

California Regional Water Quality Control Board
Santa Ana Region
Staff Report

February 10, 2012

ITEM: 10

SUBJECT: Sector-Specific General Permit for Storm Water Runoff Associated with Industrial Activities from Scrap Metal Recycling Facilities within the Santa Ana Region, Order No. R8-2012- 0012 (NPDES No. CAG 618001)

BACKGROUND:

The attached Tentative Order and the Fact Sheet discusses the background information related to this Order. The first draft of this Order was released for public comments on February 25, 2011. A public workshop was conducted on March 4, 2011. Subsequent drafts of the Order were released on April 29, 2011, August 1, 2011 and September 13, 2011.

On September 16, 2011, the Board conducted a public hearing on the tentative order and considered public comments received prior to and during the public hearing. The Board then closed the hearing and directed staff to revise permit language and ensure consistency throughout the permit with regards to the issues of the minimum control Best Management Practices, the design storm event and receiving water language and to return the tentative Order to the Board for its consideration at the October 28, 2011 Regional Board meeting. A fifth draft of the Order was released on October 14, 2011.

On October 21, 2011, the Executive Director of the State Water Resources Control Board (State Board) sent a letter to the Regional Board's Executive Officer, stating concerns regarding the adoption of the permit and further stating that the State Board may want to adopt the permit on a statewide basis. At the October 28, 2011 Regional Board meeting, the Regional Board agreed to table a vote on the tentative Order until the January meeting.

On December 2, 2011, the Superior Court of California, County of Sacramento, filed a ruling on a petition that had been filed by the Building Industry Association against the State Board regarding the Statewide Construction General Storm Water Permit (CGP). In that ruling, the Superior Court required the State Board to set aside that portion of the CGP that imposed turbidity and pH Numeric Effluent Limits (NEL) until the State Board develops appropriate technology-based NELs consistent with the Clean Water Act and US EPA regulations.

At the State Board meeting on December 5, 2011, the draft Scrap Metal Permit was discussed. On December 16, 2011, the Executive Director of the State Board sent another letter to the Regional Board's Executive Officer stating that he would not recommend to the State Board to adopt it at this time, but would be interested in tracking its implementation if it is adopted by the Regional Board. The Executive Director also stated that the State Board may reconsider the issue at a future date.

On January 6, 2012, a sixth draft of the tentative Order was released. The primary

purpose of the sixth draft was to remove the NELs that were associated with Option 1. Following the release of the sixth draft, a two-week written-comment period was opened and on January 27, 2012, a seventh draft of the tentative Order was released that incorporated comments received as of that date and corrected minor inconsistencies between the tentative Order and the Fact Sheet.

DISCUSSION:

The December 16, 2011 letter from the State Board, not to consider this permit for adoption on a statewide basis and the stakeholders desire to proceed with a regional permit, provides the incentive for the Board to consider the tentative Order. Based on the December 2, 2011 Superior Court Ruling, staff has determined that additional data is needed to develop technology-based Numeric Effluent Limits (NELs) for discharges from the scrap metal facilities. As such, Option 1 now only has Numeric Action Levels (NALs). However, staff did not see a need to revise the water quality-based NELs specified in Table 1b for Option 2 as they are based on California Toxics Rule.

The Board will consider written and/or oral comments of the changes included in the seventh draft during the February 10, 2012 public hearing.

RECOMMENDATION:

Staff recommends adoption of Order No. R8-2012-0012 as presented.

Comments were solicited from:

Scrap Metal Permittees in the Region (see Attachment A)
Agenda Mailing List (this Lyris list currently has 650 interested parties)
U. S. Environmental Protection Agency, Region 9 – Peter Kozelka
State Water Resources Control Board, Office of Chief Counsel – David Rice
Institute of Scrap Recycling Industries, Inc. – David L. Waggoner
Orange County CoastKeeper – Garry Brown