California Regional Water Quality Control Board
Santa Ana Region

Staff Report

September 16, 2011

ITEM: 7

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. R8-2011-0011 (NPDES No. CAG 618001)

DISCUSSION:

See the attached Tentative Order and Fact Sheet

RECOMMENDATION:

Adopt Order No. R8-2011-0011 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 – Cindy Lin
State Water Resources Control Board, Office of Chief Counsel – David Rice
Institute of Scrap Recycling Industries, Inc. – David L. Wagger
Orange County CoastKeeper – Garry Brown

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SANTA ANA REGION

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ORDER NO. R8-2011-0011
NPDES PERMIT NO. CAG 618001

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT AND WASTE DISCHARGE REQUIREMENTS

SECTOR-SPECIFIC GENERAL PERMIT FOR STORM WATER RUNOFF ASSOCIATED WITH INDUSTRIAL ACTIVITIES FROM SCRAP METAL RECYCLING FACILITIES WITHIN THE SANTA ANA REGION

The following Permittees are subject to waste discharge requirements as set forth in this Order (or Permit):

PERMITTEES: All those facilities engaged in scrap metal recycling (collectively hereinafter referred to as scrap metal facilities) within the Santa Ana Region of the California Regional Water Quality Control Board (Regional Board) and have filed Permit Registration Documents*[1] (PRDs) with the State Water Resources Control Board (State Board) for coverage under this Permit. This Permit is not applicable to recycling facilities commonly referred to as material recovery facilities that only receive recyclable materials, primarily from non-industrial and residential sources, where no processes are performed on metal scrap other than sorting, storage and transport.

ADMINISTRATIVE INFORMATION:

This Order was adopted by the Regional Water Quality Control Board on:	**September 16, 2011**
This Order shall become effective on:	**September 16, 2011**
This Order shall expire on:	**September 14, 2016**
The U.S. Environmental Protection Agency (USEPA) and the Regional Water Board have classified this discharge as a minor discharge.	

IT IS HEREBY ORDERED that the Permittees subject to this Permit, in order to meet the provisions contained in division 7 of the California Water Code (commencing with section 13000) and regulations adopted thereunder, and the provisions of the federal Clean Water Act (CWA) and regulations and guidelines adopted thereunder, shall comply with the requirements in this Permit.

[1] An asterisk (*) indicates that the term is defined in the Glossary of Terms

I, Kurt V. Berchtold, Executive Officer, do hereby certify that this Order with all attachments is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on September 16, 2011.

_____
Kurt V. Berchtold, Executive Officer

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TABLE OF CONTENTS

(SCRAP METAL SECTOR-SPECIFIC PERMIT)

Administrative Information		1
Table of Contents		3
I.	Facility Information (Facilities Regulated Under this Order)	5
II.	Findings	5
	A. Background	5
	B. Governing Federal and State Laws and Regulations	5
	C. Water Quality Control Plan (Basin Plan)	7
	D. National Toxics Rule (NTR) and California Toxics Rule (CTR)	8
	E. State Implementation Policy	8
	F. Discharge Characteristics	8
	G. Discharge Prohibitions	9
	H. Technology-based Effluent Limitations	9
	I. Water-Quality Based Effluent Limitations	11
	J. Receiving Water Limitations	12
	K. Monitoring and Reporting	12
	L. Training Requirements	13
	M. Storm Water Pollution Prevention Plan (SWPPP)	13
	N. California Environmental Quality Act (CEQA)	13
	O. Anti-Degradation Policy	14
	P. Anti-Backsliding	14
	Q. Threatened or Endangered Species Act (ESA)	14
	R. Standard and Special Provisions	14
	S. Notification of Interested Parties	14
	U. Consideration of Public Comments	15
	U. Alaska Rule	15
	V. Compliance with CZARA	15
III.	Permit Requirements	15
	A. Authorized Non-Storm Water Discharges	15
	B. De Minimus Types of Discharges	16
	C. Discharger Prohibitions	17
	D. Effluent Limitations and Discharger Specifications	17
	E. Special Provisions for Discharges to Impaired Waters (Existing Facilities)	27
	F. Special Provisions for Discharges to Impaired Waters (New Dischargers)	28
	G. Special Protections for Endangered and Threatened Species	28
	H. Receiving Water Limitations	28
	I. Obtaining Permit Coverage	28
	J. Terminating Permit Coverage	30
IV.	Monitoring and Reporting Requirements	30
V.	Special Provisions	30
VI.	Permit Modification	30
VII.	Permit Expiration and Renewal	31

VIII. Standard Provisions 31
A. Duty to Comply 31
B. General Permit Actions 31
C. Need to Halt or Reduce Activity Not a Defense 32
D. Duty to Mitigate 32
E. Proper Operation and Maintenance 32
F. Property Rights 32
G. Duty to Provide Information 32
H. Inspection and Entry 32
I. Monitoring and Records 33
J. Electronic Signature and Certification Requirements 33
K. Certification 34
L. Anticipated Noncompliance 34
M, Penalties for Falsification of Reports 34
N. Oil and Hazardous Substance Liability 34
O. Severability 34
P. Penalties for Violations of Permit Conditions 35
Q. Transfers 35
R. Continuation of Expired Permit 35
S. Other Federal Requirements 35

Acronyms 36
Glossary 38

Monitoring and Reporting Program No. R8-2011-0011 51
I. General 51
II. Objectives 52
III. Monitoring Requirements 53
IV. Quality Assurance Program Plan (QAPP) 57
V. Analytical Methods and Minimum Quantitation Limits 58
VI. Individual Monitoring Program 58
VII. Group Monitoring Program 59
VIII. Record Keeping Requirements 59
IX. BMP/Treatment System Evaluation 60
X. Reporting Requirements 61

Attachment A 62
Attachment B 64

Fact Sheet FS1
I. Background FS1
II. Regulatory Basis FS1
III. Pollutant and their Sources in Storm Water FS3
IV. Sector-Specific Permit FS3
V. Types of Discharges Regulated by this Order FS4
VI. Basis for Discharge Requirements Specified in this Order FS5
VII. How to Obtain/Terminate Coverage under this Permit FS21
VIII. Public Notification/Public Hearing FS22
IX. Reference Materials FS23

I. FACILITY INFORMATION (FACILITIES REGULATED UNDER THIS ORDER)

This Permit regulates the discharge of storm water associated with industrial activities* and authorized non-storm water discharges* from facilities that are engaged in metals recycling. These are facilities that are listed under Standard Industrial Classification (SIC) Code 5093 and engaged in the following types of activities: (1) automotive wrecking for scrap-wholesale [this category does not include facilities engaged in automobile dismantling for the primary purpose of selling second hard parts]; (2) iron and steel scrap- wholesale; (3) junk and scrap metal –wholesale; (4) metal waste and scrap- wholesale; and (5) non-ferrous metals scrap-wholesale. Other types of facilities listed under SIC Code 5093 and engaged in wastes recycling are not required to get coverage under this Permit. A "No Exposure Certification" is required for facilities that do not have any exposure of industrial activities to storm water. If there is no discharge of storm water or authorized non-storm water to surface waters, permit coverage is not required and the facility must provide proof of no discharge (e.g., a certification from a professional engineer that the facility has a retention basin designed to retain all runoff from a 100-year, 24-hour storm event). Procedures for these certifications are described under Part III.I of this Permit. This Permit does not regulate storm water runoff from construction activities and other types of industrial activities.

II. FINDINGS

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Regional Board), finds that:

A. BACKGROUND

1. A Metal Recyclers Water Quality Standards Committee (the Committee) was established by stakeholders consisting of industry, environmental, regulatory, and other interested parties and/or persons, to address pollutants in storm water runoff from scrap metal facilities within the Santa Ana Regional Board's jurisdiction. The Committee recommended[2] that the Regional Board issue a sector-specific storm water general permit for all scrap metal facilities within the Region.

2. Most scrap metal facilities within the region are currently regulated under the State Board's General Permit for Storm Water Discharges Associated with Industrial Activities, Order No. 97-03-DWQ (General Industrial Permit). Within 90 days of adoption of this Order, all scrap metal facilities within this Region will be required to get coverage under this Permit. Permit coverage under the State's General Permit will cease once coverage is obtained under this Order.

B. GOVERNING FEDERAL AND STATE LAWS AND REGULATIONS

3. The Fact Sheet attached to this Order includes the regulatory basis for each of the requirements specified in this Order. The Fact Sheet is incorporated into the terms of this Permit.

[2] Preamble, Metal Recyclers WQ Standards Committee
http://www.waterboards.ca.gov/santaana/water_issues/programs/stormwater/scrap_metal_committee.shtml

4. ,Section 402(p) of the federal Clean Water Act (CWA) requires that pollutant discharges in storm water runoff from industrial facilities be regulated under a National Pollutant Discharge Elimination System (NPDES)* permit.

5. In California, the nine regional boards and the State Board* implement the requirements of the CWA, including issuance of NPDES* permits. Chapter 5.5 of the California Water Code (CWC) incorporates the CWA. (Title 23, Division 7, Chapter 5.5). The CWC and the CWA require the regional boards to develop regional water quality control plans or Basin Plans (CWC, Chapter 4, Article 3) including water quality objectives* and beneficial uses* (collectively referred to as the water quality standards* in the CWA). The most recent Basin Plan* for the Santa Ana River Basin was adopted in 1995, although the Basin Plan has been amended since that date. The Basin Plan identifies beneficial uses* of waters of the region and contains water quality objectives to protect those beneficial uses. The Basin Plan also incorporates statewide water quality control plans and policies.

6. The Basin Plan, CWC, CWA and related federal and state regulations are the basis for the requirements contained in this NPDES permit. These statutes and regulations require that: (1) storm water discharges associated with industrial activities* be regulated under an NPDES permit; (2) these facilities implement Best Available Technology Economically Achievable (BAT)* and Best Conventional Pollutant Control Technology (BCT)* to reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges*. CWA section 402(p)(3)(A) also requires that permits for discharges associated with industrial activity include requirements necessary to meet water quality standards*. (40 CFR § 122.44).

7. Consistent with the federal statutes and regulations, this Permit includes numeric effluent limits*, numeric action levels*, and technology and water quality-based effluent limitations. (CWA §§ 301(b)(1)(A) and 402(p)(3)(A), 40 CFR §§ 122.26, 122.28 and 125.3).

8. Storm water regulations provide conditional exemption from NPDES permit requirements for facilities where there is no exposure of industrial activities to storm water. In addition, an NPDES permit is not required if there is no discharge to waters of the U.S*.

9. This Permit regulates storm water and authorized non-storm water discharges* from scrap metal facilities that are located within the Regional Board's jurisdiction.

10. The monitoring requirements specified in this Order are consistent with the federal regulations. (40 CFR 122.44(i)(3) and (4)).

11. The requirements specified in this Permit are consistent with the federal statutes and regulations and with those provisions of the CWC that incorporate the federal laws and regulations.

C. WATER QUALITY CONTROL PLAN (BASIN PLAN*)

12. The Regional Board adopted a revised Water Quality Control Plan for the Santa Ana River Basin (hereinafter Basin Plan*) that became effective on January 24, 1995. The Basin Plan has been amended a number of times since 1995. The Basin Plan designates beneficial uses*, establishes water quality objectives*, and contains implementation programs and policies to achieve those water quality objectives for all waters in the Santa Ana Region.

13. Beneficial uses* recognized in the Basin Plan* for surface waters in the Permit Area* are as follows:

    a. Municipal and Domestic Supply,
    b. Agricultural Supply,
    c. Industrial Service Supply,
    d. Industrial Process Supply,
    e. Groundwater Recharge,
    f. Hydropower Generation,
    g. Water Contact Recreation,
    h. Non-contact Water Recreation,
    i. Warm Freshwater Habitat,
    j. Limited Warm Freshwater Habitat,
    k. Cold Freshwater Habitat,
    l. Preservation of Biological Habitats of Special Significance,
    m. Wildlife Habitat,
    n. Rare, Threatened or Endangered Species, and
    o. Spawning, Reproduction, and Development

14. The existing and potential beneficial uses of groundwater that could be impaired by the discharge of storm water associated with industrial activities include one or more of the following:

    a. Municipal and Domestic Supply,
    b. Agricultural Supply,
    c. Industrial Service Supply, and
    d. Industrial Process Supply

15. The Basin Plan* also incorporates by reference all State Board* water quality control plans and policies including the 2009 Water Quality Control Plan for Ocean Waters of California (Ocean Plan)[3] and the 1974 Water Quality Control Policy for Enclosed Bays and Estuaries of California (Enclosed Bays and Estuaries Policy)[4]. Water quality objectives* specified in the Basin Plan* include numeric and narrative objectives that may be more stringent than the national or statewide water quality criteria*.

[3] http://www.waterboards.ca.gov/water_issues/programs/ocean/docs/2009_cop_adoptedeffective_usepa.pdf
[4] http://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/1995/rs1995_0084.pdf

D. NATIONAL TOXICS RULE (NTR, 57 FR 60848) AND CALIFORNIA TOXICS RULE (CTR, 40 CFR PART 131)[5]

16. NTR and CTR are blanket water quality criteria that apply to all surface water discharges. The Regional Board believes that compliance with Water Quality Standards through a combination of effluent limits based on numeric effluent limits, numeric action levels and implementation of BMPs is appropriate for regulating storm water runoff from industrial facilities. The USEPA articulated its position on the use of BMPs in storm water permits in the policy memorandum entitled, ''Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits'' (61 FR 43761, August 9, 1996).[6]

E. STATE IMPLEMENTATION POLICY

17. See Santa Monica Baykeeper v. Kramer Metals[7].

F. DISCHARGE CHARACTERISTICS

18. In 1983, the USEPA published the results of its Nationwide Urban Runoff Program (NURP) study[8]. This study indicated that urban runoff and industrial storm water runoff are major sources of pollutants in receiving waters. The results of this study were used for the 1987 CWA amendments that laid the foundation for regulating storm water discharges through NPDES permits. This Order regulates storm water runoff from scrap metal facilities under the jurisdiction of this Regional Board. Storm water runoff associated with industrial activities include storm water runoff, snowmelt runoff and surface runoff and drainage that has come in contact with industrial activities as defined in the Glossary.

19. Pollutants in storm water runoff from scrap metal facilities include: oil and grease from waste materials being recycled at the facility and from leaks and spills of equipment and machinery used at the facility; gasoline, diesel and other petroleum products used at the facility; metals from scrap metals being recycled; BOD/COD* from wastes being recycled or from the recycling operations; suspended solids from the recycled wastes or from the operations at the facility; and acidity or alkalinity (pH) from waste materials. These pollutants can threaten and adversely affect human health and the environment and can bioaccumulate* in receiving waters in the tissues of invertebrates and fish and eventually consumed by humans and other animals.

20. These pollutants are carried to rivers, streams, lakes and the Pacific Ocean (collectively the "Receiving Waters*") through storm water and non-storm water runoff from these facilities.

21. The Permittees discharge storm water associated with industrial activities* into municipal separate storm sewer systems (MS4s)*, creeks and channels, lakes,

[5] http://www.epa.gov/region9/water/ctr/
[6] See discussions on Wet Weather Flows in the Federal Register/Vol. 65, No. 97/Thursday, May 18, 2000/Rules and Regulations
[7] Santa Monica Baykeeper v. Kramer Metals, 619 F. Supp. 2nd at 927

[8] http://www4.ncsu.edu/~rcborden/CE383/Stormwater_Refs/NURP_Results_Vol_1.pdf

rivers, streams, the ocean and tributaries thereto within the Region. Some of the receiving waters* have been designated as impaired waterbodies* by the Regional Board and the USEPA pursuant to CWA section 303(d). The Regional Board has developed and the State Board, Office of Administrative Law and the USEPA have approved, total maximum daily loads (TMDLs)* for some of these impaired waterbodies*. Special provisions are included for discharges to impaired waterbodies*, including those with approved TMDLs*.

G. DISCHARGE PROHIBITIONS

22. Pursuant to Water Code section 13377, the Regional Board is authorized to adopt waste discharge requirements as required or authorized by the Federal Clean Water Act that prohibit discharges from containing pollutants that cause or threaten to cause pollution, contamination, or nuisance together with any more stringent effluent standards or limitations necessary to implement the Basin Plan*. This Permit also incorporates the discharge prohibitions contained in the Basin Plan.

23. This Permit prohibits the discharge of unauthorized non-storm water discharges*. Prohibited non-storm water discharges must be either eliminated or permitted by a separate NPDES permit. Non-storm water discharges* may contribute significant pollutant loads to receiving waters*. Measures to control spills, leakage, and dumping, must be addressed through structural as well as non-structural Best Management Practices (BMPs)*. The Regional Board recognizes, however, that certain non-storm water discharges* may not be significant sources of pollutants when managed appropriately. This Permit allows certain non-storm water discharges (authorized non-storm water discharges)* provided that those discharges are not significant sources of pollutants to receiving waters*.

H. TECHNOLOGY-BASED EFFLUENT LIMITATIONS

24. Section 402((p)(3)(A) of the CWA requires that discharges of storm water runoff from industrial facilities comply with technology-based effluent limitations per Section 301 and any more stringent limitations necessary to meet water quality standards.

