



**SOLANO COUNTY**  
**Department of Resource Management**

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May 3, 2012

#29

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

Via email: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

Dear Board members:

Thank you for the opportunity to comment on the March 20, 2012 final draft of the Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (policy). The Solano County Department of Resource Management, Environmental Health Services Division (EHSD) has been involved throughout the process of policy development. The policy shows the significant efforts made by the State Water Resources Control Board (SWRCB), their staff, and other stakeholders including the California Conference of Directors of Environmental Health. The policy resulting from this process is both flexible and protective. Key strengths of this policy are that it:

- Clearly recognizes that local jurisdictions have the knowledge and expertise to best implement a regulatory program for onsite wastewater treatment systems (OWTS), and provides a process that allows continuation of existing local programs that are protective of health and water quality.
- Properly utilizes limited staff and financial resources by:
  - Placing emphasis on updating those existing OWTSs that are failing, or significantly contributing to impairment rather than all OWTS within 600' of all 303(d) listed water bodies impaired by nitrates and pathogens, regardless of the significance of the OWTS contribution. Upgrading those OWTS as listed in the policy will provide an actual positive benefit to public health and water quality, rather than devote limited staff resources and money to "fix" issues that provide little beneficial return.
  - Allowing regional monitoring to identify areas of potential concern and to determine effectiveness of the local program instead of site specific monitoring.

Building & Safety  
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- Recognizes the wide variety of soil conditions across the states by allowing credit for the use of supplemental treatment devices and recognizing the well documented effectiveness of soil for treatment by allowing 2' separation distances.

We commend the SWRCB and their staff for being receptive and responsive to local agency concerns during the development of the policy.

The EHSD will be recommending to our board that Solano County pursue approval of a Local Agency Management Program (LAMP) under Tier 2, and continue implementation of our locally protective code requirements. The EHSD also intends to continue to implement existing Solano County Code, Chapter 6.4 that locally regulates OWTS during the LAMP approval process. While many aspects of Solano County Code, Chapter 6.4 requirements are consistent with the proposed policy, following are a few suggestions and general concerns that we would like to bring to your attention for consideration prior to policy adoption.

If you have questions, feel free to contact me at (707) 784-3308, or by email at [tschmidtbauer@solanocounty.com](mailto:tschmidtbauer@solanocounty.com).

Sincerely,

A handwritten signature in blue ink, appearing to read "Terry Schmidtbauer". The signature is stylized and cursive.

Terry Schmidtbauer  
Environmental Health Manager

1. Section 3

1 → Section 3.5: Compliance with this section is problematic. Solano County is not a Local Primacy Agency for small water systems, and no county oversees large community public water systems. Therefore, Solano County does not have direct access to exact locations of any public water system water well or surface water intake and the locations of these are protected for security concerns. Solano County also does not have direct access to any public water system source protection plans that show the catchment drainages for the surface water intakes. It needs to be clear that Solano County cannot be held to this requirement unless the exact location of public water wells and intakes located in Solano County are provided by California Department of Public Health, or the public water system operator. It is anticipated that the California Department of Public Health will work with local agencies to supply this information.

*3.5 If supplied with the location of a community public water system well or surface water intake by the California Department of Public Health (CDPH) or community public water system operator, a local agency shall notify CDPH and the owner community public water system operator of a public well or water intake and the California Department of Public Health as soon as practicable, but not later than 72 hours, upon its discovery of a failing OWTS as described in sections 11.1 and 11.2 within the setbacks described in sections 7.5.6 through 7.5.10.*

3. Section 4

2 → Section 4.5: This section may be problematic in implementation if abused by the public. The RWQCB and SWRCB must guard against the bias to consider any requests, regardless of scientific substantiation, in order to eliminate a challenge by a person that due process was denied. Additional detail to better define the issues that may subject the LAMP to modification or revocation, and timelines by which requests must be submitted after discovery should be provided. Multiple frivolous requests can result in a drain of staff resources and be a financial burden on the state and local agency. This would be a detriment to efficient implementation of protective standards that do safeguard public health and water quality.

