

ONSITE WASTEWATER TREATMENT SYSTEMS LEGISLATION AND PROPOSED REGULATIONS

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AB 885

History of Law

- ▣ AB 885 (Jackson) enacted by State Legislature in 2000
- ▣ Result of concern and frustration with beach closures, slow TMDL progress, and lack of coherent and consistent regulatory process for septic systems
- ▣ Law initiated by environmental interest groups, and supported by CCDEH and other stakeholders

AB 885

Elements of the Law

- ▣ Requires SWRCB to develop statewide regulations for onsite wastewater treatment systems (OWTS)

- ▣ Regulations to apply to any system:
 - Constructed or replaced
 - Subject to a major repair
 - That pools or discharges to the surface
 - Judged by RWQCB or local agency to be a threat of water quality degradation or contamination

AB 885 Regulations to Include:

- ▣ Minimum operating requirements for OWTS
- ▣ Requirements for OWTS adjacent to 303(d) impaired waters
- ▣ Requirements for authorizing local agency programs
- ▣ Corrective actions for failing systems
- ▣ Minimum monitoring requirements
- ▣ Exemption criteria
- ▣ Requirements for defining “major repair”

AB 885 Regulations - Chronology

- ▣ 2001/2002 - Facilitated stakeholder process and initial drafting of regulations by SWRCB staff
- ▣ 2003 - Continued stakeholder meetings with SWRCB
- ▣ 2004/2005 - SWRCB staff continues work on regulations
- ▣ 2005-2008 - EIR studies and more work on regulations
- ▣ Nov 2008 - Public release of Draft Regs and DEIR
- ▣ Dec 2008-Feb 2009 - Public hearings and comments!!
- ▣ 2009/2010 - Back to the drawing board

2008 Draft Regs/DEIR - Key Issues

- ❑ Mandatory water well testing and septic tank inspections for new and existing OWTS
- ❑ Soil and groundwater evaluation criteria
- ❑ Prescriptive standards for treatment, dispersal system design and monitoring
- ❑ 303(d) treatment standards
- ❑ Vague regulatory implementation process
- ❑ Cost impacts on local agencies

Revised SWRCB Approach

- ▣ Tiered, risk-based regulations
- ▣ Applies only to existing OWTS, except for impacted areas
- ▣ State waiver for low risk areas
- ▣ Local regulatory flexibility for higher risk areas
- ▣ Attempts to accept and incorporate existing local regulatory programs as much as possible
- ▣ Developed through meetings with key stakeholders (CCDEH, RCRC)
- ▣ Details still being ironed out

Proposed Regulatory Tiers

- ▣ Tier 1 – Low Risk Areas, suitable for relatively simple OWTS (e.g., conventional septic systems)
- ▣ Tier 2 – Higher Risk Areas, requiring use of more advanced OWTS (e.g., alternative septic systems)
- ▣ Tier 3 – Areas Impacted by OWTS, requiring advanced treatment and/or specialized management (e.g., 303d listed water bodies)

Tier 1

Conventional, Low Risk OWTS

- ▣ **Statewide waiver for OWTS where basic criteria are met for simple gravity systems**
- ▣ **Local agency must have basic permitting and surveillance program in place**
- ▣ **No water quality monitoring by OWTS owners or local agency**
- ▣ **Estimated that ~20% of OWTS will fall under Tier 1**

Tier 2

Higher Risk OWTS

- ▣ Areas requiring more advanced OWTS and/or monitoring
- ▣ Regulations will provide guidance and examples of acceptable standards, criteria and monitoring
- ▣ Local agencies responsible for developing local program and submitting to RWQCB for approval
- ▣ Local program deemed approved unless RWQCB objects
- ▣ Approval good for 5 years; annual report to RWQCB
- ▣ SWRCB final referee between local agency & RWQCB

Tier 3

OWTS in Impacted Areas

- ▣ Applies to new and existing OWTS, where:
 - Surface Waters: Adjacent to 303(d) listed waters impaired for pathogens or nitrate
 - Ground Waters: Within RWQCB Prohibition Area

- ▣ Defers to OWTS requirements per adopted TMDL

- ▣ 5 year grace period for TMDL adoption

- ▣ In lieu of TMDL, requires advanced treatment for :
 - Pathogens: Any OWTS < 100' to 303(d) water body
 - Nitrate: All OWTS in watershed with density > 1 residence/ 2.5 acres

Documents to be Developed by SWRCB

- ▣ **State Board General Waiver for Tier 1 OWTS**
- ▣ **SWRCB Plan for Water Quality Control that overrides criteria in Regional Board Basin Plans**
- ▣ **Procedural Requirements for Implementation**
- ▣ **Revised EIR**

Tentative Schedule

- ▣ June 2010 – SWRCB distributes conceptual outline and conducts several workshops
- ▣ Summer 2010 – SWRCB reviews comments and drafts formal documents and revised DEIR
- ▣ Fall 2010 – Hearings on Draft Regs and DEIR
- ▣ Winter 2011 – Adopt Regulations and certify EIR
- ▣ Summer 2011 – New Regulations go into effect