25. All NPDES permits are generally required to have technology-based effluent limitations (TBELS) and water quality-based effluent limitations* (WQBELs). Technology-based effluent limitations are established by USEPA in regulations known as effluent limitations guidelines for specific industry categories or subcategories after conducting an in-depth analysis of treatment technologies available for that industry. The USEPA has not established effluent limitation guidelines for the scrap metal industry. Therefore, Regional Board staff has used best professional judgment*(BPJ) in establishing effluent limitations* in this Permit. In using best professional judgment approach, staff used its knowledge of the scrap metal industry, the treatment technologies that are currently available, and the effluent quality expected from the use of those treatment technologies and/or good housekeeping practices. Staff also reviewed the analytical results of storm water runoff in the annual reports for scrap metal facilities within the region.

26. In 2005 the State Board convened an expert panel (Blue Ribbon Panel or Panel) that submitted a report entitled, "The Feasibility of Numeric Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Construction Activities," dated June 19, 2006[9]. The Panel concluded that numeric limits are feasible for some industrial categories. They recommended that numeric limits should be based on sound and established practices for storm water pollution prevention and treatment. For the construction category, the Panel stated, "Board should consider the phased implementation of Numeric Limits and Action Levels, commensurate with the capacity of the Permittees and support industry to respond." The Panel observed that in certain cases where the activities and pollutants are comparable, a similar approach could be considered for industrial activities. The Panel also expressed its concerns about the reliability of analytical data produced as required under the State's General Permit.

27. The Regional Board has considered the recommendations of the Blue Ribbon Panel and other available data in prescribing technology-based effluent limitations in this Permit. This Order offers two options to permitted facilities. The first option (Option 1) takes a phased approach* to implement both numeric effluent limits (NELs) and numeric action levels (NALs) and to develop technology-based effluent limitations. For the second option (Option 2), the Permittees are required to meet the limits established by the California Toxics Rule and are not required to implement the mandatory minimum BMPs* discussed in this Permit under Option 1. However Permittees that select the Option 2 will be required to meet the NELs specified in Table 1b, upon submittal of their permit registration documents (PRDs). The Permittees must elect either Option 1 or Option 2 when completing the online Notice of Intent through the State Board's Storm Water Multiple Application and Report Tracking System (SMARTS).

28. During Phase I, the Permittees that opt for the Option 1 are required to implement mandatory minimum BMPs*, conduct monitoring and evaluate the data. Unless the Board adopts alternate NELs based on Phase I BMP evaluation for the four constituents listed in Table 1a, the numeric effluent limits specified in Table 1a will become effective on July 31, 2013. These NELs are based on the best professional judgment*[10] of Regional Board staff. Where there is insufficient data to support a NEL, NALs are used. This Permit uses a modified version of the USEPA benchmarks listed in its industrial Multi-Sector General Permit (EPA's MSGP)[11] for storm water for the NALs.

29. The three-phased compliance strategy of Option 1 imposes stringent time lines to meet water quality standards. The Committee is currently conducting an independent evaluation of a number of treatment technologies for the scrap metal industry, including a number of treatment controls installed at various scrap metal facilities located within Southern California. These efforts are likely to lead to a number of acceptable treatment technologies for the scrap metal industry group, some of which may be appropriate for use as technology-based effluent limitations.

[9] http://www.swrcb.ca.gov/water_issues/programs/stormwater/docs/numeric/swpanel_final_report.pdf
[10] NPDES Permit Writer's Manual, http://www.epa.gov/npdes/pubs/pwm_2010.pdf
[11] http://www.epa.gov/npdes/pubs/msgp2008_finalpermit.pdf

The Regional Board will evaluate the results of these studies and determine the need to reopen this Permit to incorporate any additional technology-based effluent limitations developed through this process.

30. The NELs and NALs in this Permit are appropriate numeric thresholds. A Permittee shall take corrective actions when any of the criteria for exceedance is triggered.

31. The Regional Board finds that the NELs and NALs serve as an appropriate set of technology based effluent limitations that demonstrate compliance with BAT/BCT. Pollutants in storm water discharges caused by atmospheric deposition or from offsite sources and/or run-on from forest fires, or any other natural disaster do not apply towards any NEL/NAL corrective action trigger determinations. While NALs are not effluent limitations and an exceedance of an NAL trigger is not considered a violation of this Permit, this Permit requires the Permittees to implement specified control measures upon a determination that one of the triggers has been exceeded. An exceedance of an NEL is considered a violation of the Permit.

32. Consistent with federal regulations, this Order also includes BMPs to reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges in addition to the NELs and NALs. (40 CFR § 122.44(k)(2)).

I. WATER QUALITY-BASED EFFLUENT LIMITATIONS (WQBELs)

34. 40 CFR § 122.44(d) requires that NPDES permits include WQBELs to attain and maintain applicable numeric and narrative water quality standards of the receiving waters.

35. Where numeric water quality criteria have not been established, 40 CFR § 122.44(d) provides that WQBELs may be established using USEPA criteria guidance under CWA section 304(a), proposed State criteria or a State policy interpreting narrative criteria supplemented with other relevant information, or an indicator parameter.

36. The use of BMPs to control or abate the discharge of pollutants is allowed by 40 CFR § 122.44(k)(3) when numeric effluent limitations are infeasible or when practices are reasonably necessary to achieve effluent limitations and standards [40 CFR § 122.44(k)(4)] or to carry out the purposes and intent of the CWA [40 CFR § 122.44(k)(4)]. It is the Regional Board's intent to require the Permittees either to implement BMPs, including treatment controls where necessary (Option 1), or to have treatment controls (Option 2), in order to support attainment of water quality standards*.

37. This Order includes receiving water limitations based on water quality objectives* and it prohibits the creation of nuisance or pollution. The Order establishes a phased approach through Option 1, to determine the most appropriate method to control pollutants from scrap metal facilities and to achieve water quality standards* in the receiving waters*.

38. Federal regulations (40 CFR § 122.44(d)(1)(vii)(B)) require inclusion of effluent limits that are "consistent with the assumptions and requirements of any available Waste Load Allocation (WLA)* for the discharge prepared by the State and approved by USEPA." The Permittees are required to develop and implement a comprehensive storm water pollution prevention plan (SWPPP) designed to meet water quality standards and the applicable WLAs by the applicable compliance dates specified in the TMDL implementation plans that have WLAs specified for the Permittees. If the Regional Board does not approve the comprehensive SWPPP plan prior to the compliance date, the WLAs will become the final WQBEL(s) on the applicable compliance date and will remain in effect until a comprehensive SWPPP plan is approved by the Regional Board. The comprehensive plan will be updated, as necessary, to reflect evaluations of the effectiveness of the BMPs, including evaluations presented in the annual reports.

39. These WQBELs are consistent with the assumptions and requirements identified in the TMDL Implementation Plans adopted with the TMDLs* because the WQBELs are expected to be sufficient to meet the WLAs by the compliance dates.

J. RECEIVING WATER LIMITATIONS

40. Discharges from permitted facilities that cause or contribute to a violation of water quality standards* are prohibited. The Permittees are required to meet water quality standards* in the receiving waters through implementation of BMPs through Option 1 or through other treatment controls in Option 2. For discharges introduced upstream of an impaired waterbody*, additional control measures, including a comprehensive SWPPP designed to meet any applicable WLAs in the TMDL implementation plan, are required.

K. MONITORING AND REPORTING

41. 40 CFR § 122.48 requires that all NPDES permits specify requirements for monitoring and reporting. Sections 13267 and 13383 of the CWC authorize the Regional Board to require technical and monitoring reports. The Monitoring and Reporting Program attached to this Order establishes monitoring and reporting requirements to implement federal and State requirements.

42. Federal regulations at 40 CFR §§ 122.44(i)(3) and (4) establish minimum monitoring requirements that must be included in storm water permits. These regulations require storm water permits to include at least one annual inspection and other applicable monitoring requirements. The minimum requirements in the regulations are that the Permittees must (1) conduct an annual comprehensive facility compliance evaluation to identify areas of the facility contributing pollutants to storm water discharges, (2) evaluate whether measures to reduce industrial pollutant loads identified in the Permittee's SWPPP are adequate and properly implemented in accordance with the terms of this Permit, and (3) determine whether additional control measures are needed.

43. The Regional Board finds that discharge monitoring is the best option to determine compliance with the NELs, NALs and other requirements specified in this Order. Therefore, this Order includes monitoring of four storm events per year and a monthly visual inspection schedule to determine whether pollutants are being discharged, the control measures are working properly and to ascertain the need for any additional controls. However, these monitoring and inspection frequencies can be reduced upon attaining consistent compliance with all Permit requirements, including compliance with NELs and NALs.

44. The Permit encourages all Permittees under this Order to participate in a group monitoring program approved by the Regional Board. This is critical for appropriate quality control and quality assurance and to produce quality monitoring data. Individual monitoring is also an option; however, those opting to develop an individual monitoring program are required to undergo appropriate training programs and follow strict quality control protocols as specified in Provision VI.B.3. of the Monitoring and Reporting Requirements.

L. TRAINING REQUIREMENTS

45. In order to improve compliance with and to maintain consistent enforcement of this Permit, 18 months after adoption of this Permit all Permittees are required to have the SWPPP developed and implemented by a properly trained "Qualified SWPPP Developer" (QSD) and a "Qualified SWPPP Practitioner" (QSP), respectively. If the State Board has not established a curriculum and a training program to certify persons with the appropriate level of education and training as QSDs and QSPs for industrial activities within this timeframe, the Regional Board will develop such a program. Only those with proper certification as QSDs and QSPs should develop and implement the SWPPP. Training is also required for sample collection, preservation and handling as specified in Monitoring and Reporting Program, Provision VI.B.3.

M. STORM WATER POLLUTION PREVENTION PLAN (SWPPP)

46. This Permit requires a QSD to develop and a QSP to implement a site-specific SWPPP for each facility. The minimum requirements for the SWPPP are specified in this Order. The training and certification requirements for the QSD and QSP will become effective 18 months after adoption of this Permit.

N. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

47. Under Water Code Section 13389, this action to adopt an NPDES permit is exempt from the provisions of CEQA, Public Resources Code Sections 21100 -21177 (*County of Los Angeles v. California State Water Resources Control Board* (2006) 142 Cal App.4th. 985, mod. [Nov. 6, 2006, B184034] 50 Cal.Rptr.3rd 619, 632-636).

O. ANTI-DEGRADATION POLICY

48. The Regional Board has considered anti-degradation requirements, pursuant to 40 CFR § 131.12 and State Board Resolution No. 68-16, for the discharges permitted under this Order. The Regional Board finds that the storm water and authorized non-storm water runoff regulated under this Order are consistent with the federal and state anti-degradation requirements and a complete anti-degradation analysis is not necessary. This Order requires the continued implementation of programs and policies to reduce the discharge of pollutants in storm water runoff associated with industrial activities and include additional requirements to control the discharge of pollutants from the regulated facilities.

P. ANTI-BACKSLIDING

49. Sections 402(o)(2) and 303(d)(4) of the CWA and federal regulations at 40 CFR§ 122.44(l) prohibit backsliding in NPDES permits. These anti-backsliding provisions require effluent limitations in a reissued NPDES permit to be as stringent as those in the previous permit, with some exceptions where effluent limitations may be relaxed. All effluent limitations in this Order are at least as stringent as the effluent limitations in the State General Industrial Permit.

Q. THREATENED OR ENDANGERED SPECIES ACT (ESA)

50. This Order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code §§ 2050 to 2097) or the Federal Endangered Species Act (16 U.S.C.A. §§ 1531 to 1544). This Order requires compliance with effluent limits*, receiving water limits*, and other requirements to protect the beneficial uses* of Waters of the U.S*. The Permittees are responsible for meeting all requirements of the applicable Endangered Species Act.

R. STANDARD AND SPECIAL PROVISIONS

51. This Order incorporates all the applicable provisions from the federal NPDES permit regulations.

S. NOTIFICATION OF INTERESTED PARTIES

52. The Regional Board has notified the Pemittees and interested agencies and persons of its intent to prescribe waste discharge requirements for the discharge and has provided them with an opportunity to submit their written comments and recommendations. Details of notification are provided in the Fact Sheet for this Order.

T. CONSIDERATION OF PUBLIC COMMENTS

53. The Regional Board notified the Permittees, all known interested parties, and the public of its intent to issue waste discharge requirements for the covered discharges and has provided them with an opportunity to submit their written views and recommendations.

54. The Regional Board, in a public meeting, heard and considered all comments pertaining to the discharge and the requirements of this Order. Details of the Public Hearing are provided in the Fact Sheet for this Order.

U. ALASKA RULE

55. On March 30, 2000, USEPA revised its regulation that specifies when new and revised State and Tribal Water Quality Standards become effective for CWA purposes (40 CFR § 131.21, 65 FR 24641, April 27, 2000). Under the revised regulation (also known as the Alaska rule), USEPA must approve new and revised Water Quality Standards submitted to USEPA after May 30, 2000 before being used for CWA purposes. The final rule also provides that standards already in effect and submitted to USEPA by May 30, 2000 may be used for CWA purposes, whether or not approved by USEPA.

V. COMPLIANCE WITH CZARA

56. The Coastal Zone Act Reauthorization Amendments of 1990 (CZARA), Section 6217(g), requires coastal states with approved coastal zone management programs to address Non-Point Source Pollution impacting or threatening coastal water quality. The CZARA addresses five sources of non-point pollution: agriculture, silviculture, urban, marinas, and hydromodification. This Order addresses the management measures required for the urban category. Compliance with requirements specified in this Order relieves the Permittees from developing a Non-Point Source Plan, for the urban category, under CZARA.

III. PERMIT REQUIREMENTS:

(The Permit provides two options for the Permittees to comply with this Order: (1) Option 1- Phased Approach; and (2) Option 2- Non-Phased Approach. The Permittees must choose one of these options from the Notice of Intent* at the time of submitting Permit Registration Documents*.)

A. AUTHORIZED NON-STORM WATER DISCHARGES

1. The following types of non-storm water discharges are authorized provided the Permittees identify each source and its discharge location, characterize the discharge including potential pollutants and the flow volume, and identify appropriate pollutant control measures for each discharge including source control BMPs and other control measures to eliminate or reduce such discharges. This information shall be documented in the SWPPP*.

a. Uncontaminated condensate from refrigeration, air conditioning and compressor units;
b. Discharges covered by a NPDES* permit, waste discharge requirements*, or waivers issued by the Regional Board or State Board.
c. Discharges from landscape irrigation, lawn/garden watering and other irrigation waters. These shall be minimized through water conservation efforts and by developing draught tolerant landscapes.
d. Passive foundation drains[12];
e. Passive footing drains[13];
f. Water from crawl space pumps[14];
g. Rising groundwater[15] and natural springs;
h. Uncontaminated groundwater infiltration as defined in 40 CFR § 35.2005 (20) and uncontaminated pumped groundwater (as defined in the glossary),
i. Emergency fire fighting flows (i.e., flows necessary for the protection of life and property) do not require BMPs and need not be prohibited. However, appropriate BMPs to reduce the discharge of pollutants to the extent practicable must be implemented when they do not interfere with health and safety issues; and
j. Waters not otherwise containing wastes as defined in CWC § 13050 (d), fully characterized and identified in the SWPPP.

2. When types of discharges listed above are identified as a significant source of pollutants to waters of the U.S., Permittees must either eliminate the discharge category from entering the MS4s and/or surface waters or ensure that source control BMPs and/or treatment control BMPs are implemented to reduce or eliminate pollutants resulting from the discharge.

B. DE MINIMUS TYPES OF DISCHARGES

1. The Regional Board regulates certain de minimus types of discharges including water from potable water sources related to operation, maintenance, or testing of potable water systems; dewatering wastes; well development and testing wastes; etc., through its De Minimus Permit, Order No. R8-2009-0003. Permittees shall obtain coverage under the De Minimus Permit for any de minimus types of discharges.

2. Discharges from fire protection system flushing, testing, and maintenance either should be discharged to a sanitary sewer (with permission of the local sewering agency) or must be regulated under the De Minimus Permit.

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[12] Allowed discharges only if the source water drained from the foundation is storm water or uncontaminated groundwater. Discharges of contaminated groundwater will require coverage under the De Minimus Permit (Order No. R8-2009-0003, NPDES No. CAG998001) or General Groundwater Cleanup Permit (Order No. R8-2007-0008, NPDES Permit No CAG918001) or its latest version.
[13] See footnote 12, above.
[14] Allowed discharges only if the discharge is uncontaminated, otherwise permit coverage under the De Minimus Permit or Order No. 2006-0008-DWQ (NPDES No. CAG990002), General NPDES Permit for Discharges from Utility Vaults and Underground Structures to Surface Waters (General Permit-Utility Vaults).
[15] Discharge of rising groundwater and natural springs into surface water is only allowed if groundwater is uncontaminated. Otherwise, coverage under the General Groundwater Cleanup Permit, Order No. R8-2007-0008 may be required.

C. DISCHARGE PROHIBITIONS:

1. There shall be no trash, debris*, floating materials, foam, plastics or any deleterious materials* in storm water runoff from the permitted facilities.

2. All non-storm discharges, except those authorized under Section A, above, shall be eliminated unless authorized by an individual NPDES permit or waste discharge requirements issued by the Regional Board or the State Board. This includes all process wastewater, storm water comingled with process wastewater and any illicit discharges* (authorized non-storm water discharges are not considered illicit discharges).

3. Discharges of storm water or authorized non-storm water* from the Permittee's facilities shall not cause or contribute to a condition of pollution, contamination, or nuisance (as defined in CWC § 13050).

4. Discharges from facilities regulated under this Order shall not contain any hazardous substance equal to or in excess of a reportable quantity listed in 40 CFR Part 117 and/or 40 CFR Part 302.

