

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LAHONTAN REGION**

**RESOLUTION NO. R6T-2004-0026**

**WAIVING THE NEED TO FILE A REPORT OF WASTE DISCHARGE  
AND WAIVING WASTE DISCHARGE REQUIREMENTS FOR  
ON-SITE DOMESTIC WASTEWATER TREATMENT AND DISPOSAL SYSTEMS  
REGULATED BY LOCAL AGENCIES, LAHONTAN REGION**

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**WHEREAS**, the California Regional Water Quality Control Board, Lahontan Region (Regional Board) finds:

1. On-site wastewater treatment and disposal systems (OWTS) have been used throughout the Lahontan Region, except where prohibited, to provide wastewater service for residential, small community, and commercial facilities discharging domestic wastewaters in areas not served by community sewer systems;
2. Section 13260 of the California Water Code (CWC) requires that any person discharging waste or proposing to discharge waste, other than to a community sewer system, that could affect the quality of the waters of the state, shall file a report of waste discharge (ROWD) with the appropriate regional board;
3. OWTS involve discharges of waste that could affect the quality of ground waters and surface waters, and the beneficial uses they serve, and are therefore subject to regulation by regional boards pursuant to the CWC;
4. Section 13260(b) provides that the need to file an ROWD may be waived by a regional board pursuant to Section 13269. Section 13269 provides that a regional board may waive the need to file an ROWD, and/or may waive waste discharge requirements (WDRs), for specific types of discharges, if the regional board determines that the waiver is consistent with all applicable state or regional water quality control plans and that the waiver is in the public interest. Waivers for specific types of discharges may not exceed five years, and may be renewed by a regional board. The waiver must be conditional and may be terminated at any time by the State Water Resources Control Board (State Board) or a regional board. The regional board must require compliance with the conditions and water quality monitoring as necessary to demonstrate compliance. The water quality monitoring requirements may be waived if the Regional Board determines that the discharges do not pose a significant threat to water quality;
5. OWTS that are adequately regulated by local government agencies do not pose a significant threat to water quality and comprise a specific type of discharge for which waiving the need to file an ROWD is in the public interest;
6. The Regional Board adopted a revised *Water Quality Control Plan for the Lahontan Region*

(Basin Plan) that became effective in 1995. The Basin Plan includes “Guidelines for Waste Disposal from Land Developments” (Guidelines) and “Regional Board Guidelines for Implementation of Criteria for Individual Waste Disposal Systems” (Implementation Policy). The Guidelines were developed as amendments to the preceding version of the Basin Plan and were approved by the Regional Board in Resolution No. 6-88-15, adopted January 14, 1988. The Implementation Policy was concurrently approved in Resolution No. 6-88-16. The Guidelines and Implementation Policy took regulatory effect upon approval by the State Water Resources Control Board on June 16, 1988 (January 19, 1989, for Kern County), and are contained in the 1995 Basin Plan.

7. On January 14, 1988, the Regional Board also adopted Resolution No. 6-88-18, titled “Waiver for Waste Discharge Requirements for Specific Types of Discharges.” This Resolution waived WDRs for OWTS described as “[i]ndividual sewage disposal systems, and small community, commercial, institutional and industrial operations which utilize on-site wastewater treatment and disposal for domestic wastes,” on the condition that “[t]he discharge is not to surface waters.”
8. The Basin Plan provides that the Regional Board Executive Officer may enter into Memoranda of Understanding (MOUs) with appropriate local government regulatory agencies to ensure that the local agencies adopt and enforce appropriate standards for OWTS, including siting and density criteria at least as protective as regulations established in the Basin Plan. Once the local agency signed an MOU, the need to file an ROWD for those OWTS covered by an MOU was waived;
9. The Regional Board has entered into an MOU for OWTS with each local government agency identified in Attachment A, which is hereby made a part of this Resolution. Each MOU provides that the Regional Board may periodically review its OWTS waiver policy and the adequacy of local agency regulations, local agency permitting and enforcement programs, and local agency permitting records for OWTS. The Guidelines and Implementation Policy list general and specific provisions for OWTS in both new and existing land developments, have been incorporated into the MOUs, and provide a basis to judge the adequacy of OWTS regulation by local agencies;
10. CWC Section 13269(b)(2) provides that an OWTS waiver in effect on January 1, 2002, may remain valid until June 30, 2004, unless the State Board or regional board terminates the waiver prior to that date;
11. In accordance with Section 13269, the Regional Board's existing OWTS waiver, Resolution No. 6-88-18, will expire as of June 30, 2004;
12. CWC Section 13291 requires the State Board to adopt, on or before January 1, 2004, statewide regulations or standards for the permitting and operation of OWTS. The statewide regulations for OWTS will apply to OWTS within the Lahontan Region, as specified in Section 13291. To date, such regulations have not been adopted;
13. Until the State Board adopts statewide regulations and implementation requirements pursuant

to Section 13291, the Regional Board desires to maintain the current regulatory waiver framework for OWTS in the Lahontan Region;

