



## Legislation Text

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**File #:** 09-0139, **Version:** 1

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Environmental Management Department recommending the following pertaining to Assembly Bill 885 (AB 885):

- (1) Authorize Chairman to sign letter for submittal to the State Water Resources Control Board by February 9, 2009 regarding AB 885 onsite wastewater treatment systems (OWTS) proposed regulations and Draft Environmental Impact Report, citing issues as described in the analysis of the impacts;
- (2) Direct Environmental Management staff to continue to work with Regional Council of Rural Counties (RCRC), California State Association of Counties (CSAC), California Conference of Directors of Environmental Health (CCDEH) and State Water Resources Control Board (SWRCB) with the goal of developing a reasonable set of minimum standards for onsite wastewater treatment systems that provide public health and water quality protection;
- (3) Direct the Environmental Management staff to provide periodic updates to the Board as this issue is addressed;
- (4) Authorize other actions that the Board deems appropriate, possibly including the presence of interested members of the Board of Supervisors or designees who may wish to appear February 9, 2009 at the SWRCB to speak on behalf of the entire Board of Supervisors on this issue.

Fiscal Impact/Change to Net County Cost: NA

Summary: The State Water Resources Control Board (SWRCB) has proposed regulations that will establish new statewide requirements for the siting, permitting, construction, permitting, maintenance and performance monitoring of all new and existing onsite wastewater treatment systems (OWTS) including septic tank systems with leach fields. Implementation of the regulations as proposed will negatively impact all existing and future property owners with OWTS and will potentially restrict future development within El Dorado County.

Based on case studies for Merced and Los Angeles County, the SWRCB estimates that implementation of the proposed regulations will cost California homeowners and businesses somewhere between \$350 and \$400 million per year, of which 91% to 98% of the cost would be incurred by homeowners. Because the case studies they used did not include smaller counties in more rural areas of the State, it is believed that actual costs could be considerably more than projected and unit costs for individual property owners in rural areas could be disproportionately higher than forecast.

Background: Assembly Bill 885 was adopted in 2000. It directed the State Water Resources Control Board (SWRCB) to consult with the then State Department of Health Services, the California Coastal Commission, the California Conference of Directors of Environmental Health (CCDEH), counties, cities and other interested parties, on or before January 1, 2004, to adopt regulations or minimum standards for the permitting and operation of OWTS throughout the state.

Although AB 885 required adoption of regulations before January 1, 2004, this regulatory

development process was delayed several times in response to concerns about draft regulations that were previously released for review by local government agencies and others. Over the past 7 years, the SWRCB have held stakeholder meetings attempting to develop regulations. County of El Dorado Environmental Management Department (EMD) staff participated in these stakeholder meetings. A copy of the letter Environmental Management sent to the SWRCB following public review of the previous set of draft regulations is included as Attachment A. This letter, dated December 15, 2005, was written following formal release of the Notice of Preparation for the current rule-making process.

Two years ago a final draft of the regulations was posted on the SWRCBs website. Much of the input provided by the stakeholders was not considered. The stakeholders were advised this was the last draft, the Environmental Impact Report (EIR) was to be prepared, and there would be no further stakeholder meetings. The CCDEH made attempts to initiate additional stakeholder workshops because they recognized the proposed regulations exceed the authority of the original legislation and are a detriment to the homeowners of the State of California. Their attempts for additional workshops were unsuccessful. No further input was accepted by the SWRCB.

In November 2008, the SWRCB released the proposed AB 885 Regulations and Draft Environmental Impact Report (DEIR) for the 90 day public review and comment rulemaking process. Workshop and hearing meetings were scheduled by the State. None of the stakeholders were allowed input concerning location or timing of the workshops. The EMD, in conjunction with CCDEH, immediately began meeting and reviewed the EIR and developed a strategy to attend the workshops and formulate a written response to the DEIR and proposed regulations.

The County of El Dorado Environmental Management Department is strongly opposed to the proposed regulations. Working in collaboration with other stakeholders such as Regional Council of Rural Counties (RCRC), CCDEH and Surveyors, Architects, Geologists, Engineers (SAGE), EMD has prepared a response to the proposed regulations and DEIR (Attachment B). Comments on the DEIR are due February 9, 2009.

After the final hearing in Sacramento, the SWRCBs EIR consultant will need to respond in writing to all comments that have been received and issue a Final EIR. This document will then be considered for certification by the SWRCB and the proposed regulations will be considered for adoption. If adopted, the regulations will go into effect six months thereafter.

The subsequent anticipated timeline is as follows:

- November 7, 2008: Release documents for public review and comment
- November 7, 2008 - February 9, 2009: 90 day public comment period with 12 public meetings
- December 2008 thru April 2009: SWRCB Staff prepares responses to comments and makes appropriate revisions to proposed regulations, statewide waiver and DEIR.
- August 2009 - 30 day comment period ending with adoption of EIR, regulations and waiver
- November 2009: Completion of Office of Administrative Law (OAL) review
- January 1, 2010 - Effective date of regulations
- July 2010 - Implementation date of regulations (AB 885 stipulated a six month delay)

There are several requirements in the proposed regulations that may adversely impact current and future El Dorado County property owners with OWTS. We have placed information on the Environmental Management Department website at

[<<http://www.co.el-dorado.ca.us/emd/envhealth/AB\\_885.html>>](http://www.co.el-dorado.ca.us/emd/envhealth/AB_885.html)  
[<<http://www.co.el-dorado.ca.us/emd/index.html>>](http://www.co.el-dorado.ca.us/emd/index.html).

or

If stakeholders are unsuccessful in their opposition and the regulations are adopted in January 2010, assuming no changes to the anticipated timeline, EMD will be holding workshops for the public and contractors to educate them on the requirements of the new regulations prior to their implementation in July of 2010.

Action to be taken following Board approval: Forward letter to EMD for processing.

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Concurrences: