AB 885

ON SITE WASTE WATER SYSTEM POLICY

BACKGROUND

On September 27, 2000, Governor Gray Davis signed into law, Assembly Bill 885 that required the State Water Resources Control Board (SWRCB) to adopt standards or regulations for the permitting and operation of onsite waste water systems (OWTS) by January 1, 2004. The Bill was originally written to address coastal onsite treatment systems but was later amended to address all OWTS throughout the State of California (www.leginfo.ca.gov – AB885 1999-2000). Draft standards or policy was released in 2005, but was not adopted due to opposition by the public and interest groups. In 2011 the organizations, Heal the Ocean (Santa Barbara) and Heal the Bay Santa Monica, filed a lawsuit against the SWRCB for failure to act. This resulted in the adoption of the statewide policy (standards).
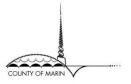
On June 19, 2012, the State Water Resources Control Board (SWRCB) approved Resolution No. 2012-0032, adopting the *Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems* (OWTS Policy). This Policy establishes a statewide, risk-based, tiered approach for the regulation and management of OWTS installations and replacements, and sets the level of performance and protection expected from OWTS.

1. What is the State Water Resources Control Board (SWRCB) and what does it regulate?

The SWRCB is a California regulatory agency with a five-member board that establishes statewide policies to protect water quality. The SWRCB implements the policies through nine Regional Water Quality Control Boards statewide. The State Water Board is also responsible for allocating and adjudicating surface water rights.

2. What are the Regional Water Quality Control Boards (RWQCB) and what is their function?

The nine Regional Boards are semi-autonomous and are comprised of nine part-time Board members. Regional boundaries are based on the watersheds and water quality requirements

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and on the unique differences in the climate, topography, geology and hydrology within each watershed. Each Regional Board sets standards, issues waste discharge requirements, determines compliance with those requirements, and takes appropriate enforcement actions in its regions. The Regional Board that governs Marin County is San Francisco Bay Regional Water Quality Control Board. (SFBRWQCB)

3. Why is additional State oversight for OWTS needed?

California was only one of two states that had not adopted statewide standards for the permitting and operation of OWTS. These standards are an attempt to bring more uniformity and consistency statewide.

4. When does the new policy take effect?

The OWTS (On Site Waste Water System) Policy took effect on May 13, 2013.

5. Does the SWRCB or the SFBRWQCB have additional authority to regulate OWTS that pose potential pollution problems?

Yes. State Water Code Sections 13260-13275 and 13280-13286.9 authorizes the SFBRWQCB to prohibit discharges from OWTS provided they have substantial evidence on record indicating that the disposal of waste from the OWTS will result in: a violation of water quality objectives; will impair present or future beneficial uses of water; will cause pollution, nuisance, or contamination; will unreasonably degrade the quality of any waters of the state.

6. Where can I get a copy or view this policy?

The policy can be obtained from the State of California Water Board web site at: http://www.swrcb.ca.gov/ click to Septic Systems (OWTS)

The policy can also be obtained from the County of Marin EHS (MCEHS) web site below: http://www.co.marin.ca.us/depts/CD/main/comdev/ehs/septic/septic_systems.cfm

7. How many properties in Marin County rely on septic systems (OWTS)?

Records indicate that there about 7,800-8,000 properties served by OWTS in Marin County.

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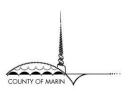## 8. What is the immediate effect of the new state wide policy to property owners?

If the current OWTS (septic system) is functioning properly and wastewater is not surfacing, there are no immediate impacts to property owner. Even if the OWTS is malfunctioning, the Policy may not affect the property owners. Only properties that are within 600ft of a federally-listed impaired water body (303d) will have different requirements (Tier 3) for repairs, replacement, or new OWTS. (See Tier 3 described in #9.) Properties within the county and not within 600ft to an impaired water body will only be subject to current county regulations and policies.

9. What will be different?

Septic systems will now be called OWTS (Onsite Waste Water Treatments Systems).