5. There shall be no discharge of wastes in violation of prohibitions contained in Chapter 5 of the Basin Plan.

6. The discharge of any substances in concentrations toxic to animal or plant life is prohibited

D. EFFLENT LIMITATIONS AND DISCHARGE SPECIFICATIONS

1. **Numeric Effluent Limits:**

   All discharges from the regulated facilities under the Option 1* shall be in compliance with the effluent limitations in Table 1a[16], below. All discharges from the regulated facilities under Option 2* shall be incompliance with the effluent limitations in Table 1b[17], below.

[16] These NELs become effective on July 31, 2013 if the Regional Board has not adopted alternative NELs for these constituents based on studies conducted during Phase I implementation of the minimum BMPs described below. The Permittees have the option to develop and submit for approval of the Regional Board alternate NELs based on performance evaluation of the BMPs and treatment technologies. From the date of adoption of this Order through July 30, 2013, the NELs (specifically effluent limits in Column 4 of Table 1.a) and NALs in Attachment B should be considered as the numeric action levels for these constituents for determining effectiveness of the control measures.

[17] These NELs become effective on December 31, 2011 for those facilities opting for the non-phased approach*. .

Table 1a: Numeric Effluent Limits (Option 1 – Phased Approach*)[18]

Item No.	Constituent[19]	Units	Effluent Limit (Annual average)[20]	Instantaneous Maximum[21]
1	pH	pH units	6.5 to 8.5[22]	Below 5.5 or above 9.5[23]
2	Turbidity	NTU	250[24]	1000[25]
3	Specific Conductance	µmhos/cm or µsiemen/cm	1500[26]	3000[27]
4	Oil and Grease	milligrams/liter	15[28]	50[29]

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[18] See Footnote 16.
[19] pH, turbidity and specific conductance shall be measured in the field as soon as a sample is collected.
[20] Annual average: Geometric mean of all analytical results obtained during the reporting period (July 1 to June 30); see Footnote 22 for pH.
[21] Instantaneous maximum: Any one analytical result from grab or composite samples representing a storm event.

[22] Based on Basin Plan objectives. For pH, the annual average shall be an arithmetic mean (geometric mean is not appropriate for log transformed data such as pH)
[23] Based on Best Professional Judgment
[24] Based on Best Professional Judgment
[25] Based on Best Professional Judgment
[26] Based on Best Professional Judgment
[27] Based on Best Professional Judgment
[28] Based on Best Professional Judgment
[29] Based on Best Professional Judgment

Table 1b: Numeric Effluent Limits (Option 2 – Non-Phased Approach)[30]

(The effluent limits for cadmium, copper, lead, nickel, silver and zinc are hardness dependent. Hardness of the receiving water should be determined for each site as specified in Attachment B.)

Item No.	Constituent[31]	Units	Effluent Limit (Annual average)[32]	Instantaneous Maximum[33]
1	pH	pH units	6.5 to 8.5[34]	Below 5.5 or above 9.5[35]
2	Turbidity	NTU	250[36]	1000[37]
3	Specific Conductance	µmhos/cm or µsiemen/cm	1500[38]	3000[39]
4	Oil and Grease	milligrams/liter	15[40]	50[41]
5	Arsenic	milligrams/liter	0.340[42]	
6	Cadmium	milligrams/liter	0.0043[43]	
7	Copper	milligrams/liter	0.013[44]	
8	Lead	milligrams/liter	0.065[45]	
9	Nickel	milligrams/liter	0.470[46]	
10	Silver	milligrams/liter	0.0034[47]	
11	Zinc	milligrams/liter	0.120[48]	

[30] These NELs become effective on December 31, 2011 for those facilities opting for Opton 2.
[31] pH, turbidity and specific conductance shall be measured in the field as soon as a sample is collected. Oil and grease, arsenic, cadmium, copper, lead, nickel, silver and zinc are to be analyzed by a State-certified laboratory.
[32] See Footnote 20
[33] See Footnote 21
[34] Based on Basin Plan Objectives. Annual average for pH shall be an arithmetic mean instead of a geometric mean.
[35] Based on Best Professional Judgment.
[36] Based on Best Professional Judgment.
[37] Based on Best Professional Judgment.
[38] Based on Best Professional Judgment.
[39] Based on Best Professional Judgment.
[40] Based on Best Professional Judgment.
[41] Based on Best Professional Judgment.
[42] Based on the California Toxics Rule.
[43] Based on the California Toxics Rule.
[44] Based on the California Toxics Rule.
[45] Based on the California Toxics Rule.
[46] Based on the California Toxics Rule.
[47] Based on the California Toxics Rule.
[48] Based on the California Toxics Rule.

2. **Numeric Action Levels for Option 1*:** The Permittees shall design the SWPPPs to document compliance with the numeric action levels specified in Attachment B, which is hereby made a part of this Order. Any exceedance of a numeric action level is not considered a violation of the Permit; however the Permittees are required to take additional steps to meet the numeric action levels as outlined under Phases I, II and III in Subsection 6, below.

3. **Triggers for Exceedances of NELs and NALs for Option 1:** In most cases a single exceedance of a NEL or a NAL is not a good indicator of sustained water quality impacts in the receiving waters (with the exception of instantaneous maximum NELs). To account for the high variability in the storm water runoff quality, this Permit establishes a mechanism for determining exceedances of the NELs and NALs for consideration of additional control measures.

   a. If a facility has multiple discharge points for storm water that has come in contact with industrial areas, processes, materials, products or wastes, area-weighted averages of the geometric means of all sampling results for the reporting period shall be calculated using the relative tributary area for each discharge point for all constituents except pH. For pH, an arithmetic mean shall be calculated.

   b. If a single sampling event (either a grab sample from a storm event or a composited sample from a single storm event) exceeds the NEL (effluent limits in column 4 of Tables 1.a and 1.b) or NAL by two times the specified Permit limit (except for pH), or any exceedance of an instantaneous maximum, it is considered an exceedance that would require additional steps as outlined under Phases I, II and III, below. For pH, any values less than 5.5 or more than 9.5 pH units are considered as an exceedance requiring additional steps outlined under Phases I, II and III.

   c. If the annual average (geometric mean of all the analytical results during the reporting period except for pH; for pH, the arithmetic mean) of any of the constituents exceeds the NEL or the NAL, then it is considered as an exceedance that would trigger additional steps as outlined under Phases I, II, and III, below.

   d. If a facility has implemented volume reduction BMPs (e.g., percolation basins) or preventative measures (e.g., having industrial operations under a roof), a credit may be applied to the above calculations[49]. For example, if a Permittee installs a non-polluting roof over 25% of its operational area, the geometric mean for that facility will be reduced by 25% to arrive at an adjusted geometric mean (pH cannot be adjusted). The credit will be applied based on areas addressed without regard to whether the BMP was implemented before the adoption of this Permit.

[49] Photographs and design specifications of volume reduction BMPs must be uploaded to SMARTS as an attachment before this credit can be taken.

4. **Design Storm for Treatment Control Measures:** This Order includes a criterion for designing treatment controls based on a specified design storm event. All treatment systems shall be sized and designed to treat the design volume that shall be greater than or equal to 95th percentile* of the annual average daily runoff volume from exposed areas, based on a continuous simulation of historical daily rainfall information available for the location where the regulated facility is located. Depending on the facility location, this design storm magnitude will be roughly equivalent to the 95th percentile storm*[50]. An analytical result from flows exceeding a design storm shall not be used in determining any exceedances of NALs, NELs or other permit violations and shall not be used in calculations leading to revised NALs or NELs.

5. **Other Control Measures and Storm Water Pollution Prevention Plans (SWPPPs) – Compliance with BAT/BCT Standards:** Each Permittee shall select, design and install facility-specific control measures designed to meet either the BAT/BCT standards for the phased approach or the NELs in Table 1.b for non-phased approach. These control measures shall include good housekeeping practices including best management practices* and these practices shall be documented in the SWPPP* for the facility. A site-specific SWPPP shall be developed and implemented prior to start of operations at each facility regulated under this Order. Permittees who had prepared a SWPPP as required under the General Industrial Permit shall update the Plan (if necessary), prior to uploading PRDs* for coverage under this Order. The SWPPP is a dynamic document and must be updated, as needed. The SWPPP shall be kept on site and made available to Regional Board staff upon request. At a minimum, the SWPPP shall include the following elements.

   a. **Qualification Requirements for Developing and Implementing SWPPP and Corrective Action Plans**: Within 18 months of Permit adoption, all Corrective Action Plans and SWPPPs shall be developed and certified by those who have completed a State Board or Regional Board sponsored or approved Qualified SWPPP Developer (QSD) program and a Qualified SWPPP Practitioner (QSP) shall implement the SWPPP. If the State Board does not develop an industrial QSD/QSP certification program as part of the General Industrial Permit within 18 months of adoption of this Permit, the Regional Board proposes to organize the development of a scrap metal-specific QSD/QSP certification program. In the absence of such a program, other equivalent programs or professional experience and other certifications may be considered by the Executive Officer.

   b. **Facility Information:** The SWPPP shall include relevant facility information as per the details provided in Phase I, below.

   c. **Preventative Measures:** The SWPPP shall document the Preventative Measures as per the details provided in Phase I, below.

   d. **Mitigative Measures:** The SWPPP shall document the Mitigative Measures as per the details provided in Phases I, II and III, below.

[50] Refer to: http://www.epa.gov/greeningepa/documents/epa_swm_guidance.pdf

e. **Visual Inspections and Monitoring and Reporting Requirements:** The SWPPP shall include a monitoring and reporting program in accordance with Monitoring and Reporting Program No. R8-2011-0011, attached to this Order.

6. **Phased Implementation of Control Measures**[51]:

The phased implementation of control measures specified below is considered as a practicable progression towards meeting the technology-based standards in a timely manner. If the Permittees have opted for Option 1* and fully implement each phase as per the time schedules specified below, they will not be found in violation of Section III.D of this Permit consistent with the BAT/BCT standards required under the federal regulations.

a. **Phase I Requirements:** Each Permittee under Option 1* shall implement the following minimum control measures by December 31, 2012 or within 30 days for new facilities filing their NOI after November 30, 2012 [52].

1) Facility Information: (1) The following information shall be included on a site map in the SWPPP: Location of the facility; locations of storm water conveyance systems, discharge points and monitoring locations; locations of any non-storm water discharges; locations of fueling areas, chemicals and other materials storage areas, industrial process locations, loading and unloading areas, spill cleanup kits, run-on locations and treatment control locations; (2) The following facility information shall be included in the SWPPP: name and title of the person preparing and implementing the SWPPP (see QSD/QSP requirements under Subsection 5.a, above); name and title of the facility contact if different from the QSD/QSP; and a description of the industrial activities at the site.

2) Preventative Measures: Each facility shall implement the following preventative measures:

i. Maintain a current inventory of materials and chemicals used at the facility and identify proper storage locations and handling procedures. This list must be maintained monthly with signature, date and name of preparer.

ii. Identify potential pollutant sources throughout the facility and the control measures used for each source/area, including good housekeeping practices. Control measure documentation shall include procedures, specific equipment used, maintenance schedules and a record of all maintenance performed with dates and signatures.

iii. Pave industrial areas prone to erosion; properly dispose of waste

[51] All control measures shall be consistent with other regulatory requirements. Documents that are prepared to meet other regulatory requirements may be used to satisfy some of the data/ record keeping requirements specified in this Order provided that the document contains the same information.

[52] Not applicable to Permittees who have selected Option 2, the Non-Phased Approach*. Feasibility of early action and LID BMPs shall be analyzed by considering opportunities offered and constraints imposed by the site to implement each BMP and shall be documented in the signed report submitted to the Regional Board pursuant to Phase II,b.1). requirements.

materials, garbage and debris; and cover all trash containers. Minimize dust generation and erosion from the site by paving industrial areas. Maintain effective perimeter controls and stabilize all site entrances and exits to sufficiently control discharges of erodible materials from discharging or being tracked off the site;

iv. Develop and implement a Rain Event Action Plan (REAP). The plan shall be implemented in the event of a predicted storm with a 40% or greater probability. The probability of a storm shall be determined no more than three days in advance and need only be documented once a day. The facility shall refer to the National Weather Service (weather.gov) to determine the storm probability. The REAP shall consider the following additional measures: (a) temporarily covering exposed materials; (b) ensuring that all control measures are fully functional; (c) sweeping the site and clearing debris and trash; (d) making sure that the trash bins are covered; and (e) any other measures to isolate industrial areas from contact with rainfall and runoff. A record of all activities related to the REAP shall be documented in the SWPPP and shall be dated and signed for each rain event.

v. To the extent practicable, minimize the runoff from the site through low impact development (LID) type of BMPs, such as: onsite infiltration including percolation and retention basins, pervious pavement, evapotranspiration and onsite storage (e.g., rain barrels or cisterns to store storm water) and use, green roofs, etc.; control flow volume and velocity through vegetated swales, bioretention facilities, etc. Develop and implement a program, to the maximum extent practicable, to percolate, evaportranspirate, or use onsite, the design volume of runoff from non-industrial areas and uncontaminated runoff from industrial areas. These onsite systems shall be designed such that they do not cause or contribute to an exceedance of groundwater quality objectives, including an appropriate level of pre-treatment controls. The bottom of the infiltration system shall be at least 10 feet above the historic high groundwater level; discharges to the infiltration system shall receive an appropriate level of pre-treatment; the infiltration system shall not be located in areas with soil or groundwater contamination and shall be at least 100 feet away from any water supply wells.

vi. Divert run-ons and flows from non-industrial areas away from industrial areas using berms, curbs, sub-surface piping, grading, or other structural controls.

vii. Eliminate all unauthorized non-storm water discharges and identify proper management techniques for authorized non-storm water discharges.

viii. Minimize exposure of industrial activities to storm water by roofing with non-contaminating roofing materials or other types of covers.

ix. Inspect all industrial areas on a monthly basis and properly remove and dispose of all debris, wastes, trash and spilled or leaked materials. Keep a record of all inspections required in this Permit.

x. Drain fluids from vehicles and equipment prior to storage, disposal, or shredding.

xi. Use drip pans and absorbent materials under or around leaky industrial vehicles and equipment. Keep records of drip pan use & maintenance with inspection records identified in ix, above.

xii. Build secondary containment and roofs over chemicals and hazardous materials storage areas.

xiii. Conduct equipment cleaning and vehicle washing in designated areas and divert flows into sanitary sewer (with approval from the sanitation district) or recycle the wash water.

xiv. Sweep industrial areas on a regular basis, preferably using a vacuum sweeper. Keep records of sweeping activities with inspection records identified in ix, above.

xv. Clean catch basins and other storm water conveyance systems on as needed basis, and at least as part of the inspection routine identified in ix, above.

xvi. Inspect all vehicles and equipment on a regular schedule (e.g., on a weekly basis) for leaks spills or other malfunctions.

xvii. Label all containers.

xviii. Develop and implement an employee training program, including documentation of training materials and attendance. All new employees shall receive training within 30 days of employment and all employees shall have refresher training at least on an annual basis.

xix. Identify spill prevention and response procedures, including management of any non-storm water runoff.

xx. Consolidate all industrial area discharges to as few discharge points as practicable, preferably to one discharge point and divert all non-industrial area runoff away from industrial areas. Manage run-on to the facility by diversion or other means.

xxi. Minimize storm water contact with contaminating building materials by removal, painting, or other measures.

xxii. Determine the possibility of diverting first flush or any contaminated storm water to the sanitary sewer system. This option should only be

considered if the sanitary sewage collection agency reclaims and distributes and/or uses reclaimed water.

xxiii. Develop and implement a monitoring program or join the group monitoring program (see Section VII of the MRP). If the Permittee has not joined the group monitoring program, the person responsible for sample collection, preservation and handling shall be identified in the monitoring program and must have received the requisite training (see Section VI.B.3 of the MRP).

3) Mitigative Measures: The following Mitigative measures shall be implemented by December 31, 2012 or within 30 days for new facilities filing their NOI after November 30, 2012:

i. Develop and implement a spill response procedure; identify all spill response equipment, location and proper maintenance of the equipment; identify spill response personnel and any training needed for the spill response personnel and establish a procedure to notify proper personnel within the facility and regulatory agencies (see reporting provisions in Section VIII of the MRP).

ii. Cleanup spills and leaks promptly using dry methods (e.g., absorbents).

iii. Identify pollutants that cannot be eliminated without treatment controls include the treatment control methods, persons responsible for their maintenance, and maintenance frequency.

iv. Develop and implement a treatment system for oily scrap metal from the site, such as an oil-water separator and implement a plan for proper operation and maintenance of those systems; identify its location on the site map, person responsible for its maintenance and maintenance frequency. An oil-water separator is not needed if there is no potential for oil contaminated wastes to be processed at the facility.

v. Evaluate the need for advanced media filtration (or equivalent systems) during the planning stages by evaluating the monitoring reports for the last three years. An advanced media filtration system may not be needed if the monitoring results were below the triggers specified above.

vi. Identify all treatment controls installed at the facility, the person responsible for regular operation and/or maintenance of the system, the schedule for any required maintenance, and a record of the maintenance activities including the name of the person performing the maintenance, the date and a signature.

b. **Phase II Requirements**

1) By April 30, 2013 or within 16 months of NOI filing for new facilities filing their NOI after November 30, 2012, each Permittee shall assess

effectiveness of Phase I BMPs by evaluating the monitoring results and by determining if any of the triggers have been exceeded. If none of the triggers has been exceeded, Phase II and III may not be necessary. If any of the triggers has been exceeded, implement Phase II, steps 2) through 4), below.