14. Continuing the Regional Board's existing program for regulation of OWTS does not create any new or additional requirements or actions for OWTS programs currently being implemented by local government agencies in the Lahontan Region pursuant to the existing MOUs for OWTS;
15. In accordance with the California Environmental Quality Act (CEQA, Public Resources Code Section 21000, et seq.), the Regional Board certified a functional equivalent document for the Guidelines, and certified negative declarations for both the Implementation Policy and the Resolution No. 6-88-18 waiver policy. The Regional Board finds that the above-cited CEQA documents adequately analyzed and mitigated all significant or potentially significant effects of the OWTS policy, and that environmental conditions have not since changed in a manner that would lead to a reasonable conclusion that significant adverse effects on the environment would occur from continued implementation of the OWTS policy; and
16. On June 9, 2004, the Regional Board, at a public meeting, heard and considered all comments pertaining to this matter.

**THEREFORE BE IT RESOLVED** that:

1. The Regional Board hereby waives the need to file an ROWD, monitoring requirements, and WDRs, for OWTS adequately regulated by local government agencies pursuant to an MOU with the Regional Board;
2. This waiver is in the public interest by continuing in effect the Regional Board's existing OWTS waiver policy, for a period of five years from the date of adoption of this Resolution, unless terminated sooner;
3. This waiver applies to existing and proposed OWTS discharges for which the Regional Board has waived the need to file an ROWD because the OWTS discharge is covered by an MOU;
4. An ROWD must be filed with the Regional Board for any OWTS discharge that is not subject to local agency regulation pursuant to provisions in an applicable MOU, or that is referred to the Regional Board by a local agency pursuant to provisions in an MOU, or when so requested in writing by the Executive Officer (even if that OWTS discharge may be subject to local agency regulation). If the Regional Board requests or receives an ROWD, no discharge may commence until authorized in writing by the Executive Officer or until otherwise permissible by statute;
5. The Regional Board reserves the authority to prescribe an individual waiver for any OWTS discharge if that discharge represents a threat to water quality, even if that discharge may be subject to local agency regulation;

6. The Regional Board reserves the authority to prescribe individual WDRS or general WDRs for any OWTS discharge pursuant to relevant provisions of the CWC if that discharge represents a threat to water quality, even if that discharge may be subject to local agency regulation;
7. This waiver does not apply to new discharges using OWTS in areas where the Regional Board does not have an MOU with the local agency, or where the MOU does not cover a specific type of OWTS discharge. In this situation, each discharger not covered by the waiver must file an ROWD with the Regional Board; and
8. Whenever an ROWD is required, the discharger shall pay any applicable filing fee established pursuant to State Board regulations.

I, Harold J. Singer, Executive Officer, do hereby certify that the foregoing is a full, true and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Lahontan Region, on June 9, 2004.

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HAROLD J. SINGER  
EXECUTIVE OFFICER

Attachment A: List of Local Governmental Entities within the Lahontan Region that have a formal Memorandum of Understanding on Septic Tank Guidelines with the Regional Board

AEM/cgT: OWTS Waiver

**Attachment A:** List of Local Governmental Entities within the Lahontan Region that have a formal Memorandum of Understanding on Septic Tank Guidelines with the Regional Board

<u>Entity</u>	<u>Initial Execution Date</u>
Adelanto, City of	March 24, 1989
Alpine County	July 2, 1990
Apple Valley, Town of	February 6, 1990
Barstow, City of	October 28, 1988
California City, City of	March 24, 1989
Hesperia, City of	February 13, 1990
Inyo County	February 6, 1990
Kern County	April 9, 1990
Lassen County	March 11, 1991
Lassen County (Cady Springs)	November 14, 1995
Los Angeles County	September 26, 1989
Mesa Community Services District (Inyo County)	August 30, 1993
Modoc County	December 26, 1989
Mono County	January 24, 1989
Placer County	April 18, 1989
Nevada County	December 13, 1989
San Bernardino County	June 27, 1989
Sierra County	February 14, 1989
Victorville, City of	February 2, 1989