

November 6, 2011

OWTS Policy
State Water Resources Control Board
PO Box 2231
Sacramento, CA 95812

Dear OWTS group:

Subject: Comments on the Sept. 30, 2011 draft of the OWTS policy

1. Your "fact sheet" states that: "More than 95 percent of current OWTS owners will not need to make any changes to their septic systems." This is, at best, misleading. In fact all OWTS will fall under the new regulations when it becomes necessary to repair an existing system. All systems will need to be repaired at some time since all systems are ultimately subject to failure. It would be more truthful to add the words "at this time" to this sentence in the fact sheet.

Your tri-fold brochure more accurately states: "No further action required until time for replacement, upgrade or system fails." for tier 0 systems. It would benefit the public to use similar language in the fact sheet so that they are not misled about the future applicability of the regulations to their system.

2. Section 13291.5 of the Water Code (added by AB 885) states:

"It is the intent of the Legislature to assist private property owners with existing systems who incur costs as a result of the implementation of the regulations established under this section by encouraging the state board to make loans under Chapter 6.5 (commencing with Section 13475) to local agencies to assist private property owners whose cost of compliance with these regulations exceeds one-half of one percent of the current assessed value of the property on which the onsite sewage system is located."

The draft regulations do not include any mention of financial assistance to private property owners. At the meeting in Santa Rosa, staff referred to a website that gives financial assistance information. This website was not in the information distributed and it is not linked from your OWTS website. I was unable to find information on financial assistance to property owners who need OWTS upgrades under Ab 885.

The procedure for obtaining financial assistance should be promulgated at the same time that the regulations are adopted so that the intent of the Legislature to provide financial assistance is met. It is unreasonable to move the regulations through the adoption process without providing the financial assistance that will be necessary for property owners to comply with the regulations. There should be specific policy direction on how to obtain

financial assistance, how to qualify, how assistance will be distributed and an identified source of funding as a part of the regulation adoption process. The information on financial assistance should be made readily available to the public.

3. Sections 10.2.2 and 10.2.3 of the proposed regulations stipulate setbacks from OWTS to 303(d) listed impaired water bodies. These setbacks are measured from the edge of the waterway "where the edge of that water body is the natural or levied bank for creeks and rivers". This is a very vague definition for natural creeks and rivers that can lead to significant problems in interpretation and application. A natural river generally has a flood plane associated with it that creates a succession of terraces leading to the edge of the water. Each of these terraces could be considered the "natural bank" and, depending upon which is selected for determining the setback, can have substantially varying impacts onto a property owner.

More appropriate language could be one of the following:

- as measured from the average summertime flow level of the river or stream, or
- as measured from the average annual flood elevation of the river or stream.

4. Section 11.5 of the proposed regulations defines a failing system as:

"Any OWTS that has affected, or will affect, groundwater or surface water to a degree that makes it unfit for drinking or other uses, or is causing a human health or other public nuisance condition."

Section 6.1.5 of the regulations defines a properly operating system as one that:

"utilizes a dispersal system that is not in soil saturated with groundwater or is inundated"

These two definitions are inconsistent. Section 6.1.5 should be revised to use the same language as Section 11.5.

5. Section 7.1 requires a "qualified professional" to perform site and soil evaluations for repairs to existing systems. This is a burdensome requirement that is unnecessary in most cases. Most repairs, especially Tier one repairs, could be designed by the contractor installing the system.
6. Sections 7.2, 7.3 and 7.4 require soil profile evaluations, percolation tests and groundwater tests for a repair to an existing system. This is also burdensome and unnecessarily expensive. A simple soil profile would be adequate for a repair to a system.

7. Table 2 in Section 8 requires a maximum soil application rate of 0.8 gallons per square foot per day for soils with percolation rates of 1 to 10 minutes per inch. Most codes in the state (including the Basin Plan of the North Coast Regional Water Quality Control Board) currently allow an application rate of 1.2 gallons per day per square foot for these types of well drained soils. This proposed standard would require increasing leachfield sizes by 33% in the most favorable soils for leachfield installations. A leachline with 2 square feet per linear foot of adsorption area would be required to increase from 50 feet of leachline per bedroom in the residence to 75 feet of leachline per bedroom. Justification should be provided for this significant increase in adsorption area requirements. This proposal will make repairs to existing systems on small lots extremely difficult.

Thank you for the opportunity to comment. The regulations are greatly improved from earlier versions, however, I consider the above issues to be serious issues that need to be corrected before adoption.

Sincerely,



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