2) Upon a determination that any one of the triggers has been exceeded, the Permittee shall immediately reassess the Phase I BMPs to identify the sources of exceedances. Once the source is identified, determine if additional BMPs or treatment controls that are needed to address the pollutant source.

3) By May 30, 2013 or within one month of Phase I exceedance determinations occurring after April 30, 2013, develop and submit for Regional Board staff approval a Phase II Corrective Action Plan. This Plan shall identify the sources of pollutant(s) causing the exceedance, proposed control measures, and the expected discharge quality once the Plan is implemented. It is expected that the Phase II Corrective Action Plan will focus on Preventative Measures identified above. The facility shall select and design an advanced media filtration system or an equivalent treatment system to treat the design volume from exposed industrial areas. All proposals for advanced media filtration systems or other equivalent treatment systems shall be submitted to the Regional Board staff for approval by June 15, 2013 (for new facilities, within two months of Phase I exceedance determination) and shall be implemented within 90 days of approval by Board staff. The design volume shall be greater than or equal to 95th percentile* of the annual average daily runoff volume from exposed areas not eliminated by Phase I BMPs.

4) Within 90 days of approval of the Phase II Corrective Action Plan, the Permittee shall implement the Plan.

c. **Phase III Requirements:** Phase III includes development and implementation of a Phase III Corrective Action Plan and is not needed if none of the triggers has been exceeded through implementation of Phase II, above.

1) By April 30, 2014 or within 28 months of NOI filing for new facilities filing their NOI after November 30, 2012, the Permittee shall assess the water quality monitoring data. If no triggers have been exceeded, Phase III actions described below are not necessary.

2) If the assessment in Paragraph 1), above, indicates that any trigger has been exceeded the Permittee shall develop a Phase III Corrective Action Plan by May 30, 2014 or within one month for Phase II exceedance determinations occurring after April 30, 2014. This Plan shall identify the potential causes of the violation, BMPs and treatment controls currently being implemented, proposed solutions including any treatment controls, technical information regarding any proposed treatment controls including

the expected discharge quality and a time schedule for implementing the proposed corrective actions. The Phase III Corrective Action Plan, when fully implemented, will meet the BAT/BCT standards and constitutes a water-quality based effluent limitation as per 40 CFR § 122.44(k). The Permittee will be deemed to be in compliance with the BAT/BCT standards once the Phase III Corrective Action Plan is fully implemented.

7. **Development of Sector-Specific Additional NELs:** Based on data generated from the group monitoring program and treatment technology evaluations conducted under the auspices of the Metal Recyclers Water Quality Standards Committee, the Regional Board may consider establishing additional NELs. This Permit may be reopened to incorporate additional NELs.

8. **Water Quality-Based Effluent Limitations:** Each Permittee shall meet water quality standards through implementation of the technology-based control measures prescribed in Subsection 6, above. If the Permittee or the Regional Board determines that the BAT/BCT standards are not being met, a Phase III Corrective Action Plan shall be prepared and implemented as described in Phase III, above. Once the Phase III Corrective Action Plan is fully implemented, the Permittee will be considered to be in compliance with the effluent limitations and discharge specifications specified in this Permit consistent with the BAT/BCT standards. If a Permittee chooses Option 2, the NELs specified in Table 1.b. shall be the water quality-based effluent limitations.

E. SPECIAL PROVISIONS FOR DISCHARGES TO IMPAIRED WATERS (EXISTING FACILITIES)

1. **Discharges from Facilities with an Assigned Wasteload Allocation:** The SWPPP for all discharges from a facility regulated under this Order shall be designed to comply with the wasteload allocations as per the approved TMDLs provided that the TMDL includes a wasteload allocation for the regulated facility. The SWPPP shall document specific control measures for the listed pollutant, implementation schedules for the control measures and design and other technical details to show how the proposed measures are designed to meet the wasteload allocations. The monitoring program in the SWPPP shall document specific monitoring requirements for the listed pollutant to verify that the control measures are effective in meeting the wasteload allocations by the dates specified in the approved TMDLs.

2. **Discharges to 303(d) listed Waterbodies without an Approved TMDL:** The SWPPPs for facilities that discharge into 303(d) listed waterbodies shall be designed to eliminate or control the discharge of the listed pollutant* and the SWPPP shall document the control measures. Any discharge from the regulated facility shall not contain the listed pollutant in quantities that would cause or contribute to an exceedance of water quality standards* for the listed pollutant. The monitoring program shall include the listed pollutant*.

F. SPECIAL PROVISIONS FOR DISCHARGES TO IMPAIRED WATERS (NEW PERMITTEES)

New Permittees proposing to discharge to a 303(d) listed waterbody are not eligible for coverage under this Order unless the following conditions are met:

1. The facility provides verifiable documentation indicating that the listed pollutant will not be present in the discharges from the facility. This information shall be documented in the SWPPP.

2. The facility has implemented proper control measures to eliminate all exposure of the listed pollutant and documented the control measures in the SWPPP.

3. The facility provides verifiable information to indicate that the discharges from the facility will meet the in-stream water quality standard at the point of discharge to the waterbody or provides technical information to show that there is excess wasteload allocation available in the waterbody to allow such discharges without violating the approved TMDLs/ wasteload allocations.

G. SPECIAL PROTECTIONS FOR ENDANGERED AND THREATENED SPECIES:

Storm water discharges or authorized non-storm discharges from facilities regulated under this Order shall not adversely affect any species that are federally-listed as endangered or threatened either under the California Endangered Species Act (Fish and Game Code Sections 2050 to 2097) or the Federal Endangered Species Act (16 U.S.C.A. Sections 1531 to 1544).

H. RECEIVING WATER LIMITATIONS

1. Storm water discharges or authorized non-storm discharges shall not cause or contribute a violation of water quality standards* (water quality objectives* and beneficial uses*) contained in the Basin Plan*, Statewide Water Quality Control Plans, the National Toxics Rule, and/or the California Toxics Rule.

2. Storm water discharges or authorized non-storm discharges to waters of the U.S. or to waters of the State, including groundwater, shall not adversely impact human health or threaten to cause pollution or nuisance.

I. OBTAINING PERMIT COVERAGE

1. All industrial facilities within this Regional Board's jurisdiction and engaged in scrap metal recycling operations with an SIC Code of 5093 (corresponding NAICS Codes include: 423930, 562111, and 562920) shall obtain coverage under this Order, except:

    a. Permit coverage is not required for facilities that do not discharge storm water associated with industrial activities to surface waters. If the discharge is to a retention facility, it shall have the capacity to hold at least the volume of runoff

from a 100-year, 24-hour storm event. The design details of the retention facility shall be certified by a professional engineer and shall be submitted to the Regional Board. The Regional Board may issue individual waste discharge requirements for such facilities.

b. If all industrial activities are carried out under a roof without exposure and if materials, processes, wastes, finished products, byproducts, and intermediate products are not exposed to storm water, coverage under this Permit is not needed. However, the Permittees shall complete a "No-Exposure Certification" on SMARTS [see procedures under the next paragraph]. Initial submission of "No Exposure Certifications" shall include analytical results of runoff from each discharge point of the facility for two storm events. If initial samples could not be collected at the time of filing a "No Exposure Certification", the application may be kept pending for up to a year until analytical data is received. At a minimum, the analysis shall include pH, turbidity, specific conductance, oil and grease and the parameters listed in Attachment B, Numeric Action Levels. The "No-Exposure Certification" must be renewed by June 30 of each year. The renewal application submitted for every 5th year shall also include an analysis of storm water runoff from each discharge point of the facility for one storm for the constituents indicated in this paragraph, above.

2. All scrap metal facilities currently regulated under the State's General Industrial Permit (Attachment A) shall re-certify under this Order within 90-days of adoption of this Order. The re-certification shall be done electronically using SMARTS. The Permit Registration Documents (PRDs)* shall include the Notice of Intent, a facility-specific SWPPP, a site map, and any applicable filing fee (see Item c, below) and shall be uploaded into SMARTS as described below:

   a. Identify a Legally Responsible Person* who would sign up for access to SMARTS* in the login box at: https://smarts.waterboards.ca.gov An LRP* is either the owner of the business or a responsible corporate officer. A responsible corporate officer means: (a) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (b) the manager of the facility if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

   b. Login to the SMARTS2 system at: https://smarts.waterboards.ca.gov and click on the "Apply for New Notice of Intent (NOI)" link.

   c. Complete the Permit Registration for each tab including the uploading of your SWPPP and Site Map under the "Attachments" tab, certify the submission under the "Certification" tab, and mail the applicable filing fee to the State Water Resources Control Board with the fee statement that you will receive in an e-mail upon completion of the certification. If the fees have been paid recently, a fee may not be required for re-certification.

d. Fully implement the SWPPP to control/eliminate the discharge of pollutants from the site.

3. All new facilities shall upload the PRDs into SMARTS, as described above, at least 30 days prior to start of operations at the facility. If the new facility elects to comply with Option 2, compliance with the NELs specified in Table 1.b is required upon start of facility operations. If the facility elects to comply with Option 1, compliance with Phase I requirements (except Rain Event Action Plan, REAP) is required within 30 days of start of facility operations; REAP on an as needed basis; compliance with Phase II within 16 months of start of facility operations; and Phase III within 28 months of start of facility operations.

J. TERMINATING PERMIT COVERAGE

A Notice of Termination shall be completed on SMARTS upon: (1) cessation of all industrial activities at the facility and the site is no longer a threat to water quality; (2) cessation of discharges to the MS4 and surface waters; (3) change in ownership of the facility and new owner/operator has taken responsibility for the facility (new owner has uploaded PRDs; (4) change in location of the facility; or (5) obtaining coverage under an individual permit.

IV. MONITORING AND REPORTING REQUIREMENTS

Each Permittee shall comply with the monitoring and reporting requirements specified under Monitoring and Reporting Program No. R8-2011-0011, or participate in a Group Monitoring Program as specified therein.

V. SPECIAL PROVISIONS

All documents submitted as per requirements specified in this Order, including the PRDs, shall be posted on the website at least for a thirty day comment period. If significant comments are received which cannot be resolved by Regional Board staff, a public hearing on that item shall be scheduled at a Regional Board meeting.

VI. PERMIT MODIFICATION

A. Following appropriate public notice, and in accordance with 40 CFR § 122.41(f), this Order may be modified, revoked or reissued prior to its expiration date for the following reasons:

1. To address significant changes in conditions identified in the reports required by the Regional Board which were unknown at the time of the issuance of this Order;

2. To incorporate applicable requirements of statewide water quality control plans adopted by the State Board or any amendments to the Basin Plan approved by the Regional Board, the State Board and, if necessary, by the Office of Administrative Law and the USEPA;

3. To comply with any applicable requirements, guidelines, or regulations issued or approved under the Clean Water Act, if the requirements, guidelines, or regulations contain different conditions or additional requirements than those included in this Order; or,

4. To incorporate any requirements imposed upon the Permittees through the TMDL process or to amend NELs and NALs as a result of the treatment technology evaluation required under this Order.

B. The filing of a request by the Permittees for modification, revocation and re-issuance, or termination or a notification of planned changes or anticipated noncompliance does not stay any conditions of this Order.

VII. PERMIT EXPIRATION AND RENEWAL

A. This Order shall serve as an NPDES Permit pursuant to section 402(p) of the Clean Water Act, or amendments thereto, and shall become effective ten days after the date of its adoption provided the Regional Administrator of the USEPA has no objections. If the Regional Administrator objects to its issuance, the Permit shall not become effective until such objection is withdrawn.

B. This Order expires on September 14, 2016. If this Permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with 40 CFR § 122.6 and remain in force and effect.

VIII. STANDARD PROVISIONS

A. Duty to Comply

1. The Permittee shall comply with all of the conditions of this Permit. Any Permit noncompliance constitutes a violation of the CWA and the CWC and is grounds for enforcement action and/or removal from Permit coverage.

2. Any non-compliance with any of the requirements of this Order constitutes a violation of the CWA and the CWC. Any failure to take appropriate corrective actions as specified in this Order is also a violation of this Order.

3. The Permittee shall comply with effluent standards or prohibitions established under section 307(a) of the CWA for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if this Permit has not yet been modified to incorporate the requirement.

B. General Permit Actions

1. This General Permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Permittee for a General Permit modification,

revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not annul any General Permit condition.

2. If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under section 307(a) of the CWA for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this Permit, this Permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition and the Permittees so notified.

C. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Permit.

D. Duty to Mitigate

The Permittee shall take all responsible steps to minimize or prevent any discharge, which has a reasonable likelihood of adversely affecting human health or the environment.

E. Proper Operation and Maintenance

The Permittee shall at all times properly operate and maintain any facilities and systems of treatment and control (and related equipment and apparatuses) which are installed or used by the Permittee to achieve compliance with the conditions of this Permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance may require the operation of backup or auxiliary facilities or similar systems installed by a Permittee when necessary to achieve compliance with the conditions of this Permit.

F. Property Rights

This Permit does not convey any property rights of any sort or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor does it authorize any infringement of Federal, State, or local laws or regulations.

G. Duty to Provide Information

The Permittee shall provide to the Regional Board, State Board, or USEPA, within a reasonable time, any requested information to determine compliance with this Permit. The Permittee shall also furnish, upon request, copies of records that are required to be kept by this Permit.

H. Inspection and Entry

The Permittee shall allow Regional Board staff, State Board staff or USEPA staff, and/or, in the case of facilities which discharge through a municipal separate storm sewer, an authorized representative of the municipal operator of the separate storm

sewer system receiving the discharge, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the Permittee's premises at reasonable times where a regulated industrial activity is being conducted or where records must be kept under the conditions of this Permit;

2. Access and copy at reasonable times any records that must be kept under the conditions of this Permit;

3. Inspect at reasonable times the facility; and

4. Take pictures, collect samples, collect other evidence, or monitor at reasonable times for the purpose of ensuring Permit compliance.

I. Monitoring and Record Keeping

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

2. Records of monitoring information shall include:

   a) The date, exact place, and time of sampling or measurements;

   b) The date(s) analyses were performed;

   c) The individual(s) who performed the analyses;

   d) The analytical techniques or methods used; and

   e) The results of such analyses.

3. The Permittee shall maintain a paper or electronic copy of all storm water monitoring information, copies of all reports (including Annual Reports), SWPPPs, and all other required records, including a copy of this Permit, for a period of at least five years from the date generated or date submitted, whichever is later. These records shall be available at the industrial facility.

4. Upon written request by USEPA or the municipal agency within whose jurisdiction the facility lies, Permittees shall provide written or electronic copies of their Annual Reports to the USEPA or the municipal agency within 10 working days from receipt of the request.

J. Electronic Signature and Certification Requirements

1. All Permit Registration Documents (PRDs) and Notices of Termination (NOTs) shall be electronically signed, certified, and submitted via SMARTS to the State Board via SMARTS. Either the Legally Responsible Person (LRP), as defined in the Glossary, or a person legally authorized to sign and certify PRDs and NOTs on behalf of the

LRP (the LRP's Approved Signatory, as defined in the Glossary) must submit all information electronically via SMARTS.

2. If an Approved Signatory's authorization is no longer accurate, a new authorization satisfying the requirements of paragraph (1) of this section must be submitted via SMARTS prior to or together with any reports, information or applications to be signed by an Approved Signatory.

3. All Annual Reports, or other information required by this Permit (other than PRDs and NOTs) or requested by the Regional Board, State Board, USEPA, or local storm water management agency shall be certified and submitted by the LRP or the LRP's Approved Signatory.

K. Certification

Any person signing documents under Section VIII..K, above, shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, to the best of my knowledge and belief, the information submitted is, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Anticipated Noncompliance

The Permittee shall give advance notice to the Regional Board and local storm water management agency of any planned changes in the industrial activity, which may result in noncompliance with Permit requirements.

M. Penalties for Falsification of Reports

Section 309(4) of the CWA provides that any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this Permit, including reports of compliance or noncompliance shall upon conviction, be punished by a fine of not more than $10,000 or by imprisonment for not more than two years or by both.

N. Oil and Hazardous Substance Liability

Nothing in this Permit shall be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities, or penalties to which the Permittee is or may be subject to under section 311 of the CWA.

O. Severability

The provisions of this Permit are severable; and, if any provision of this Permit or the application of any provision of this Permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this Permit shall not be affected thereby.

P. Penalties for Violations of Permit Conditions

1. Section 309 of the CWA provides significant penalties for any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the CWA or any permit condition or limitation implementing any such section in a permit issued under section 402. Any person who violates any permit condition of this Permit is subject to a civil penalty not to exceed $37,500 per calendar day of such violation, as well as any other appropriate sanction provided by Section 309 of the CWA.

2. The Porter-Cologne Water Quality Control Act also provides for civil and criminal penalties, which in some cases are greater than those under the CWA.

Q. Transfers

When a transfer of operator occurs, or a facility is relocated, new PRDs must be electronically submitted and approved prior to the operator transfer, or prior to the first operation day for a relocated facility.

R. Continuation of Expired Permit

This Permit continues in full force and effect until a new Permit is issued or the Regional Board rescinds this Permit. Only those Permittees authorized to discharge under the expiring Permit are covered by the continued Permit.

S. OTHER FEDERAL REQUIREMENTS

All other requirements of 40 CFR §§ 122.41 and 122.42 are incorporated into this Permit by reference.

