

DRAFT ATTACHMENT A

**WAIVER CONDITIONS
FOR THE MANAGEMENT OF PETROLEUM-IMPACTED SOILS
AT AUTHORIZED WASTE PILE MANAGEMENT FACILITIES
ON ACTIVE OIL FIELD LEASES AND FEE PROPERTIES
IN THE CENTRAL COAST REGION
(Revised July 8, 2005)**

GENERAL WAIVER CONDITIONS

The following conditions apply to all discharges enrolled in the General Waste Pile Management Waiver in accordance with Order No. R3-2005-006, as of the adoption date of this Order:

A. Prohibitions

1. Discharge of materials classified as “hazardous,” as defined in California Code of Regulations (CCR), Title 23, Section 2521, or hazardous waste that has been granted a variance from hazardous waste management requirements pursuant to Section 25143 of the Health and Safety Code, or hazardous materials and hazardous wastes defined per CCR Title 22, Division 4, Chapter 30, and Article 11, or Resource Conservation and Recovery Act hazardous waste defined per 42 USCA Section 6903, or chemical substances or mixtures regulated under Section 6 of the Toxic Substances Control Act (15 USCA Section 2605), is prohibited.
2. Any discharge of waste to land, except at a licensed disposal facility that is not specifically authorized by this Waiver or individual waste discharge requirements, is prohibited. Discharge to areas outside the boundary of the designated Waste Pile Management Facility as approved by the Executive Officer, is prohibited. The Discharger shall identify the proposed Waste Pile Management Facility boundaries in its report of waste discharge (ROWD) and shall provide survey locations for the facility boundaries. When these limits are identified to the satisfaction of the Executive Officer, these coordinates will define the limits of the corresponding Waste Pile Management Facility boundary for the purposes of this prohibition.
3. Petroleum-impacted soil stockpiling and/or establishment of a treatment/processing area of petroleum-impacted soils and spent aggregates without written notification and full disclosure of the proposed activities to the property owner, a copy of which must be provided to the Water Board, is prohibited.
4. Discharge and treatment of petroleum impacted soils and spent sandblasting aggregates within five feet of the highest anticipated elevation of underlying groundwater (including perched water), is prohibited.
5. Creation of a condition of pollution, contamination, or nuisance, as defined by California Water Code (CWC) Section 13050, is prohibited.
6. Activities posing a threat to public health and safety or water quality are prohibited.

7. Discharge of waste, other than petroleum-impacted soils and spent sandblasting aggregates, is prohibited, except in compliance with Water Code Section 13264.
8. Discharge of radioactive substances or chemical and biological warfare agents is prohibited.
9. Discharge (including overflow, bypass, seepage, erosion, sediment deposition and over spray) of solid waste, liquid waste or leachate to ponded water or waters of the State, including surface water, perched water, ephemeral drainages or groundwater, is prohibited.
10. Permanent disposal (e.g., landfilling) under the authority of this General Waiver is prohibited.
11. The placement of permanent inhabited structures on petroleum-impacted materials is prohibited.
12. The discharge of petroleum-impacted materials to the habitat of a sensitive, special status or candidate species without proper permitting and mitigation is prohibited.
13. The discharge of petroleum-impacted materials shall not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.
14. The discharge of petroleum-impacted materials shall not conflict with any applicable habitat conservation plan or natural community conservation plan.
15. The discharge of petroleum-impacted materials shall not cause a substantial adverse change in the significance of a historical or archaeological resource as defined in §15064.5 of the California Environmental Quality Act (CEQA) Guidelines.
16. The discharge of petroleum-impacted materials shall not directly or indirectly destroy a unique paleontological resource or sites of unique geologic feature, nor disturb any human remains, including those interred outside of formal cemeteries, as defined in §15064.5 of the California Environmental Quality Act (CEQA) Guidelines.
17. Waste Pile Management Facilities shall not be located in the upper parts of known landslides or in landslide prone areas without a prior geologic evaluation.