*4.5 The appropriate Regional Water Board shall accept and consider any requests for modification or revocation of a Local Agency Management Program submitted by any person provided the request contains adequate information to support that the approved standards being implemented are not protective of public health or water quality, or that a local agency is not properly implementing the Local Agency Management Program, and the request is submitted within 60 days of discovery. The Regional Water Board will notify the person making the request and the local agency implementing the Local Agency Management Program at issue by letter within 90 days whether it intends to proceed with the modification or revocation process per Section 4.4 above, or is dismissing the request. The Regional Water Board will post the request and its response letter on its website.*

While this wording does not fully define acceptable issues for a request to be considered, it does at least provide a framework against which the request can be compared.

4. Section 9

3 → Section 9.2.6: Septage facilities are regulated by the Regional Water Quality Control Board. Given this, it seems redundant and unnecessary for local agencies to provide a list of locations that accept septage and their capacities. This should be a condition of approval issued by the RWQCB for those specific facilities. It is suggested that this condition be removed

3 → from LAMP approval process. We have no issue with providing a list of those septage haulers we permit.

4 → Section 9.2.11: This section is problematic for the same reasons as discussed in section 3.5 above. It needs to be clear that Solano County cannot be held to this requirement unless the exact location of public water well and intake locations are provided by California Department of Public Health, or the public water system operator.

9.2.11 Procedures for notifying the owner of a public water system prior to issuing an installation or repair permit for an OWTS, if the OWTS is within 1,200 feet of an intake for a surface water treatment plant for drinking water and is in the drainage area catchment in which the intake is located, or if the OWTS is within a horizontal sanitary setback from a public well *if supplied with the location of the surface water treatment plant intake and catchment area or community public water system well by the California Department of Public Health (CDPH) or community public water system operator.*

5 → Section 9.4.8: This condition is similar to Solano County Code 6.4. It does need to be understood, though, that during wet weather periods, separation distances may temporarily be less than 2' following a rain event. Maintaining a constant 2' separation is not always possible as rain water slowly travels through heavy clay layers and the perched water table needs time to equalize to a static water level given the new water input. Wording to allow for temporary rise in perched groundwater resulting from a rain event should be provided. In Solano, newer systems in these types of soils with this groundwater level are typically alternative systems that use a supplemental treatment device. If wording is not provided to clarify this, then we would request reasonableness in interpretation/application of the standard.

9.4.8 Separation of the bottom of dispersal system to groundwater less than two (2) feet, *except for short term elevation of perched groundwater in relation to a rain event.*

6 → Section 9.4.9: Wording needs to be added to state that the sewer operator must allow connection for sewer to be considered available. Growth in Solano County is focused in the cities and it is difficult to obtain LAFCO or other required approvals to extend sewer outside district boundaries. This may adversely impact repairs to failing OWTS or development of property meeting all conditions of a LAMP for installation of a protective OWTS that can only be installed less than 200' outside a sewer district boundary.

9.4.9 Installation of OWTS where public sewer is available. The public sewer may be considered as not available when such public sewer or any building or exterior drainage facility connected thereto is located more than 200 feet from any proposed building or exterior drainage facility on any lot or premises that abuts and is served by such public sewer *and the agency in control of the sewer will not allow connection.*

7 → Section 9.4.10: This section is problematic for the same reasons as discussed in section 3.5 above. It needs to be clear that Solano County cannot be held to this requirement unless the exact location of public water well and intake locations are provided by California Department of Public Health, or the public water system operator.

9.4.10 Except as provided for in sections 9.4.11 and 9.4.12, *if supplied with the location of a community public water system well or surface water intake by the California Department of Public Health (CDPH) or community public water system*

7 → operator, new or repaired onsite systems with minimum horizontal setbacks less than any of the following:

5. Tier 4

8 → Section 11.6: While the Environmental Health Services Division does require immediate action to abate failures that may impact public health and water quality, such as requiring vaulting and pumping of a septic tank, the ultimate corrective action, replacement of the leach field to current code, may take longer than three months. Wording limiting corrective action to take no more than three months needs to be removed.

11.6 Owners of OWTS will address any corrective action requirement of Tier 4 as soon as is reasonably possible, and must comply with the requirements and the time schedule of any corrective action notice received from a local agency or Regional Water Board, to retain coverage under this Policy. ~~In no case shall the time schedule be allowed to extend beyond three months for a corrective action, with the exception of seasonal high groundwater or snow conditions.~~