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ACRONYMS:

BAT Best Available Technology Economically Achievable
BCT Best Conventional Pollutant Control Technology
BMPs Best Management Practices
BOD Biochemical Oxygen Demand
BPJ Best Professional Judgment
CAFO Confined Animal Feeding Operation
CalTrans California Department of Transportation
CCR California Code of Regulations (State Water Board regulations are in Title 23)
CEQA California Environmental Quality Act
CFR Code of Federal Regulations
CTR California Toxics Rule
CWA Clean Water Act
CWC California Water Code
ESA Endangered Species Act
LID Low Impact Development
LRP Legally Responsible Person
MRP Monitoring and Reporting Program, R8-2011-0011
MS4 Municipal Separate Storm Sewer System
NAL Numeric Action Level
NEC No Exposure Certification
NEL Numeric Effluent Limit
NOI Notice of Intent
NOT Notice of Termination
NPDES National Pollutant Discharge Elimination System
NPS Nonpoint Source
NTR National Toxics Rule
NURP Nationwide Urban Runoff Program
O & G Oil and Grease
POTW Publicly Owned Treatment Works
PRDs Permit Registration Documents
QA/QC Quality Assurance/Quality Control
QSD Qualified SWPPP Developer
QSE Qualifying Storm Event
QSP Qualified SWPPP Practitioner
RCRA Federal Resource Conservation and Recovery Act
RWQCB Regional Water Quality Control Board
SC Specific Conductance
SIC Standard Industrial Classification
SMARTS Stormwater Multi Application Reporting and Tracking System
SWAMP Surface Water Ambient Monitoring Program
SWPPP Storm Water Pollution Prevention Plan
SWRCB State Water Resources Control Board
TDS Total Dissolved Solids
TMDL Total Maximum Daily Load

TSS Total Suspended Solids
USEPA United States Environmental Protection Agency
WDID Waste Discharge Identification Number
WDR Waste Discharge Requirements
WLA Waste Load Allocation
WQBEL Water Quality Based Effluent Limitation
WQO Water Quality Objective
WQS Water Quality Standard

GLOSSARY

All terms defined in the Clean Water Act, USEPA regulations and the California Water Code are incorporated into this Permit by reference.

95th Percentile Storm Event. The 95th percentile storm event represents a precipitation amount which 95 percent of all storm events for the period of record do not exceed. In more technical terms, the 95th percentile storm event is defined as the measured precipitation depth accumulated over a 24-hour period for the period of record that ranks as the 95th percentile rainfall depth based on the range of all daily event occurrences during this period. (Also see Design Storm.)

Approved Signatory - A person who has been authorized by the Legally Responsible Person (see definition below) to sign, certify, and electronically submit Permit Registration Documents, Notices of Termination, and any other documents, reports, or information required by the General Permit, the State or Regional Water Board, or U.S. EPA. The Approved Signatory must be one of the following:

a. For a corporation or limited liability company: a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (a) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation or limited liability company; or (b) the manager of the facility if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

c. For a municipality, State, Federal, or other public agency: a principal executive officer, ranking elected official, city manager, council president, or other public employee with managerial responsibility over the industrial facility (including, but not limited to, project manager, project superintendent, or resident engineer);

d. For the military: any military officer or Department of Defense civilian, acting in an equivalent capacity, who has been designated;

e. For a public university: an authorized university official;

f. For an individual: the individual, because the individual acts as both the Legally Responsible Person and the Approved Signatory.

g. For any type of entity not listed above: an authorized person with managerial authority over the industrial facility.

Authorized non-Storm Water Discharges: Authorized non-storm water includes: uncontaminated condensate from air conditioners, coolers, and compressors and from the outside storage of refrigerated gases or liquids; uncontaminated groundwater or spring water; landscape watering provided all pesticides, herbicides, and fertilizer have been applied in

accordance with the approved labeling; discharges from emergency fire fighting activities (BMPs must be implemented to the extent practicable); irrigation drainage.

Basin Plan – Water Quality Control Plan developed by the Regional Board for the Santa Ana River Watershed.

Beneficial Uses – The uses of water necessary for the survival or well being of man, plants, and wildlife. These uses of water serve to promote the tangible and intangible economic, social, and environmental goals. "Beneficial Uses" that may be protected against include, but are not limited to: domestic, municipal, agricultural and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves. Existing beneficial uses are uses that were attained in the surface or groundwater on or after November 28, 1975; and potential beneficial uses are uses that would probably develop in future years through the implementation of various control measures. "Beneficial Uses" are equivalent to "Designated Uses" under federal law. [California Water Code § 13050(f)]. Beneficial Uses for the Receiving Waters are identified in the Basin Plan.

Best Available Technology (BAT) – BAT is the acronym for best available technology economically achievable. BAT for toxic (generally materials contaminating the environment that cause death, disease, or birth defects in organisms that ingest or absorb them) and non-conventional pollutants; BAT is a term applied with regulations on limiting pollutant discharges with regard to the abatement strategy. BAT is the technology-based standard established by congress in CWA § 402(p)(3)(A) for industrial Permittees of storm water. Technology-based standards establish the level of pollutant reductions that Permittees must achieve, typically by treatment or by a combination of treatment and best management practices, or BMPs. For example, secondary treatment (or the removal of 85% suspended solids and BOD) is the BAT for suspended solids and BOD removal from a sewage treatment plant. BAT generally emphasizes treatment methods first and pollution prevention and source control BMPs secondarily. The best economically achievable technology that will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants is determined in accordance with regulations issued by the Environmental Protection Agency Administrator. Factors relating to the assessment of best available technology shall take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, the cost of achieving such effluent reduction, non-water quality environmental impact (including energy requirements), and such other factors as the permitting authority deems appropriate.

Best Conventional Technology (BCT) – BCT is an acronym for Best Conventional Technology for conventional pollutants (generally conventional pollutants include: BOD, pH, suspended solids, coliform bacteria, and oil and grease); BCT is the treatment techniques, processes and procedures, innovations, and operating methods that eliminate or reduce chemical, physical, and biological pollutant constituents.

Best Management Practices – Best Management Practices (BMPs) are defined in 40 CFR § 122.2 as schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures and practices to control plant site

runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. In the case of municipal storm water permits, BMPs are typically used in place of numeric effluent limits.

Best Professional Judgment - The method used by permit writers to develop technology-based NPDES permit conditions on a case-by-case basis using all reasonably available and relevant data.

Bioaccumulate – The progressive accumulation of contaminants in the tissues of organisms through any route including respiration, ingestion, or direct contact with contaminated water, sediment, pore water, or dredged material to a higher concentration than in the surrounding environment. Bioaccumulation occurs with exposure and is independent of the tropic level.

Bioassessment - The use of biological community information to evaluate the biological integrity of a water body and its watershed. With respect to aquatic ecosystems, bioassessment is the collection and analysis of samples of the benthic macroinvertebrate community together with physical/habitat quality measurements associated with the sampling site and the watershed to evaluate the biological condition (i.e. biological integrity) of a water body.

Biological Integrity – Defined in Karr J.R. and D.R. Dudley. 1981. Ecological perspective on water quality goals. Environmental Management 5:55-68 as: "A balanced, integrated, adaptive community of organisms having a species composition, diversity, and functional organization comparable to that of natural habitat of the region." Also referred to as ecosystem health.

CalTrans - California Department of Transportation.

CEQA – California Environmental Quality Act (Section 21000 et seq. of the California Public Resources Code).

Chain of Custody - Form used to track sample handling as samples progress from sample collection to the analytical laboratory. The COC is then used to track the resulting analytical data from the laboratory to the client. COC forms can be obtained from an analytical laboratory upon request.

Clean Water Act Section (CWA) 402(p) – [33 USC 1342(p)] is the federal statute requiring municipal and industrial Permittees to obtain NPDES permits for their discharges of storm water.

Clean Water Act Section 303(d) Listed Water Body – is an impaired water body in which water quality does not meet applicable water quality standards and/or is not expected to meet water quality standards, even after the application of technology-based pollution controls required by the CWA. The discharge of storm water to these water bodies by the scrap metal facilities can cause or contribute to violations of applicable water quality standards.

Construction Site – Any project, including projects requiring coverage under the General Construction Permit, that involves soil disturbing activities including, but not limited to, clearing, grading, disturbances to ground such as stockpiling, and excavation.

Contamination – As defined in the Porter-Cologne Water Quality Control Act, contamination is "an impairment of the quality of waters of the State by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease." 'Contamination'

includes any equivalent effect resulting from the disposal of waste whether or not Waters of the U.S. are affected.

Criteria - The numeric values and the narrative standards that represent contaminant concentrations that are not to be exceeded in the receiving environmental media (surface water, groundwater, sediment) to protect beneficial uses.

CWA – Federal Clean Water Act.

CWC – California Water Code.

Daily Sampling Average - Daily average value for any one constituent or parameter is the average of all individual field measurements (for pH and specific conductance it is the average of the values, not the logarithmic average), or, for samples sent to an analytical lab, the average of the analytical results.

Debris – Debris is defined as the remains of anything destroyed or broken, or accumulated loose fragments of rock.

Deleterious Materials- Substances that could produce a harmful or injurious effect.

Design Storm – This is the rainfall depth or intensity to which the treatment systems shall be designed. The Permit defines it as the 95th percentile storm event* for the area.

Discharger - The Legally Responsible Person (see definition) or entity subject to this General Permit.

Effluent - Any discharge of water either to the receiving water or beyond the property boundary controlled by the discharger.

Effluent Limitations – Means any restriction on quantities, discharge rates, and concentrations of pollutants which are discharged from point sources into Waters of the United States, waters of the "contiguous zone," or the ocean. (40 CFR §122.2)

Environmentally Sensitive Areas (ESAs) - Areas that include but are not limited to all Clean Water Act Section 303(d) impaired water bodies; areas designated as Areas of Special Biological Significance by the State Water Resources Control Board; water bodies designated with the RARE beneficial use in the Basin Plan (Water Quality Control Plan for the Santa Ana River Basin [1995] and amendments); areas designated as preserves or their equivalent under the Natural Communities Conservation Program (Multiple Species Habitat Conservation Plan, MSHCP) within the Cities and Counties of Orange, Riverside and San Bernardino; and any other equivalent environmentally sensitive areas which have been identified by a governmental organization.

Erosion – The process whereby material (such as sediment) is detached and entrained in water or air and can be transported to a different location. Chemical erosion involves materials that are dissolved and removed and transported.

Facility - A collection of industrial processes discharging storm water associated with industrial activity to locations outside the property boundary.

Field Measurements - Testing procedures performed in the field with portable field-testing kits or meters.

GIS - Geographical Information Systems.

Good Housekeeping BMPs - BMPs designed to reduce or eliminate the addition of pollutants to industrial site runoff through control of pollutant sources with the implementation of proper handling/disposal practices, employee education, training and other actions.

Grading – The cutting and/or filling of the land surface to a desired slope or elevation.

Hazardous Material – Any substance that poses a threat to human health or the environment due to its toxicity, corrosiveness, ignitability, explosive nature or chemical reactivity. These also include materials named by the U.S. EPA to be reported if a designated quantity of the material is spilled into the waters of the United States or emitted into the environment.

Illicit Discharge – Any discharge to a municipal separate storm sewer that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations. The term illicit discharge includes all non-storm water discharges except discharges pursuant to an NPDES permit, discharges that are identified in Section III, Authorized Non-Storm Water Discharger, of this Order, and discharges authorized by the Regional Board.

Impaired Waterbody – Section 303(b) of the CWA requires each of California's Regional Water Quality Control Boards to routinely monitor and assess the quality of waters of their respective regions. If this assessment indicates that Beneficial Uses are not met, then that waterbody must be listed under Section 303(d) of the CWA as an Impaired Waterbody.

Isopluvial - A line on a map drawn through geographical points having the same pluvial (rain, precipitation) index.

Land Disturbance – The clearing, grading, excavation, stockpiling, or other construction activity that results in the possible mobilization of soils or other pollutants into the MS4. This specifically does not include routine maintenance activity to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. This also does not include emergency construction activities required to protect public health and safety.

Legally Responsible Person - A person, company, agency, or other entity that is the operator of the industrial facility covered by this General Permit.

Listed Pollutant – A pollutant that is causing impairment of beneficial uses in waterbodies that are listed under section 303(d) of the CWA.

Load Allocations (LA) – Distribution or assignment of TMDL pollutant loads to entities or sources for existing and future nonpoint sources, including background loads.

Low Impact Development (LID) – A storm water management and land development strategy that combines a hydrologically functional site design with pollution prevention measures to compensate for land development impacts on hydrology and water quality. LID techniques mimic the site predevelopment site hydrology by using site design techniques that store, infiltrate, evapotranspire, bio-filter or detain runoff close to its source.

Municipal Storm Water Conveyance System – (See Municipal Separate Storm Sewer System or MS4).

Municipal Separate Storm Sewer System (MS4) – MS4 is an acronym for Municipal Separate Storm Sewer System. A Municipal Separate Storm Sewer System is a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, natural drainage features or channels, modified natural channels, man-made channels, or storm drains): (i) Owned or operated by a State, city town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes; (ii) Designated or used for collecting of conveying storm water; (iii) Which is not a combined sewer; (iv) Which is not part of the Publicly Owned Treatment Works (POTW) as defined at 40 CFR § 122.2.

National Pollutant Discharge Elimination System (NPDES) Permit – A national program under section 402 of the Clean Water Act for regulation of discharges of pollutants from point sources to waters of the United States. Discharges of pollutants are illegal unless authorized by an NPDES permit.

NOI [Notice of Intent] – A NOI is an application for coverage under the State or Regional Board issued Permits.

Non-Phased Approach – The Metal Recyclers Water Quality Standards Committee recommended strict compliance with numeric effluent limits for those dischargers not opting for a phased compliance* strategy based upon an incremental increase in BMP implementation process designed to meet water quality standards.

Non-Point Source Pollution (NPS) – Non point source refers to diffuse, widespread sources of pollution. These sources may be large or small, but are generally numerous throughout a watershed. Non Point Sources include, but are not limited to sheet or surface flow from urban, agricultural, or industrial areas, roads, highways, construction sites, communities served by septic systems, recreational boating activities, timber harvesting, mining and livestock grazing areas. NPS pollution can occur year round any time rainfall, snowmelt, irrigation, or any other source of water runs over land or through the ground, picks up pollutants from these numerous, diffuse sources and deposits them into rivers, lakes, and coastal waters or introduces them into groundwater.

Non-Storm Water – Non-storm water consists of all discharges to and from a storm water conveyance system that do not originate from precipitation events (i.e., all discharges from a conveyance system other than storm water). Non-storm water includes illicit discharges, prohibited discharges, and NPDES permitted discharges.

NOT - Notice of Termination – Formal notice to the Regional Board or State Board of intent to terminate coverage under a Permit.

Nuisance – As defined in the Porter-Cologne Water Quality Control Act a nuisance is "anything which meets all of the following requirements: 1) Is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. 2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal. 3) Occurs during, or as a result of, the treatment or disposal of wastes."

Numeric Action Level – A concentration limit for certain constituents used as a warning to evaluate if best management practices are effective. These levels are not considered as effluent limits.

Numeric Effluent Limitations – A quantitative limitation on pollutant concentrations or levels to protect beneficial uses and water quality objectives of a water body.

Order or Permit– Order No. R8-2011-0011 (NPDES No. CAG618001)

PAH (Polycyclic aromatic hydrocarbon) – are hydrocarbons that consist of fused aromatic rings. PAHs occur in oil, coal, and tar deposits, and are produced as byproducts of fuel burning (whether fossil fuel or biomass). PAHs are persistent, bioaccumulative, and toxic (PBT) pollutants. Though exposure usually occurs by breathing contaminated air, other sources include industrial processes, transportation, energy production and use, and disposal activities.

PCBs - Polychlorinated biphenyls. Due to PCB's toxicity and classification as persistent organic pollutants, PCB production was banned by the United States Congress in 1976 and by the Stockholm Convention on Persistent Organic Pollutants in 2001.

Party – Defined as an individual, association, partnership, corporation, municipality, state or federal agency, or an agent or employee thereof. [40 CFR § 122.2]

Permit Area – Areas that are under the jurisdiction of the Santa Ana Regional Water Quality Control Board. These include north and northwestern portions of Orange County, north and western portions of Riverside County and western portions of San Bernardino County. See the Basin Plan for a detailed description of the Regional Board boundaries[53].

Permit Registration Documents or PRDs – Include the Notice of Intent, Storm Water Pollution Prevention Plan, Site Map and the appropriate filing fee. You will be notified of the appropriate filing fee, by email, upon completion of your permit registration at the State Board's website (see Section III.I.2 of the Permit for details).

Permittees – Entities regulated under Order No. R8-2011-0011.

[53] http://www.waterboards.ca.gov/santaana/water_issues/programs/basin_plan/index.shtml

Person – A person is defined as an individual, association, partnership, corporation, municipality, State or Federal agency, or an agent or employee thereof. [40 CFR § 122.2].

pH - An indicator of the acidity or alkalinity of water.

Phased Approach – The Metal Recyclers Water Quality Standards Committee recommended phased compliance strategy based upon an incremental increase in BMP implementation process designed to meet water quality standards.

Point Source – Any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, runoff from concentrated animal feeding operations, landfill leachate collection systems, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

Pollutant – Any agent that may cause or contribute to the degradation of water quality such that a condition of pollution or contamination is created or aggravated. It includes any type of industrial, municipal, and agricultural waste discharged into water. The term "pollutant" is defined in section 502(6) of the Clean Water Act as follows: "The term 'pollutant' means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water." It has also been interpreted to include water characteristics such as toxicity or acidity.

Pollution – As defined in the Porter-Cologne Water Quality Control Act, pollution is "the alteration of the quality of the Waters of the U.S. by waste, to a degree that unreasonably affects either of the following: 1) The waters for beneficial uses; or 2) Facilities that serve these beneficial uses." Pollution may include contamination.

Pollution Prevention – Pollution prevention is defined as practices and processes that reduce or eliminate the generation of pollutants, in contrast to source control, treatment, or disposal.

POTW [Publicly Owned Treatment Works] – Wastewater treatment facilities owned by a public agency.

Qualified SWPPP Developer - Individual who is authorized to develop and revise SWPPPs.

Qualified SWPPP Practitioner - Individual assigned responsibility for non-storm water and storm water visual observations, sampling and analysis, and responsibility to ensure full compliance with the permit and implementation of all elements of the SWPPP, including the preparation of the annual compliance evaluation and the elimination of all unauthorized discharges.

Qualifying Storm Event - An event that meets the following criteria:

1. Occurs during facility operating hours;

2. Is a storm event that has produced runoff (0.1 inches or more of rainfall); and

3. Is a storm event that was preceded by two consecutive days of dry weather. Dry weather shall be defined as two consecutive days of combined rainfall of less than 0.1 inches as measured by an on-site rainfall measurement device.

Receiving Waters – Waters of the United States within the Permit area.

Receiving Water Limitations – Waste discharge requirements issued by the Regional Board typically include both: (1) "Effluent Limitations" (or "Discharge Limitations") that specify the technology-based or water-quality-based effluent limitations; and (2) "Receiving Water Limitations" that specify the water quality objectives in the Basin Plan as well as any other limitations necessary to attain those objectives. In summary, the "Receiving Water Limitations" provision is the provision used to implement the requirement of CWA section 301(b)(1)(C) that NPDES permits must include any more stringent limitations necessary to meet water quality standards.

Reporting Period – From July 1 through June 30; annual report covering this period is due on August 1 of each year.

Runoff Control BMPs - Measures used to divert run-on from offsite and minimize runoff from the site.

Run-on - Discharges that originate offsite and flow onto the property.

Sediment – Soil, sand, and minerals washed from land into water. Sediment resulting from anthropogenic sources (i.e. human induced land disturbance activities) is considered a pollutant. This Order regulates only the discharges of sediment from anthropogenic sources and does not regulate naturally occurring sources of sediment. Sediment can destroy fish-nesting areas, clog animal habitats, and cloud waters so that sunlight does not reach aquatic plants.

SIC [Standard Industrial Classification] – Four digit industry code, as defined by the US Department of Labor, Occupational Safety and Health Administration. The SIC Code is used to identify if a facility requires coverage under the Industrial Activities Storm Water Permits.

Significant Materials - Includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under section 101(14) of Comprehensive Environmental Response, Compensation, and Liability Act (CERLCA); any chemical the facility is required to report pursuant to section 313 of Title III of Superfund Amendments and Reauthorization Act (SARA); fertilizers; pesticides; and waste products such as ashes, slag, and sludge that have the potential to be released with storm water discharges.

Source Control BMPs – In general, activities or programs to educate the public or provide low cost non-physical solutions, as well as facility design or practices aimed to limit the contact between pollutant sources and storm water or authorized non-storm water. Examples include: activity schedules, prohibitions of practices, industrial area sweeping, facility maintenance, detection and elimination of illegal and unauthorized discharges, and other non-structural measures. Facility design (structural) examples include providing attached lids to trash

containers, canopies for fueling islands, secondary containment, or roof or awning over material and trash storage areas to prevent direct contact between storm water and pollutants.

Southern California Stormwater Monitoring Coalition (SMC) – A coalition of Southern California storm water agencies and POTWs formed to investigate the impact of discharges to the ocean and other surface waters.

State Board – California State Water Resources Control Board

Storm Water – Per 40 CFR § 122.26(b)(13), means storm water runoff, snowmelt runoff and surface runoff and drainage.

Storm Water Associated with Industrial Activities: Storm water that has come in contact with or has the potential to carry pollutants from manufacturing areas; processing or raw material storage areas; industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites, refuse sites; sites used for the application or disposal of process waste waters; sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas for raw materials, and intermediate and finished products and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water.

Storm Water General Permits – General Permit-Industrial (State Board Order No. 97-03 DWQ, NPDES No. CAS000001), and General Permit-Construction (State Board Order No. 2009-0009-DWQ, NPDES No. CAS000002).

Structural BMPs – Physical facilities or controls that may include secondary containment, treatment measures, (e.g. first flush diversion, detention/retention basins, and oil/grease separators), run-off controls (e.g., grass swales, infiltration trenches/basins, etc.), and engineering and design modification of existing structures.

SWAMP (Surface Water Ambient Monitoring Program)

SWPPP [Storm Water Pollution Prevention Plan] – A plan developed to minimize and control the discharge of pollutants from the industrial site to storm water conveyance systems. The plan shall identify pollutant sources, control measures for each pollutant source, good housekeeping practices and employee training programs. .

TDS – Total dissolved solids, a measure of the total dissolved minerals in the water.

Total Maximum Daily Load (TMDL) – The TMDL is the maximum amount of a pollutant that can be discharged into a water body from all sources (point and non-point) and still maintain water quality standards. Under Clean Water Act § 303(d), TMDLs must be developed for all water bodies that do not meet water quality standards after application of technology-based controls.

TMDL Implementation Plan -- Component of a TMDL that describes actions, including monitoring, needed to reduce pollutant loadings and a timeline for implementation. TMDL

implementation plans can include a monitoring or modeling plan and milestones for measuring progress, plans for revising the TMDL if progress toward cleaning up the waters is not made, and the date by which water quality standards will be met (USEPA Final TMDL Rule: Fulfilling the Goals of the CWA, EPA 841-F-00-008, July 2000).

Total Suspended Solids - The measure of the suspended solids in a water sample includes inorganic substances, such as soil particles and organic substances, such as algae, aquatic plant/animal waste, particles related to industrial/sewage waste, etc. The TSS test measures the concentration of suspended solids in water by measuring the dry weight of a solid material contained in a known volume of a sub-sample of a collected water sample. Results are reported in mg/L.

Toxicity – Adverse responses of organisms to chemicals or physical agents ranging from mortality to physiological responses such as impaired reproduction or growth anomalies.

Treatment Control BMPs – Any engineered system designed and constructed to remove pollutants from urban runoff. Pollutant removal is achieved by simple gravity settling of particulate pollutants, filtration, biological uptake, media adsorption or any other physical, biological, or chemical process.

TSS – Total suspended solids (see definition above).

Turbidity - The cloudiness of water quantified by the degree to which light traveling through a water column is scattered by the suspended organic and inorganic particles it contains. The turbidity test is reported in Nephelometric Turbidity Units (NTU) or Jackson Turbidity Units (JTU).

Uncontaminated Groundwater: Groundwater that is not impaired by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease.

Urban Runoff – Urban runoff is defined as all flows in a storm water conveyance system and consists of the following components: (1) storm water (wet weather flows) and (2) authorized non-storm water discharges (See Section V of the Order) (dry weather flows).

USEPA – United States Environmental Protection Agency.

Waste – As defined in California Water Code § 13050(d), “waste includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal.” Article 2 of CCR Title 23, Chapter 15 (Chapter 15) contains a waste classification system which applies to solid and semi-solid waste which cannot be discharged directly or indirectly to water of the state and which therefore must be discharged to land for treatment, storage, or disposal in accordance with Chapter 15. There are four classifications of waste (listed in order of highest to lowest threat to water quality): hazardous waste, designated waste, nonhazardous solid waste, and inert waste.

Waste Discharge Requirements (WDR) – As defined in section 13374 of the California Water Code, the term "Waste Discharge Requirements" is the equivalent of the term "permits" as used in the Federal Water Pollution Control Act, as amended. The Regional Board usually reserves reference to the term "permit" to Waste Discharge Requirements for discharges to surface Waters of the U.S.

Waste Load Allocations (WLA) – WLA is the distribution or assignment of TMDL pollutant loads to entities or sources for existing and future point sources. Maximum quantity pollutants a Permittee of waste is allowed to release into a particular waterway, as set by a regulatory authority. Discharge limits usually are required for each specific water quality criterion being, or expected to be, violated.

Water Quality Assessment – Assessment conducted to evaluate the condition of water bodies which receive process wastewater, storm water and non-storm water discharges.

Water Quality-Based Effluent Limits (WQBEL) - A value determined by selecting the most stringent of the effluent limits calculated using all applicable water quality criteria (e.g., aquatic life, human health, and wildlife) for a specific point source to a specific receiving water for a given pollutant.

Water Quality Criteria - comprised of numeric and narrative criteria. Numeric criteria are scientifically derived ambient concentrations developed by EPA or states for various pollutants of concern to protect human health and aquatic life. Narrative criteria are statements that describe the desired water quality goal.

Water Quality Objective – The limits or levels of water quality constituents or characteristics which are established for the reasonable protection of beneficial uses of water or the prevention of nuisance within a specific area. [California Water Code § 13050(h)]

Water Quality Standards – Consist of beneficial uses, water quality objectives to protect those uses, an antidegradation policy, and policies for implementation. Water quality standards are found in Regional Water Quality Control Plans and statewide water quality control plans. The USEPA has also adopted water quality criteria (the same as objectives) for California in the National Toxics Rule and California Toxics Rule.

Waters of the United States[54] – Waters of the United States can be broadly defined as navigable surface waters and all tributary surface waters to navigable surface waters. Groundwater is not considered to be a Waters of the United States. As defined in 40 CFR § 122.2, the Waters of the U.S. are defined as: (a) All waters, which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide**;** (b) All interstate waters, including interstate "wetlands;" (c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation or destruction of which would affect or could affect interstate

[54] The application of the definition of "waters of the United States" may be difficult to determine; there are currently several judicial decisions that create some confusion. If a facility operator is unsure whether the discharge must be covered by this General Permit, the operator may wish to seek legal advice or contact the Regional Board office.

or foreign commerce including any such waters: (1) Which are or could be used by interstate or foreign travelers for recreational or other purposes; (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or (3) Which are used or could be used for industrial purposes by industries in interstate commerce; (d) All impoundments of waters otherwise defined as waters of the United States under this definition**:** (e) Tributaries of waters identified in paragraphs (a) through (d) of this definition; (f) The territorial seas; and (g) "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with the EPA.

Watershed – That geographical area which drains to a specified point on a water course, usually a confluence of streams or rivers (also known as drainage area, catchment, or river basin).

WDID [Waste Discharge Identification] – Identification number provided by the State when a Notice of Intent is filed.

Wet Season – October 1 through May 31st of each year, except where specifically defined otherwise in an approved TMDL Implementation Plan.

MONITORING AND REPORTING PROGRAM NO. R8-2011-0011
NPDES NO. CAS618001
FOR
SCRAP METAL FACILITIES WITHIN THE SANTA ANA REGION

I. GENERAL

A. Each facility regulated under this Order shall develop and implement a Monitoring and Reporting Program (MRP) as specified in this section unless it is a part of an approved group monitoring program discussed below. All facilities currently regulated under the State's General Industrial Permit shall update its MRP in accordance with the requirements specified in this section within 90 days of adoption of this Order. The Permittee or the group leader for a group monitoring program shall develop a MRP in accordance with the requirements of this MRP prior to uploading PRDs into SMARTS.

B. The MRP shall be implemented within 30-days of uploading the PRDs.

C. The MRP shall be incorporated into the SWPPP.

D. The MRP shall identify the sampling locations, person(s) responsible for sample collection, preservation and handling; identify any additional constituents for analyses (in addition to Table 2 included in this MRP), any special sampling and preservation requirements, and sample delivery to the laboratory.

E. Revisions of the MRP are appropriate to ensure that the Permittees are in compliance with requirements and provisions contained in this Order. Revisions may be made under the direction of the Executive Officer at any time during the term of this Order, and may include redistribution of monitoring resources to address TMDL needs, a reduction or increase in the number of parameters to be monitored, the frequency of monitoring, or the number and size of samples collected.

F. All sample collection, handling, storage, and analysis shall be in accordance with 40 CFR Part 136 (latest edition) "*Guidelines Establishing Test Procedures for the Analysis of Pollutants*," promulgated by the USEPA, the guidance being developed by the State Board pursuant to Water Code section 133383.5, or other methods which are more sensitive than those specified in 40 CFR § 136 and approved by the Executive Officer, or methods documented in the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (SIP).

G. The Executive Officer is authorized to allow the Permittees to participate in statewide, national, or other monitoring programs in lieu of or in addition to this monitoring program. In addition, the Permittees are encouraged to participate in group monitoring programs proposed by the Permittees and approved by the Executive Officer.

H. There are two types of monitoring programs that will be referenced and described in this MRP:

1. Individual Site Monitoring Programs; and

2. Group Monitoring Programs. Each group monitoring program shall designate a group leader, who shall be responsible for all monitoring activities at each of the facilities in the group.

I. All monitoring efforts shall conform to the same quality assurance, data management, validation, and verification standards. Individual as well as Group Monitoring Programs shall develop and implement a Quality Assurance Program Plan (QAPP) consistent with the USEPA and State Board guidelines.

J. The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Order shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than two years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than $20,000 per day of violation, or by imprisonment of not more than four years, or both [40 CFR § 122.41(j)(5)]

K. All chemical, bacteriological, and toxicity analyses shall be conducted at a laboratory certified for such analyses by an appropriate governmental regulatory agency. In addition, field measurement is required for pH, turbidity and specific conductance.

L. For priority toxic pollutants that are identified in the California Toxics Rule (CTR) (65 Fed. Reg. 31682), the Minimum Levels (MLs) published in Appendix 4 of the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (SIP) shall be used for all analyses, unless otherwise specified.

M. This MRP specifies the minimum parameters to be monitored. The Permittees are encouraged to include additional parameters based on site-specific conditions.

N. The detection limits for the metals analyses shall be low enough to allow for a direct comparison to the metal's criteria in the California Toxics Rule.

O. All monitoring data and monitoring locations shall be entered into the SMARTS system.

II. OBJECTIVES

A. The overall goal of this monitoring program is to develop reliable data to support the development of an effective storm water pollution control program that focuses resources on the priority list of pollutants of concern for scrap metal facilities. The following are the major objectives:

1. To provide data to support the development of an effective control mechanism for scrap metal facilities.
2. To determine water quality status, trends, and pollutants of concern associated with storm water runoff from scrap metal facilities and their impact on the beneficial uses of the receiving waters. This includes determining current conditions in the receiving waters including the extent and magnitude of any impairments, and relative contribution from scrap metal facilities to this impairment.
3. To assist in identifying potential pollutants from scrap metal facilities and external sources (e.g., any atmospheric deposition, contaminated sediments, etc.)
4. To characterize pollutants in storm water runoff from scrap metal facilities and to assess the influence of these pollutants on receiving water quality.
5. To evaluate the effectiveness of existing control measures, including an estimate of pollutant reductions achieved by the treatment and source control BMPs implemented by the Permittees.
6. To determine a cost-effective treatment control technology for treating storm water runoff from scrap metal facilities.

B. The Regional Board recognizes that program modifications may be necessary to attain these objectives. The Executive Officer is hereby authorized to evaluate and to determine adequate progress toward meeting each objective and to make any modifications to the monitoring and reporting program.

III. MONITORING REQUIREMENTS

A. Visual Inspections

1. Each month a group leader, a QSP* or a person under the direction of the QSP* or the group leader shall conduct visual inspections of the industrial areas of the permitted facility and record the findings in a permanent log (prior to 6 months after the QSP certification program has been developed and implemented, inspections and sampling can be performed by an individual who is not a QSP or QSD). The recorded information shall include the name of the person conducting the inspection, date and time, weather conditions, and findings regarding any discharges from the facility including authorized or unauthorized non-storm water discharges, oil stains, tracking from the site, spills or leaks, debris or trash, illegal discharges, and with respect to any discharge from the site (including storm water) oil sheen, discoloration, turbidity, foam, trash, debris or any other floating or suspended materials in any runoff from the site and any other activity that could be a source of pollutants in runoff from the site.

2. The monthly visual inspections shall be conducted at least 15 days apart.

3. If no significant violations are noted during four consecutive inspections (e.g., no unauthorized storm water discharges, has implemented good housekeeping practices, no oil sheens on storm water runoff, etc.), the inspection frequency may be reduced, with approval from the Executive Officer, to quarterly based on a

certification from the QSP/group leader that the minimum BMPs are fully implemented at the site and the site conditions do not warrant monthly inspections (at least one of these inspections shall be conducted during a storm event that produces a runoff).

4. Prior to any predicted storm event and as part of REAP, inspect all BMPs, housekeeping practices and treatment controls to ensure that they are properly maintained and in good working condition.

B. Runoff Sampling and Analysis

1. Each permitted facility shall collect at least four samples of runoff per year from qualifying storm events[55] from each discharge point. If storm water associated with industrial activities is discharged into an onsite system (percolation basins, infiltration gallery, etc.) samples must also be collected from each of those discharge points. The samples shall be collected monthly, until a minimum of four samples of runoff are collected.

2. The first sample for the season shall be collected during the first qualifying storm event* after July 1st.

3. Samples shall be collected as close as possible to the onset of discharge from a qualified storm event*.

4. Permittees need not sample outside of regular business hours or during unsafe conditions.

5. All samples collected shall be representative of storm water associated with industrial activities*. Samples shall be collected at the end of the storm water conveyance system (conveyance for storm water associated with industrial activities*) before it comingles with any other flows. For direct discharges to waters of the U.S., samples may be collected within 10 feet of the discharge point directly downstream from the discharge.