B. Specifications

1. Design and construction of containment features and monitoring systems shall be approved by the Executive Officer prior to construction. The Discharger shall contact the appropriate city or county planning and building authorities to obtain construction permits, if needed.
2. At termination of this General Order's applicability to the site, the Discharger shall restore the Waste Pile Management Facilities to the same condition as before the discharge and to the Executive Officer's satisfaction.
3. Waste Pile Management Facilities shall be operated so that **no** pollutants are discharged to surface water or groundwater.
4. Waste Pile Management Facilities shall be designed, constructed, operated and maintained such that precipitation falling directly on the waste piles and/or treatment/processing areas will be contained and managed within the designated waste pile facility boundaries. The Discharger shall implement Management Practices to effectively control run-on and contain run-off within the facility (including feedstock and product stockpile areas).

5. All standing liquids within the contained Waste Pile Management Facility shall be promptly removed and disposed of legally and appropriately.
6. Waste Pile Management Facilities shall maintain an impervious working area (deck) to prevent stormwater infiltration. Suitable impervious materials must be approved by the Executive Officer and may include heavy-gauge plastic sheeting (not less than 40 mils thick and compatible with waste and leachate), a two-foot-thick low permeability soil layer (not greater than 10^{-6} cm/sec), an adequate thickness of appropriately constructed reuse material, or appropriate geologic site conditions.
7. The Discharger shall not violate Basin Plan prohibitions.
8. All liquids used within Waste Pile Management Facilities shall be limited to the minimum amount necessary for dust control, construction, and soil treatment activities. All liquids shall be appropriately managed or removed within 48-hours.
9. Water collected in any storm water catchment basin may be used in minimum amounts within the Waste Pile Management Facility boundary as necessary for dust control and compaction provided:
 - a. The water does not infiltrate past a depth where effective evaporation can occur.
 - b. No discharge off site (outside the waste management unit containment area) is allowed absent coverage under and compliance with an industrial general permit.
10. By **October 1 of each year**, the Discharger shall complete implementation of all necessary Management Practices and maintenance activities in preparation for the upcoming rainy season, including but not limited to the following:
 - a. Completion of all necessary run-on and run-off diversion and erosion prevention measures.
 - b. Completion of all necessary construction (grading), maintenance, or repairs of precipitation and drainage control facilities shall be completed.
 - c. Ensure the structural integrity and effectiveness of all containment structures are maintained.
11. The Discharger shall empty storage facilities associated with precipitation and drainage control systems immediately following each storm, or otherwise manage storage facilities to maintain the 100-year, 24-hour storm design capacity of the system. The Discharger shall maintain a minimum of two feet of freeboard in all storm water/sediment basins at all times.
12. The Discharger shall repair all Waste Pile Management Facilities with visible erosion damage, cracking, or ponding as soon as practicable.
13. Any applicable exemption from permitting requirements for industrial facilities under the National Pollutant Discharge Elimination System (NPDES) regulations or the Clean Water Act does not exempt Waste Pile Management Facilities from the storm water requirements of this general conditional waiver.
14. The design and construction of Waste Pile Management Facilities including all impervious working areas, and diversionary and containment structures (berms, curbing, etc.) shall be performed by experienced personnel and in accordance with "Good and Workmanlike" construction standards, as determined by oversight agency inspections. Specifications and plans shall be signed by a principal executive officer of at least the level of vice-president or their duly authorized representative.
15. The Discharger shall promptly characterize (chemically) all petroleum-impacted soils placed within authorized Waste Pile Management Facilities for the purpose of determining the appropriate end use of the impacted soils (i.e., which soils meet beneficial reuse standards, require offsite disposal or require further processing and treatment). Chemical characterization shall be performed by analyzing

a sufficient number of samples and analyzing them for all expected constituents of concern. The Discharger shall specify in its report of waste discharge, the proposed number and analyses needed based on the nature and volume of the impacted soils. Waste piles shall be analyzed for Total Petroleum Hydrocarbons (TPH), full TPH range (gas, diesel, heavy oil), pH, Biotoxicity (fish bioassay), polycyclic aromatic hydrocarbons (PAHs), polychlorinated biphenols (PCBs), and CCR Title 22 metals, with identification of all identified and tentatively identified compounds. Any deviation from the analyses requirements must be supported by appropriate justification.

16. The Discharger shall implement the attached Monitoring and Reporting Program (MRP) No. R3-2005-006, or any individual MRP issued by the Executive Officer, in order to detect any impacts on waters of the state associated with and or caused by the discharge, past disposal practices and to ensure implementation of all necessary Management Practices and associated maintenance activities.