OWTS fall into one of 5 tiers described in the policy:

- **Tier 0** – Existing OWTS that are functioning properly.
- **Tier 1** – New, repaired, or modified OWTS that meet a specific set of "low risk" siting and design standards defined in the policy and are not regulated under a Local Area Management Program (LAMP, Tier 2).
- **Tier 2** – Under Tier 2, OWTS are regulated by local agencies that have an RWQCB-approved Local Area Management Program (LAMP). To have its LAMP approved, the local agency must demonstrate to the RWQCB that the LAMP is as protective of water quality and public health as the Tier 1 criteria. If a LAMP is not submitted and approved within 5 years of adoption of the state wide policy, OWTS regulations default to Tier 1 requirements. Marin County Environmental Health Services will submit a Tier 2 LAMP to the San Francisco Bay Regional Water Quality Control Board. Until a LAMP is submitted and approved, or before the 5 year deadline, OWTS in Marin County will be regulated by the existing Marin County Code 18.06 and 18.07 and Regulations for Design, Construction, and Repair of Individual Sewage Disposal Systems. Areas within 600 ft of a 3039d) federally-listed water are the only exception. See Tier 3.
- **Tier 3** – Describes requirements for the new, repaired, or modified OWTS located *within specified distances of impaired surface water bodies (pathogens, nitrates).* Properties with new, repaired, or replacement OWTS that are within 600 ft of a 303(d) federally-listed impaired water body will be required to install supplemental treatment systems. Supplemental treatment systems will reduce the pathogens or nitrogen and chemical levels to specified levels and meet Tier 3 requirements of the State Policy.
- **Tier 4** – Failing OWTS. Failing OWTS must be repaired to comply with either Tier 1, 2 or 3 standards.

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10. How can I determine if my property is within 600 ft of a 303(d) federal listed impaired water body?

To determine if a property is within 600 ft of 303(d) impaired water body, the address can be entered at: http://gispublic.waterboards.ca.gov/webmap/owts/owtsmap.html

The map is a helpful tool to determine proximity to a water body. A more precise measurement may be required to verify if the actual distance to the water body.

11. What if I want to remodel or add an addition to my residence and my property is within 600 ft of a 303(d) listed impaired water body?

If you add a bedroom or a room that provides privacy, the existing OWTS must meet Tier 3 requirements and comply with current Marin County Regulations and the Remodel & Additions Policy. Approval for additions that add 500 square feet or less and do not exceed the total square foot limit for the number of legal bedrooms and are not bedrooms or rooms that provide privacy, will be dependent on a performance evaluation of the existing OWTS and the operating condition.

12. How will the OWTS Policy affect my property that is served by an OWTS but is not within 600 ft of a 303(d) listed impaired water body?

If the OWTS is functioning properly and the property is not within 600 ft from a 303(d) listed impaired water body, the policy will have no impact (Tier 0). If the existing OWTS malfunctions or fails, a repair/replacement system that complies with Marin County Regulations will be needed.
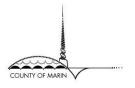
13. What regulations will Marin County have to adopt now that OWTS Policy is in effect?

If Marin County chooses to administer the OWTS within the County, they will have up to 3 years to develop and submit a LAMP (Local Agency Management Plan) to the San Francisco Bay Water Quality Control Board. The RWQCB will be required to approve or deny the request within 5 years of the effective date of the Policy (May 13, 2013).

14. What are the requirements of a LAMP?

LAMP requirements are outlined in the statewide policy sections 9.1 through 9.6. Readers may review these requirements at:

http://www.wterboards.ca.gov./water issues/programs/owts/index.shtml

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15. Will the current fees for septic systems (OWTS) in Marin County be impacted by this new policy?

There are no changes to the current fee structure at this time.

16. Will I be required to sample my water well or install ground water monitoring wells if my OWTS is in Tier 2?

No.

17. How does this policy affect Marin County Individual Sewage Disposal Systems Codes and Regulations?

Beyond the Tier 3 requirements for properties near impaired water bodies, it is believed that the current codes and regulations significantly conform to the OWTS Policy and that minor modifications to the Marin County codes and regulations will be needed for the Marin County LAMP to be approved.

18. Will I be required to connect to a public sewer system when my OWTS needs repair or replacement?

Possibly. The statewide policy standards require connection to a public sewer if the OWTS is in need of repair or replacement and the property is within 200 ft of the public sewer. However, this provision does not apply when the connection fees and construction costs are greater than twice the total cost of the OWTS replacement or repair, and the local agency determines that the discharge from the OWTS will not affect ground water or surface water to a degree that makes it unfit for drinking or other uses.

19. What are the 303(d) federally listed impaired water bodies in Marin County?

Listed for Pathogens

China Camp
Lawson's Landing
Pacific Ocean at Bolinas Beach
Pacific Ocean at Muir Beach
Petaluma River
Tomales Bay

Listed for Nitrogen

Lagunitas Creek
Petaluma River
Tomales Bay
Walker Creek

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