6. The samples shall be analyzed for the constituents in Table 2, at a State certified laboratory.

7. Unless otherwise approved by the Executive Officer, the test methods in Table 3 must be used and the minimum levels specified below (Table 3) shall be achieved for the laboratory analysis for each of the constituents.

[55] A qualifying storm event is defined as a storm event preceded by at least two consecutive days of dry weather (dry weather is defined as two days of combined rainfall of less than 0.1 inches of rain) that produces runoff from the site (storm events with intensities equal to or grater than 0.1 inches of rain).

Table 2: Parameters, Sample Type and Frequency

Parameter	Units	Type of Sample	Frequency
Flow	mgd	Estimate	4 times/year
pH	pH units	grab[56]	4 times/year
Turbidity[57]	ntu	grab	4 times/year
Oil and Grease	mg/l	grab	4 times/year
Specific Conductance	µmhos/cm	grab	4 times/year
Benzene	µg/l	grab	4 times/year
Ethyl Benzene	µg/l	grab	4 times/year
Naphthalene	µg/l	grab	4 times/year
Toluene	µg/l	grab	4 times/year
Total Petroleum Hydrocarbons	µg/l	grab	4 times/year
Methyl-tertiary-butyl ether	µg/l	grab	4 times/year
Total Xylenes	µg/l	grab	4 times/year
Zinc – total recoverable	µg/l	grab	4 times/year
Lead-Total recoverable	µg/l	grab	4 times/year
Aluminum-total recoverable	µg/l	grab	4 times/year
Copper-Total recoverable	µg/l	grab	4 times/year
Chromium-total recoverable	µg/l	grab	4 times/year
Iron-total recoverable	µg/l	grab	4 times/year
Cadmium-total recoverable	µg/l	grab	4 times/year
Arsenic-total recoverable	µg/l	grab	4 times/year
Chemical Oxygen Demand (COD)	mg/l	grab	4 times/year
PCBs	µg/l	grab	once/year (first storm sample)
Toxicity (Acute test)		grab or composite	once/year (first storm sample)

[56] Flow-weighted composite samples may be used in lieu of grab samples.
[57] Turbidity analysis is not required for discharges to onsite systems.

Table 3: Test Methods and Minimum Levels

(If the minimum levels specified in the table below are higher than the effluent limits, the permittee will be deemed to be in compliance with the effluent limits if that constituent is not detected (ND) above the minimum level. If the data set includes a number of "NDs" and numerical values above ND, then the median value for the data set shall be considered. If the data set includes an even number of values and the median includes a "ND" and a numeric value, then the median shall be considered as ND.)

Constituent	Units	Test Method	Minimum Level
pH	pH Units	EPA 9040 or field test with a calibrated portable instrument	±0.1
Turbidity	ntu	EPA 180.1 or Field test with a calibrated portable instrument	0.5
Oil and Grease	mg/L	EPA 413.2 or EPA 1664	1.0
Specific Conductance	µmhos/cm	EPA 120.1/ SM 2510-B or Field Test with portable Instrument	1.0
Benzene	µg/l	EPA 602 or 624	0.5
Ethyl Benzene	µg/l	EPA 602 or 624	0.5
Naphthalene	µg/l	EPA 602 modified to quantify Naphthalene or 624	1.0
Toluene	µg/l	EPA 602 or 624	0.5
Total Petroleum Hydrocarbons	µg/l	EPA 418.1	0.1
Methyl-tertiary-butyl ether	µg/l	EPA 602 modified to quantify MtBE or 624	0.5
Total Xylenes	µg/l	EPA 602 modified to quantify total xylenes or 624	0.5
Zinc – total recoverable	µg/l	EPA 200.8	0.5
Nickel-total recoverable	µg/l	EPA 200.8	0.5
Silver-total recoverable	µg/l	EPA 200.8	0.2
Lead-total recoverable	µg/l	EPA 200.8	0.5
Aluminum-total recoverable	µg/l	EPA 200.8	0.5
Copper-total recoverable	µg/l	EPA 200.8	0.5
Chromium-total recoverable	µg/l	EPA 200.8	2.0
Iron- total recoverable	µg/l	EPA 200.8	5.0
Cadmium- total recoverable	µg/l	EPA 200.8	0.2
Arsenic – total Recoverable	µg/l	EPA 200.8	0.5
Chemical Oxygen Demand (COD)	mg/l	SM 5220C[58]	1.0

[58] SM= Standard Methods for the Examination of Water and Wastewater, 18th Edition

C. **Sampling and Analysis Reduction:** If a Permittee is in full compliance with the sampling and analysis requirements specified above (collected the required number of samples within the specified time period and has analyzed for all the listed parameters), the visual inspections have not identified any violations, and the analytical results have not exceeded any of the triggers specified in this Permit for NELs and NALs for at least two consecutive years, the Permittee may request for a reduction in the sampling and analysis frequencies. Once the reduction request is approved by the Executive Officer, it can be implemented by the discharger. Approved reductions can be revoked by the Executive Officer based on future NEL or NAL exceedances, permit violations or inadequate BMP implementation as identified by Regional Board staff,

IV. QUALITY ASSURANCE PROGRAM PLAN (QAPP)

Individual and group monitoring programs shall meet the following QAPP requirements.

A. Except for TMDL monitoring where TMDL specific quality assurance plans may be required, the Permittees shall submit to the Executive Officer of the Regional Board for review and approval a quality assurance/quality control plan that has been developed by qualified professionals with experience in USEPA's and California's Surface Water Ambient Monitoring Program (SWAMP) QAPP guidelines.

B. The QAPP shall address all elements of the SWAMP QAPP guidelines. Data collection, field and laboratory protocol, measurements, and analysis shall be compatible with SWAMP Quality Assurance Management Plan (QAMP[59]) and with Procedures for Conducting Routine Field Measurement.

C. Where procedures are not otherwise specified in this MRP, sampling, analysis and quality assurance/quality control must be conducted in accordance with the QAMP for SWAMP.

D. For priority toxic pollutants, if the Permittees can demonstrate that a particular Minimum Level (ML) is not attainable, in accordance with procedures set forth in 40 CFR § 136, the lowest quantifiable concentration of the lowest calibration standard analyzed by a specific analytical procedure (assuming that all the method specified sample weights, volumes, and processing steps have been followed) may be used instead of the ML listed in Appendix 4 of the State Implementation Plan or SIP. The Permittee (or the group leader in case of a group monitoring program) must submit documentation from the laboratory to the Regional Board Executive Officer for approval prior to utilizing a ML that is not consistent with the MLs in the SIP or as specified in Table 3, above.

E. The surrogate parameters or indicators of water quality selected for monitoring shall be representative of the discharges being analyzed.

[59] See State Board's SWAMP at http://www.swrcb.ca.gov/water_issues/programs/swamp/qamp.shtml

V. ANALYTICAL METHODS AND MINIMUM QUANTITATION LEVELS

(This is applicable to individual and group monitoring programs.)

The analytical methods and minimum quantitation levels shall be as specified in Table 3, above.

VI. INDIVIDUAL MONITORING PROGRAM[60]

A. GENERAL

Within 90 days of adoption of this Order, each Permittee (currently regulated under the State's General Industrial Permit) shall review and revise its existing monitoring and reporting program, and submit for approval a site-specific monitoring and reporting program which shall, at a minimum, include the elements listed in Section B., below. The program shall be implemented within 30 days of uploading PRDs into SMARTS. In the interim, the Permittees shall continue to implement their existing monitoring and reporting program. All new Permittees shall develop and implement a monitoring program as specified in this MRP prior to start of industrial activities at the site.

B. COMPONENTS OF AN INDIVIDUAL MONITORING AND REPORTING PROGRAM

1. Each Permittee shall develop its own QAPP and submit it to the Executive Officer for approval.

2. Each Permittee shall develop a QAMP.

3. Each Permittee shall identify a sufficient number of persons who are properly trained and certified in sample collection, preservation and handling protocol (Certified Persons). A Certified Person must have received at least one hour of classroom training provided by a certified laboratory in sample collection, sample preservation, sample handling, quality assurance and quality control protocols. Each laboratory providing such training shall provide a certificate of completion only after testing the participants understanding of the protocols for sample collection, sample preservation, sample handling, quality assurance and quality control. Proof of such training, such as a certificate of completion from the certified laboratory, shall be included in the SWPPP. A QSD or a QSP or other persons with appropriate training and approved by the Executive Officer could also be considered as a Certified Person.

4. Sample, collection, preservation and handling shall be the responsibility of the Certified Persons.

5. The MRP shall identify each discharge location, sampling frequency, sample collection equipment and special requirements, sample preservation methods, chain-

[60] Each Permittee has the option of participating in any of the approved Group Monitoring Programs in lieu of the site-specific monitoring and reporting program.

of-custody forms and procedures, all handling protocols and methods for delivery of samples to the certified laboratory.

6. The MRP shall identify the certified laboratory that will conduct the analysis. The list of parameters to be analyzed shall include the parameters listed in Table 2 and any other potential pollutants present at the site.

VII. GROUP MONITORING PROGRAM (GMP)

A. All Permittees are encouraged to participate in the GMP for the following reasons:

1. To reduce administrative and technical costs;

2. To develop reliable data;

3. To ease the regulatory burden.

B. Each GMP shall be submitted to the Executive Officer for approval and at a minimum it shall contain the following:

1. The name of the group leader, the group leaders experience and qualification, and contact information;

2. A list of facilities proposing to participate in the GMP (WDID and other related information);

3. Identification of all discharge points for each group participant;

4. Level of training provided to the individual(s) for each group participant proposing to collect their own samples and visual inspections at their facility;

5. Arrangements for sample collection, preservation and handling (including delivery to a certified laboratory), for each GMP participant;

6. A list of any additional constituents (in addition to Table 2) to be analyzed for each facility in the group;

7. An explanation of how the monitoring data and other facility information will be compared and contrasted and how the treatment controls will be evaluated; and,

8. A proposal for a comprehensive annual report.

VIII. RECORD KEEPING REQUIREMENTS

A. All monitoring activities shall meet the following requirements :

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity [40 CFR § 122.41(j)(1)]. Samples and measurements taken to meet the requirements of this permit shall be representative of the volume and nature of the monitored discharge, including representative sampling of any unusual discharge or discharge condition, including bypasses, upsets, and maintenance-related conditions affecting effluent quality.

Representative sampling also includes development of a testable hypothesis, appropriate site selection, applicable and accepted sampling methodologies, laboratory methods, and frequency of sampling.

2. The Permittees shall retain records of all monitoring information, including all calibration and maintenance of monitoring instruments, copies of all reports prepared as per this MRP and annual reports for a period of at least five years from the date of the sample, measurement, report, or application. This period may be extended by request of the Regional Board or USEPA at any time and shall be extended during the course of any unresolved litigation regarding this discharge [40 CFR § 122.41(j)(2), CWC § 13383(a)].

3. Records of monitoring information shall include [40 CFR § 122.41(j)(3)]:

   a. The date, exact place, and time of sampling or measurements;

   b. The individual(s) who performed the sampling or measurements;

   c. The date(s) analyses were performed;

   d. The individual(s) who performed the analyses;

   e. The analytical techniques or methods used; and

   f. The results of such analyses.

4. Calculations for all effluent limitations which require averaging of measurements shall utilize geometric mean unless otherwise specified in this MRP [40 CFR § 122.41(l)(4)(iii)].

5. The Clean Water Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than six months per violation, or by both [40 CFR § 122.41(k)(2)].

IX. BMP/TREATMENT SYSTEM EVALUATION

A. All monitoring data shall be evaluated to determine compliance with the water quality standards in the receiving waters as per the procedure specified under Phases I, II, and III of the Permit. If water quality standards are not met, the source control BMPs, the housekeeping practices and the treatment controls at the facility shall be evaluated to determine the need for additional controls as specified in Section III.D of the Permit.

B. The Permittees shall be responsible for the timely submittal of all reports including non-compliance reporting. All such submittals shall be signed by a duly authorized representative of the Permittee under penalty of perjury.

C. Under the auspices of the Metal Recyclers Water Quality Standards Committee, a program has been initiated to test the efficacy of a number of treatment systems currently being used at scrap metal facilities in the Southern California area. This

program will determine influent and effluent runoff quality from at least two different treatment control systems. These data will be analyzed to determine if any additional treatment controls are needed and to evaluate the technical and economic feasibility of various treatment systems that are currently available. These analyses may also lead to the development of additional NELs for this industry sector based on the performance of treatment systems evaluated.

X. REPORTING REQUIREMENTS

A. Non-compliance Reporting

Within 24 hours of discovery, the Permittees shall provide oral or email notification to Regional Board staff (and to California Emergency Management Agency at 1-800-852-7550) of noncompliant discharges that are determined to pose an immediate threat to human health or the environment (e.g., an oil spill that could impact wild life, a hazardous substance spill where residents are evacuated, reportable quantities of hazardous substance spills defined in 40 CFR § 117 & 302, etc.). Following oral notification, a written report must be submitted to the Executive Officer within 10 days, detailing the nature of the non-compliance, any corrective action taken by the Permittee, other relevant information (e.g., past history of non-compliance, environmental damage resulting from the non-compliance). Further, incidences of noncompliance shall be recorded along with the information noted in the written report in the annual report.

B. Sampling Results

All sampling results, including any samples collected more frequently than the frequency specified in the Permit, shall be uploaded into SMARTS within 30 days of receipt of laboratory results.

C. Annual Reports

Each Permittee shall submit an annual report; the annual report for the GMP participants shall be submitted by the group leader. The Permittees shall be responsible for the timely submittal of the annual report. All such submittals shall be signed by a duly authorized representative of the Permittee under penalty of perjury. The annual report shall be uploaded into SMARTS within 30 days from the end of the reporting period (by August 1 of each year). At a minimum, the annual report shall include the following:

1. A summary and evaluation of all sampling and analysis results including any visual observations;

2. All additional BMPs or other corrective action methods implemented at the facility;

3. A summary of all compliance activities, including any new or proposed treatment controls;

4. Any major changes to any of the previously submitted SWPPP or MRP or other plans or programs.

Attachment A

Region 8 Facilities with General Permit Coverage and an SIC Code of 5093 (as of February 8, 2011)

WDID	Facility Name	Facility Address	Facility City
Orange County			
8 30I022973	A and M Metals Co	2301 W 5th St	Santa Ana
8 30I009363	All Met Recycling	1401 N Miller St	Anaheim
8 30I015238	All Variety Metals Inc	1016 Santiago St	Santa Ana
8 30I016931	Allan Co	2540 S Main St	Santa Ana
8 30I007365	Bruce Metal & Sal Inc	920 E 6th St	Santa Ana
8 30I013171	California Auto Recycling	518 Poinsettia St	Santa Ana
8 30I019149	DBW Metals Recycling	3250 E Frontera St	Anaheim
8 30I016545	Eagle Scrap Metal	741 Monroe Way	Placentia
8 30I001663	Freedman Industrial Salvage	8192 Monroe Ave	Stanton
8 30I009616	Garcia Recycling	13862 Seaboard Cir	Garden Grove
8 30I019080	Global Metal Recycling	1011 E Pine St	Santa Ana
8 30I020502	John C Dalton	555 S Rose St	Anaheim
8 30I009273	Kinsbursky Brothers Inc	1314 N Anaheim Blvd	Anaheim
8 30I013727	Michael Metals Inc	1110 E 17th St	Santa Ana
8 30I000220	Republic Services - CVT	1131 N. Blue Gum Street	Anaheim
8 30I021709	SA Recycling	2006 W 5th St	Santa Ana
8 30I021106	SA Recycling Anaheim	3200 E Frontera St	Anaheim
8 30I017651	So Cal Metals Recycling Inc	2117 S Lyon St	Santa Ana
8 30I012455	Sun West Metals Inc	1150 N Anaheim Blvd	Anaheim
8 30I002158	Unicorn Metals & Recycling Co	240 E 4th Ave	La Habra
8 30I009403	Vi Cal Metals	1645 N Case St	Orange
8 30I020212	Vi Cal Metals Inc	1400 North Baxter St	Anaheim
Riverside County			
8 33I022299	Bas Recycling Inc	14050 Day St	Moreno Valley
8 33I011422	Corona Truck Salvage	1601 Sherborn St	Corona
8 33I010663	Riverside Scrap Iron & Metal	2993 6th St	Riverside
8 33I020161	Six Pac Recycling Corp.	1430 E 6th St	Corona
San Bernardino County			
8 36I016927	Advanced Steel Recovery Inc	14451 Whittram Ave	Fontana
8 36I022637	Alamo Recycling Inc	14930 Valley Blvd	Fontana
8 36I016153	All State Paper & Metal Recycling	8889 Etiwanda Avenue	Rancho Cucamonga
8 36I021481	All State Paper & Metal Recycling	13195 Whittram Ave	Rancho Cucamonga
8 36I018511	America National Recycling	2202 S Milliken Ave	Ontario
8 36I018727	American Metal Recycling	11150 Redwood Ave	Fontana
8 36I014876	Augustine Metals, Inc.	2021 W. Placentia Ln.	Colton
8 36I022071	BSNF Railway Material Storage Yard	320 S Cactus Ave	Rialto
8 36I021251	Canco Recycling	1224 N Mt Vernon Ave	Colton
8 36I019930	Central Metal San Bernardino	144 S G St	San Bernardino
8 36I021485	City Recycling Center	836 Preston St	San Bernardino

WDID	Facility Name	Facility Address	Facility City
San Bernardino County (cont.)			
8 36I021229	Continental Recycling	5082 Mission Blvd	Ontario
8 36I009147	D & M Metals	840 E State St	Ontario
8 36I017024	Facility and Transfer Station	2059 N Steel Rd	Colton
8 36I019395	Foam Zone Inc	945 E California St	Ontario
8 36I018452	Jacks Disposal Service Inc	5455 Industrial Pkwy	San Bernardino
8 36I016742	Main Street Fibers	653 E Main St	Ontario
8 36I000936	Main Street Recycling	608 E Main St	Ontario
8 36I015745	Marquez Metals	15115 Whittram Ave	Fontana
8 36I012903	Pac Rail Industries	785 E M St	Colton
8 36I017072	Premises Metals	4791 Arrow Hwy	Montclair
8 36I009186	Ruby Metals Inc	2805 Industrial Dr	Bloomington
8 36I021114	SA Recycling	790 E M St	Colton
8 36I019845	Simon Golden Mountains Group	8335 Beech Ave	Fontana
8 36I013226	State Iron & Metal	14187 Slover Ave.	Fontana
8 36I021783	Titan Industrial Metal Corp	10312 Almond Ave	Fontana
8 36I013750	West Valley Mrf LLC	13373 Napa St	Fontana

Attachment B

NUMERIC ACTION LEVELS

Constituent	Action Level (Annual average)[1]	Units
Chemical Oxygen Demand (COD)	120	milligrams/liter
Aluminum (Total Recoverable)	0.75	milligrams/liter
Copper (Total Recoverable)	0.0189 [2]	milligrams/liter
Iron (Total Recoverable)	1.0	milligrams/liter
Lead (Total Recoverable)	0.122 [2]	milligrams/liter
Zinc (Total Recoverable)	0.16 [2]	milligrams/liter

ALTERNATE NUMERIC ACTION LEVELS FOR COPPER, LEAD AND ZINC

The U.S. EPA Multi-Sector Industrial Permit sets benchmark values for certain metals based on the water hardness of the receiving water. Three of those metals are included in this permit (copper, lead and zinc). This permit has used a hardness range of 125-150 milligrams/liter as a representative average of the hardness value for the Region's receiving waters during storm events. This hardness range may not be appropriate for certain receiving water segments. This permit therefore provides the opportunity for dischargers to provide specific receiving water hardness data that can be used to justify alternate numeric action levels for these three metals. There are three methods to determine hardness, including the use of third-party data, grab sampling by a group of dischargers that discharge to the same segment[3] of a receiving water, or grab sampling of a receiving water by an individual discharger. Regardless of the method used, the discharger is responsible for documenting the procedures used for determining hardness values. Once a proposed hardness value is established by a discharger, that value and the supporting data must be submitted in the next annual report for approval by regional board staff.