C. Water Quality Protection Standards

1. Discharge of waste shall not adversely impact the quality of State waters. Discharge of waste shall not cause a violation of any applicable water quality standard for receiving waters adopted by the Water Board or the State Water Board. Discharge of waste shall not cause concentrations of metals, salts, chemicals, hydrocarbons or radionuclides in groundwater underlying and down-gradient of the Waste Pile Management Facility to exceed the State Department of Health Services latest recommended Drinking Water Action Levels or Maximum Contaminant Levels of the California Code of Regulations Title 22, Division 4, Chapter 15, Article 5.5. Discharge of waste shall not cause the concentration of any constituents of concern or monitoring parameter to exceed its respective background value in any monitored media (e.g., surface water or groundwater) at any monitoring point pursuant to MRP No. R3-2005-006.
2. The Discharger shall install groundwater and surface water monitoring devices, as deemed necessary by the Executive Officer, to comply with this Order.
3. The Discharger is responsible for waste containment, monitoring, and maintenance so long as the waste poses a threat to water quality. The Discharger is also responsible for correcting any problems that may arise in the future as a result of the waste discharged. This responsibility continues as long as the waste has the potential to discharge to or affect waters of the state, as determined by the Executive Officer.
4. Discharge of waste shall comply with all applicable requirements contained in the Basin Plan. If any applicable requirements overlap or conflict in any manner with the requirements of this General Waiver, the most water quality protective requirement shall govern in all cases, unless specifically stated otherwise in this Order.

D. Provisions

1. The Discharger shall maintain records of weights or volumes of waste material received, where (specifically, maps and GPS coordinates) the waste material came from and a complete chemical characterization of the waste soils.
2. The Discharger shall maintain a copy of this General Waiver at the Dischargers' local offices and shall be available to on-site operating personnel.
3. The Discharger shall furnish any information that the Executive Officer may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the applicability of this General Waiver. The Discharger shall also furnish to the Executive Officer upon request, copies of records required to be kept by this General Waiver.

4. The Water Board and its authorized representatives shall be allowed to:
 - a. Enter upon the discharger premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Waiver.
 - b. Have access to and copy any records that must be kept under the conditions of this Waiver.
 - c. Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Waiver.
 - d. Photograph, sample or monitor for the purposes of assuring compliance with this Waiver, or as otherwise authorized by the California Water Code.
5. The Discharger must notify the Water Board when the documents from this section have been placed in or added to the operating record unless an alternate method is approved in writing and all information contained in the operating record must be furnished upon request to the Water Board. The Discharger must compile and maintain the following information (as applicable and appropriate) as it becomes available:
 - a. Site health and safety plan.
 - b. Inspection records, and training and notification procedures.
 - c. Results from any monitoring performed.
 - d. Records of the volumes and sources of materials processed at the Waste Pile Management Facility.
6. The Discharger shall have a continuing responsibility for waste containment, monitoring, maintenance, and to assure protection of usable waters from discharged wastes, so long as the reuse materials pose a threat to water quality.
7. The Discharger shall furnish the Water Board, within a reasonable time, any information that the Water Board may request to determine compliance with this Waiver.
8. Dischargers seeking coverage by this General Waiver shall submit an application package to the Water Board for Executive Officer approval. This package will serve as a report of waste discharge (ROWD). The Discharger shall provide a minimum of one application package (ROWD) per lease or fee property. Multiple Waste Pile Management Facilities located within a single lease or within the Discharger's existing Business Plan, as defined by the respective County or Certified Unified Public Agency in which the facility is located, may be addressed in a single ROWD. The ROWD must contain at a minimum, but not limited to the following information:
 - a. Source – The source(s) of the petroleum-impacted soil material must be identified by name of the lease or fee property and description of location where material was generated. Include maps and latitude and longitudinal coordinates, if known and when readily available.
 - b. Facility Location – The proposed Waste Pile Management Facility location must be identified by name of the lease or fee property and a positional description with reference to oil wells or other existing landmarks.
 - c. A site plan including:
 - i. Location,
 - ii. Size (acreage) and shape,
 - iii. Limits (physical boundaries) of Waste Pile Management Facility, and
 - iv. Storm water run-on and run-off control device locations.
 - d. A proposed facility Construction Plan. At a minimum, the construction plan shall include the facility's topographical contours, all proposed infrastructure, storage, processing, and treatment locations, and proposed liner details.
 - e. A Compliance Plan – This plan shall describe the proposed strategy/plan of action to achieve compliance with the conditions of the General Waiver and General MRP.

- f. A schedule for the installation of any proposed monitoring system/devices. If monitoring devices are planned, the proposed monitoring locations (including appropriate justification for each) shall be presented.
 - g. A proposed Implementation Plan, designed specifically for the proposed water quality-monitoring program and as required by the General MRP, as specified by the Executive Officer.
 - h. A discussion of the Waste Pile Management Facility and waste characteristics including:
 - i. Description of Waste Pile Management Facility's proposed storage, operation, treatment, processing (mixing) and maintenance activities and associated locations for each.
 - ii. Description of types of waste handled and proposed processing/screening procedures. This section must include a specific description of the proposed sampling and analyses protocol to be utilized to characterize the petroleum-impacted soil waste piles. This section must also include a description of the proposed soil screening procedures to be used (i.e., criteria and sampling protocol to determine which soils meet beneficial reuse standards, require offsite disposal or require further processing and treatment must be clearly defined).
 - iii. Identification of the total volume of waste handling capacity.
 - iv. Identification of the expected time period during which petroleum-impacted soils will be handled/processed, reused or disposed at the Waste Pile Management Facility.
 - v. Present and future (if known) land use of the Waste Pile Management Facilities.
 - vi. A topographical scale map showing the location, users and uses of all water wells and surface water bodies (creeks, rivers, lakes, etc.,) located within ½ mile of the Waste Pile Management Facility.
 - vii. Any other information pertinent to protection of water quality or public health and prevention of nuisance.
 - i. A proposed Management Practices (MP) Plan addressing the entire Waste Pile Management Facility. The MP Plan shall include the following items:
 - i. A location map depicting all proposed structural and non-structural Management Practices for the entire Waste Pile Management Facility.
 - ii. Proposed non-structural Management Practices. These typically include processes, prohibitions, procedures, activity schedules, etc., that prevent pollutants from contacting storm water discharges. Examples include good housekeeping, preventative maintenance, spill response, material handling and storage, employee training, waste handling, record keeping, inspections, and quality assurance.
 - iii. Proposed structural Management Practices. These generally consist of structural devices that reduce or prevent pollutants in storm water discharges. Examples may include control devices such as berms, secondary containment structures, and treatments such as erosion and sediment control, inlet controls, vegetative swales, etc.
 - j. Liquids management strategy – provide details on how liquid wastes (oily liquids, produced water and storm water) will be managed throughout the active life of the Waste Pile Management Facility. The proposed liquids management strategy must address the intended disposal method(s).
 - k. Fee – The application shall include a one-time fee corresponding to the lowest “threat” and “complexity” ratings, as identified in the State Water Board’s (SWRCB’s) fee schedule.
 - l. Local agency certification – A letter from the local permitting agency with jurisdictional authority certifying that it has permitted the proposed Waste Pile Management Facility.
 - m. Landowner Notification – a copy of the formal notification letter sent to the property landowner noticing the proposed waste pile project.
9. Upon receipt of a complete application (ROWD), the Executive Officer will notify the applicant of Waiver enrollment if the facility meets the conditions of this Order, or will deny enrollment. The applicant may initiate construction and operation of the Waste Pile Management Facility activities upon receipt of the Executive Officer approval. The Executive Officer will inform the Water Board of all Waiver enrollments in the agenda of its next regularly scheduled hearing.

10. The Discharger shall not discharge waste to the Waste Pile Management Facility before receiving notification from the Executive Officer stating that this General Waiver covers the Waste Pile Management Facility and that an individual conditional waiver is not required. The notification letter will specify the following:
 - a. Any modification to MRP No. R3-2005-006 or, if applicable, to the Discharger's existing individual MRP.
 - b. If applicable, that the Discharger's existing individual MRP (including any necessary modifications) shall continue in force in lieu of MRP No. R3-2005-006.
 - c. The effective period of coverage under this General Waiver.
 - d. Any additional conditions based on site-specific considerations.
11. Where the Discharger becomes aware that it failed to submit any relevant facts in a Report of Waste Discharge or submitted incorrect information in a Report of Waste Discharge or in any report to the Water Board, it shall promptly submit such facts or information.
12. By **October 1 of each year**, the Discharger shall submit an Annual Report summarizing all preparedness measures performed to ensure discharges to surface or groundwater do not occur during the impending rainy season, and ensure all relevant Management Practices (**Provision 8.i**) have been successfully implemented. The report shall be submitted in accordance with MRP No. R3-2005-006.
13. The filing of a request by the Discharger for the modification or termination of this Waiver, or notification of planned changes or anticipated noncompliance does not stay any condition of this Waiver.
14. Within 60 days following the cessation of waste pile management operations or the effective date of change in property ownership/responsibility, the Discharger shall submit a facility closure report detailing the proposed facility closure procedures that will ensure the entire facility is restored to its original state. Specifically, the closure report shall outline the proposed steps and implementation schedule to completely remove and appropriately dispose of all petroleum-impacted soils from all storage, treatment, or processing areas. Reuse materials that may have been used as a liner for the facility may be left in-place so long as formal authorization from the property owner is obtained.
15. The Water Board may require any Discharger covered under this General Waiver to apply for and obtain individual conditional waivers. A Discharger covered under this General Waiver may apply for individual conditional waivers.
16. Discharger shall obtain all required federal, state and local agency permits or variances prior to discharging any waste to the Waste Pile Management Facility.
17. At any time, the Discharger may file a written request (including appropriate supporting documents) with the Water Board Executive Officer, proposing appropriate modifications to the monitoring and reporting program. The Executive Officer shall either reject the proposal for reasons listed, or shall incorporate the proposed changes into a revised Monitoring and Reporting Program. The Discharger shall implement any changes in the monitoring and reporting program, upon issuance by the Executive Officer.
18. The Discharger shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this General Waiver, including such accelerated or additional monitoring and as may be necessary to determine the nature and impact of the noncompliance.
19. Except for data determined to be confidential under Section 13267(b) of the California Water Code, all technical reports prepared in accordance with this General Waiver are non-exempt public records

and shall be sent by the Discharger to the appropriate local agencies with jurisdictional authority (e.g., County Protective Services Division, County Environmental Health Department, Planning Dept., etc.,) and the Division of Oil, Gas & Geothermal Resources. All reports shall be signed as follows:

- a. For a public agency - by either a principal executive officer or ranking elected official*.
- b. For a partnership or sole proprietorship - by a general partner or the proprietor, respectively*.
- c. For a corporation - by a principal executive officer of at least the level of vice-president*.

* or a duly authorized representative. A "duly authorized representative" means a person who has a written authorization from the Discharger to sign the required reports on behalf of the Discharger. The written authorization must be signed by one of the individuals described in a., b., or c.

20. This General Waiver is not transferable. The Discharger shall notify the Water Board in writing of any proposed change in ownership or responsibility of the property where an authorized Waste Pile Management Facility is located. Notification shall be performed by filing a notice of termination within 30-days following the effective date of change in ownership or responsibility. Failure to submit a Notice of Termination shall be considered a violation of Section 13264 of the Water Code.
21. This General Waiver does not convey any property rights of any sort or any exclusive privileges. The requirements prescribed herein do not authorize the commission of any act causing injury to persons or property, nor protect the Discharger from liability under federal, State, or local laws, nor create a vested right for the owner and operator to continue the regulated activity.
22. Provisions of this General Waiver are severable. If any provision of this General Waiver is found invalid, the remainder of this General Waiver shall not be affected.
23. Any person signing a document under this Section shall make the following certification:

" I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."
24. The Discharger shall submit reports required under this General Waiver and other information requested by the Executive Officer, to:

Central Coast Water Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906
25. The Discharger shall comply with all conditions of this General Waiver and any additional conditions prescribed by the Water Board in amendments thereto. Any noncompliance with this Waiver constitutes a violation of the CWC and is grounds for: (a) enforcement action [CWC Section 13261, 13263, 13265, 13267, 13268, 13300, 13301, 13304, 13340, 13350]; (b) termination or modification of this Waiver; or (c) denial of a Report of Waste Discharge in application for a new or revised Waiver.
26. The requirement that the Discharger submit a report of waste discharge is also pursuant to Section 13260 of the California Water Code. Section 13261 of the Water Code states that a violation of a request made pursuant to Water Code Section 13260 may subject the Discharger to administrative civil liability of up to \$1,000 per day.

27. As provided by CWC Section 13350(a), any person may be civilly liable if that person in violation of a waiver condition or waste discharge requirements, discharges waste, or causes waste to be deposited where it is discharged, into the waters of the State.