment plant or sewer main capacity.

- 19 → 9.4.11 “greatest extent practicable” is bad code language full of discretion, and sets local agency up for an appeal as it means different things to different people depending on the point of view. Appeal process is not defined, but should be included in the LAMP. Section 9.4.12, and 10.6.9.6 and 10.6.9.7 also includes “greatest extent practicable” language.

Section 10 (Tier 3)

Preamble

- 20 → In the previous public draft there were two linear distances for Tier 3: 100 feet for pathogens and 600 feet for nitrates. Currently there is one linear distance (600 feet) for both pathogens and nitrogen. Sonoma County has not had sufficient time to evaluate the impact of this policy change. However, it is clear this change makes many more OWTS subject to Tier 3. This appears to be a significant change in the policy at this late stage of policy development. Please provide the justification or rationale for this change. Given that there has not been adequate time to investigate the ramifications of this policy change, how does this significant change in policy affect the Substitute Environmental Document and/or the CEQA process?
- 21 → 10.1 It appears that the setback from an impaired water body, with no TMDL or a TMDL where the setback is not defined, is 600 feet for both pathogens and nitrogen, but it is not clearly stated other than to refer to Attachment 2 (which includes lists for impairments by both pathogen and nitrogen). This should be clearly stated since this is a more stringent application from the previous draft which stipulated 100 feet for pathogen.
- 22 → 10.5 This Section replaces the old 10.3 which provided guidance on how owners could interact with the TMDL process and didn't seem pertinent to the Policy. Now it allows the Regional Water Board to require these same guidelines of an owner and the reason is not clear. What is the purpose of this Section, and why would the Regional Water Board require it? Recommend the entire Section stricken.
- 23 → 10.6.7 Various provisions (sections 9.4.7 for Tier 2, 10.6.7 for Tier 3) prohibit OWTS from receiving waste from recreational vehicles (RVs). How is the waste from RVs to be managed? If not subject to this Policy, what options are available for the RV community? Who will regulate this waste stream: local agencies or the

23 → state? What are the standards?

24 → 10.10.2 Depth to groundwater from bottom of dispersal system limited to not less than 3 feet. Suggest amending to be similar with requirements of Tier 1 and state that depth to ground water shall not be less than 3 feet or as authorized in a Tier 3 Advanced Protection Management Plan in conjunction with an approved Local Agency Management Plan

25 → 10.14 Section 10.14 requires alarms that will alert the owner and a service provider if/when needed. Will perpetual maintenance contracts be required for all systems incorporating advanced treatment devices? Further, being a Tier 3 requirement, how will the RWB enforce this provision?

10.15 Section 10.15 requires effluent testing for disinfection on a quarterly basis and further requires a service provider to take the effluent samples. Will perpetual maintenance contracts be required for all systems incorporating advanced treatment devices? Further, being a Tier 3 requirement, how will the RWB enforce this provision?

Section 11

26 → 11.6 Three months seems like a relatively short time frame. Please consider modifying the language to allow time extensions beyond three months.