

**STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION**

RESOLUTION NO. R04-014

**APPROVING A MEMORANDUM OF UNDERSTANDING AND WAIVERS OF WASTE
DISCHARGE REQUIREMENTS FOR
ONSITE WASTEWATER TREATMENT SYSTEMS IN THE CITY OF MALIBU**

WHEREAS, the California Regional Water Quality Control Board, Los Angeles Region (Regional Board) finds that:

1. California Water Code (CWC) section 13260(a)(1) requires that any person discharging wastes, or proposing to discharge wastes other than into a community wastewater collection system, which could affect the quality of the waters of the State, shall file a report of waste discharge (ROWD) with the regional water quality control board exercising jurisdiction in the area, and that regional board shall then prescribe requirements for the discharge or proposed discharge of wastes.
2. CWC section 13269 allows the regional board exercising jurisdiction to waive the requirement for an ROWD under section 13260 or waive the requirement to adopt waste discharge requirements (WDRs) for specific types of discharges where such a waiver is consistent with any applicable state or regional water quality control plans and is in the public interest. Section 13269 requires that the Regional Board enforce the waivers and renew and/or terminate them every five years.
3. CWC sections 13290 and 13291 require that the State Water Resources Control Board adopt statewide regulations for the permitting and operation of onsite wastewater treatment systems (OWTS). The regulations shall include requirements for operation, performance monitoring, corrective action, authorization of a qualified local agency to implement regulations, and for systems adjacent to impaired waters identified pursuant to section 303(d) of the Clean Water Act (33 U.S.C. 1313(d)).
4. The Regional Board adopted Resolution R04-008 on June 10, 2004, approving waivers of WDRs and a template Memorandum of Understanding (MOU) for residential and certain de minimis commercial OWTS. The resolution directed that individual MOUs be negotiated with local agencies based on the template MOU. Waivers would be automatically extended to five years from the effective date of the Resolution in areas where a local agency entered into an individual MOU with the Regional Board. The City of Malibu was allowed a period of 60 days to negotiate an individual MOU.
5. Resolution R04-008 authorized the Executive Officer to approve and execute on behalf of the Regional Board individual MOUs with local agencies in the Region based on the requirements of the template MOU. However, at the June 10, 2004 Board meeting, the Regional Board directed staff to bring the individual MOU for the City of Malibu before the Board for their consideration.

6. Regional Board Staff and City of Malibu staff have drafted an individual MOU based on the template MOU adopted by Resolution No. R04-008. The proposed individual MOU is attached hereto and incorporated by reference. As specified in the template MOU, the proposed individual MOU commits the City to amending their municipal plumbing code and OWTS program, if necessary, in order to be substantially equivalent to any statewide standards adopted pursuant to CWC sections 13290 and 13291. In addition, the proposed individual MOU for the City contains interim measures to be taken by the City to increase the effectiveness of its permitting program. Interim measures are proposed for all OWTS in the City of Malibu, with initial efforts focused on areas identified as contributing to nitrogen impairments in the Malibu Creek and Lagoon and bacteria impairments in the Malibu Creek, Lagoon and beaches.
7. The proposed MOU satisfies the requirements of section 13269 of the CWC and allows the Regional Board to extend waivers of WDRs for onsite sewage treatment systems in the City of Malibu until June 10, 2009, which is five years from the effective date of Resolution R04-008. Such waivers are consistent with the *Water Quality Control Plan for the Los Angeles Region* (Basin Plan) and are in the public interest.

THEREFORE, BE IT RESOLVED that the Regional Board:

1. Adopts the MOU for the City of Malibu regarding OWTS.
2. Waives WDRs and the requirement to submit an ROWD for residential and certain de minimis commercial onsite wastewater treatment systems until June 10, 2009, pending approval of the individual MOU approved by this Resolution by the Council of the City of Malibu. Owners of OWTS specified in the MOU shall apply for permits from the City of Malibu in accordance with applicable Malibu ordinances. If the MOU is not approved by the Council of the City of Malibu within 45 days of the effective date of this Resolution, the waivers of WDRs shall terminate and the Regional Board shall undertake direct regulation of all new or existing OWTS in the City of Malibu.
3. Directs that a copy of this Resolution shall be forwarded to the State Water Resources Control Board.
4. Directs that a copy of this Resolution shall be forwarded to all interested parties.

CERTIFICATION

I, Jonathan Bishop, Interim 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, Los Angeles Region on August 5, 2004.

Original signed by Jonathan Bishop on August 12, 2004

JONATHAN BISHOP
Interim Executive Officer

Date