Collection of Third-Party Hardness Data

You can submit receiving stream hardness data collected by a third party provided the results are collected consistent with the approved 40 CFR Part 136 methods. These data may come from a local water utility, previously conducted stream reports, TMDLs, peer reviewed literature, other government publications, or data previously collected by the permittee. Data shall be less than 10 years old and have been collected for the appropriate stream reach if the Region's Basin Plan denotes different reach segments for a stream or river.

[1] Annual average: Arithmetic average of all analytical results obtained during the reporting period (July 1 to June 30).
[2] Total recoverable copper, lead and zinc numeric action levels are based on an average hardness range of 125-150 mg/liter for the region's receiving waters during storm event discharge.
[3] Receiving water reach delineations are defined in a Region's Basin Plan.

Group Monitoring for Receiving Water Hardness
You can be part of a group of permittees discharging to the same receiving waters and collect samples that are representative of the hardness values for all members of the group. In this scenario, hardness of the receiving water must be determined using 40 CFR Part 136 procedures and the results shared by group members. To use the same results, hardness measurements must be taken on the same stream reach as the discharge points of each of the group members and within a reasonable distance of those discharge points.

Permitee Samples for Receiving Water Hardness
This method involves collecting samples in the receiving water and submitting these to a laboratory for analysis. If you elect to sample the receiving water(s) for your specific discharge and submit samples for analysis, hardness must be determined from the closest perennial stream downstream of your point of discharge. The sample must be collected during a storm event. Note that collection of in-stream samples during wet weather events may be impracticable or present safety issues. Appropriate caution shall be used and permission shall be obtained from any landowners or appropriate municipalities or agencies, prior to entry. Hardness must be sampled and analyzed using approved methods as described in 40 CFR Part 136 (Guidelines Establishing Test Procedures for the Analysis of Pollutants).

NUMERIC ACTION LEVELS FOR COPPER, LEAD AND ZINC BASED ON RECEIVING WATER SPECIFIC HARDNESS DATA

Receiving Water Hardness	Total Recoverable Action Level (Annual Average) in milligram/liter[4]		
	Copper	Lead	Zinc
0-25 mg/liter	0.0038	0.014	0.04
25-50 mg/liter	0.0056	0.023	0.05
50-75 mg/liter	0.0090	0.045	0.08
75-100 mg/liter	0.0123	0.069	0.11
100-125 mg/liter	0.0156	0.095	0.13
125-150 mg/liter[5]	0.0189	0.122	0.16
150-175 mg/liter	0.0221	0.151	0.18
175-200 mg/liter	0.0253	0.182	0.20
200-225 mg/liter	0.0285	0.213	0.23
225-250 mg/liter	0.0316	0.246	0.25
250 + mg/liter	0.0332	0.262	0.26

[4] Annual average: Arithmetic average of all analytical results obtained during the reporting period (July 1 to June 30).
[5] Default receiving water hardness range.

SANTA ANA REGIONAL BOARD SCRAP METAL NPDES PERMIT FACT SHEET
ORDER NO. R8-2011-0011, NPDES NO. CAG 618001

I. BACKGROUND:

In early 2010, a Metal Recyclers Water Quality Committee (the Committee) was established to address pollutants in storm water runoff from metal recycling facilities (hereinafter collectively referred to as scrap metal facilities) located within the Santa Ana Regional Water Quality Control Board's (Regional Board) jurisdiction. The Committee consisted of a number of representatives from the industry, environmental groups, regulatory agency representatives and other interested parties and/or persons. The Committee met a number of times during 2010 and made a series of recommendations[66] that included: (1) Develop a sector-specific national pollutant discharge elimination system (NPDES) permit for storm water discharges from the scrap metal facilities; (2) Monitor efficacy and effectiveness of a number of proven treatment controls; (3) Develop effluent limitations based on a treatment systems study; and (4) Develop a credit system to encourage low impact type of treatment controls. The Committee requested that Regional Board staff develop a region-wide general permit to regulate storm water discharges associated with the scrap metal facilities. The Committee intends to request the State Water Resources Control Board (State Board) to use the Regional Board's sector-specific permit to develop a statewide permit for this industry sector. This NPDES Permit implements most of the recommendations from the Committee consistent with the federal Clean Water Act (CWA) and its implementing regulations, the California Water Code (CWC), and the Water Quality Control Plan for the Santa Ana River Basin (Basin Plan*).

II. REGULATORY BASIS

This fact sheet is a companion document to the sector-specific NPDES Permit (the Permit or the Order) and provides the regulatory basis for the requirements specified in the Permit.

The discharge of pollutants to waters of the United States* (also referred to as waters of the Nation, generally surface waters) must be regulated under an NPDES* permit. (Section 301(a) of the CWA). Section 402(p)(3)(A) of the CWA requires that storm water runoff from specified types of industrial facilities (categorized by standard industrial classification [SIC] codes) be regulated under the NPDES permit program. In 1997, the North American Industrial Classification System (NAICS) replaced the SIC system. The United States Environmental Protection Agency (USEPA) has indicated that it intends to incorporate the NAICS codes into the storm water regulations. The Notice of Intent (NOI)* form for this Order (NOI is part of the application package for obtaining coverage under this Permit) includes information on SIC and NAICS codes. The SIC code for this industrial sector is 5093 (see Section V for related NAICS codes), establishments primarily engaged in assembling, breaking up, sorting, and wholesale distribution of scrap metals. This industry category includes auto wreckers engaged in dismantling automobiles for scrap but does not include auto dismantling solely for the purpose of selling secondhand parts (SIC 5015).

[66] Metal Recyclers Water Quality Committee, Preamble

Section 402(p)(3)(A) of the CWA requires that NPDES permits for discharges associated with industrial activity must implement CWA section 301, which requires that dischargers comply with technology-based effluent limitations, as well as any more stringent limitations necessary to meet water quality standards. (CWA § 402(p)(3)(A).) Technology-based effluent limitations applicable to industrial activities are best practicable control technology currently achievable (BCT) for conventional pollutants, and best available technology economically achievable (BAT) for toxic and non-conventional pollutants. (CWA § 301(b)(1)(A) and (2)(A).) To ensure strict compliance with water quality standards, NPDES permits can require a discharger to implement best management practices (BMPs), narrative effluent limitations, and/or numeric effluent limitations*. (CWA §§ 301(b), 402; Title 40 Code of Federal Regulations, 40 CFR §§ 122.26, 122.28, 125.3.)

The CWC incorporates the CWA. (Title 23, Division 7, Chapter 5.5). In California, the State Board and the nine regional boards implement the requirements of the CWA, including the federal NPDES permit program under authorization from the USEPA. The CWC and the CWA require the regional boards to develop regional water quality control plans (CWC, Chapter 4, Article 3) including water quality objectives* and beneficial uses* (collectively referred to as the water quality standards* in the CWA). The most recent Basin Plan* for the Santa Ana River Basin was adopted in 1995. Since then, the Basin Plan has been amended a number of times and the latest version of the Basin Plan is available at:
http://www.waterboards.ca.gov/santaana/water_issues/programs/basin_plan/index.shtml
The Basin Plan identifies beneficial uses* of waters of the region and contains water quality objectives* to protect those beneficial uses. The Basin Plan also incorporates the statewide water quality control plans and policies.

On November 16, 1990, the USEPA promulgated Phase I storm water regulations that established application requirements for storm water permits. (40 CFR Parts 122, 123 and 124). These regulations require that storm water runoff associated with industrial activities*[67] discharging either directly to surface waters or indirectly through municipal separate storm sewer systems (MS4)* must be regulated under the NPDES permit program. In 1992, the USEPA revised the monitoring requirements for industrial storm water discharges. [40 CFR § 122.44(i)(2), (4), and (5)]. In 1999, USEPA promulgated Phase II storm water regulations. (64 Fed Reg 68722-52). The Phase II regulations, among other things, provide “no exposure” exclusions from NPDES permit requirements for industrial activities and materials that are not exposed to storm water.

In accordance with the CWA and the CWC, on November 19, 1991, the State Board* issued the first Statewide General Permit for Storm Water Discharges Associated with Industrial Activity. That Permit was renewed on April 17, 1997 by Order No. 97-03-DWQ. All industrial facilities within the State are currently regulated under the General Permit for Storm Water Discharges Associated with Industrial Activity, Order No. 97-03-DWQ (General Industrial Permit), issued by the State Board. On January 28, 2011, the State Board released a draft order for renewal of the General Industrial Permit.

[67] An * indicates that the term is defined in the Glossary.

The Basin Plan, CWC, CWA and related federal and state regulations are the basis for the requirements contained in this NPDES permit. Section V, below, describes in detail the basis for the requirements specified in this Order.

III. POLLUTANTS AND THEIR SOURCES IN STORM WATER RUNOFF

In 1983, the USEPA conducted a comprehensive study of urban storm water pollution across the U.S. The project was titled, "The Nationwide Urban Runoff Program or NURP" and the NURP report was published in 1987[68]. The NURP study indicated that urban and industrial storm water runoff are major sources of pollutants to waters of the U.S. Storm water runoff from industrial facilities may become contaminated by contact with materials, intermediaries, product and wastes that are stored outside, spills and leaks from equipment used or stored onsite, contact with materials during loading, unloading or transfer from one location to another, and from airborne contaminants.

As part of the Statewide General Industrial Permit, regulated facilities submit annual reports which include discharge sample analyses. A review of the data submitted by scrap metal facilities within Region 8 over the past five years (2005-2010), indicates that pH, suspended solids, specific conductance, oil and grease, petroleum products and metals are present in storm water runoff from these facilities. In addition, at scrap metal facilities, dirt and debris could be carried into storm water runoff. For scrap metal facilities, the potential sources of pollutants include: (1) outdoor storage of engines, transmissions, radiators, batteries, brakes, power steering units, and differential gears which may contain fluids; (2) dismantling, processing, and storage operations; (3) loading/unloading operations; and (4) galvanized metals used on buildings, fences, etc. Galvanized metal is a source of zinc in the runoff.

IV. SECTOR-SPECIFIC PERMIT

The State Board issued the General Industrial Storm Water Permit for California and the USEPA issued a Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activity (MSGP) for Indian Tribal lands and for states where the USEPA is the NPDES permitting authority. The latest version of the MSGP includes a list of potential pollutants and "benchmark" values for those pollutants. The "benchmarks" are the pollutant concentrations above which USEPA determined that the pollutant represents a level of concern. The level of concern is a concentration above which a storm water discharge could potentially impair, or contribute to impairing, water quality or affect human health from ingestion of water or fish. The "benchmarks" are also viewed by the USEPA as a level below which the discharge is an insignificant threat to water quality. A review of the monitoring reports for the last five years (2005-2010) for the scrap metal facilities within the Region indicates that approximately 50% of the facilities exceeded the USEPA's benchmark* levels for one or more metals. Additional control measures, including treatment systems, may be needed to reduce pollutant concentrations in storm water runoff from these facilities such that water quality standards are met in the receiving waters.

Each year, Regional Board staff conducts inspections of a number of industrial facilities. These inspections have indicated that: (1) approximately 10% of the facilities do not

[68] http://www4.ncsu.edu/~rcborden/CE383/Stormwater_Refs/NURP_Results_Vol_1.pdf

implement the minimum control measures (BMPs) specified in the State' General Industrial Permit; (2) approximately 85% of the Storm Water Pollution Prevention Plans (SWPPPs) are not site-specific; (3) the employees are not properly trained in storm water pollution prevention methods; and (5) only about 20% of the facilities had any kind of storm water treatment systems installed. The Scrap Metal Committee was established with the goal of addressing these short comings in the current industrial storm water program and the Committee recommended a sector-specific permit to address these issues. The Committee also recommended that the Permit include quantifiable and enforceable permit terms and conditions.

USEPA envisioned a four-tier permitting strategy for regulating storm water from various sources: (1) Tier 1: General Permits; (2) Tier 2: Watershed Permitting; (3) Tier 3: Sector-Specific Permitting; and (4) Individual or facility-specific permitting. Consistent with the tier-1 approach, the State Board issued general permits for regulating storm water runoff from industrial facilities (General Industrial Permit, Order No. 97-03-DWQ), construction sites (General Construction Permit, Order No. 2009-0009-DWQ) and from state highways and freeways (Caltrans Permit). The Regional Board has issued storm water permits that were consistent with Tier 2 (e.g., San Jacinto Watershed-Wide Construction Activities Storm Water Permit, Order No. R8-2001-0034), Tier 3 (e.g., General CAFO Permit, Order No. R8-2007-0001), and Tier 4 (e.g., Storm Water Permit for March Air Reserve Base, R8-2010-0005) approaches. This Permit is consistent with the Tier 3 approach.

V. TYPES OF DISCHARGES REGULATED BY THIS ORDER

This Order regulates storm water runoff associated industrial activities* and authorized non-storm water discharges* from industrial facilities "primarily engaged in assembling, breaking up, sorting and wholesale distribution of scrap metals" (SIC code 5093). The NAICS codes that correspond to this SIC code include: (1) 423930-Recyclable Material (e.g., glass, metal, paper) Merchant Wholesalers; (2) 562111-Solid Waste Collection (recyclable material collection services); and (3) 562920-Materials Recovery Facilities (removal of recyclable materials from a waste stream). The waste materials may include: iron and steel scrap and ferrous and non-ferrous metals scrap. This category also includes battery recycling facilities and auto wreckers engaged in dismantling automobiles for scrap, but does not include those engaged in dismantling automobiles for the purpose of secondhand parts (SIC code 5015; NAICS code 423140).

Coverage under this Order is required for the following types of industrial activities: (1) automotive wrecking for scrap-wholesale [this category does not include facilities engaged in automobile dismantling for the purpose of selling second hard parts]; (2) iron and steel scrap- wholesale; (3) junk and scrap metal –wholesale; (4) metal waste and scrap- wholesale; and (5) non-ferrous metals scrap-wholesale. Other types of facilities listed under SIC Code 5093 and engaged in wastes recycling are not required to get coverage under this Permit.

Storm water runoff associated with industrial activities is currently regulated under the State's General Industrial Storm Water Permit. A list of the facilities that are currently regulated under the State's General Industrial Permit which will be regulated under this Order upon its adoption is included in Attachment A of the Order.

All industrial facilities engaged in scrap metal recycling operations that are within this Regional Board's jurisdiction must obtain coverage under this Order. Coverage under this Permit is not needed for facilities that discharge all storm water associated with industrial activities to a municipal sanitary sewer or to retention basins, evaporation or percolation ponds that have a design capacity to hold the volume of runoff produced from a 100-year, 24-hour storm event. Discharge of industrial wastes to retention basins and evaporation and percolation ponds may have to be regulated under waste discharge requirements* issued by the Regional Board. If the industrial activities are not exposed to storm water, the facility shall obtain a "no exposure certification" (see Section III.I.1.b of the Order).

VI. BASIS FOR DISCHARGE REQUIREMENTS SPECIFIED IN THIS ORDER

The CWA requires that NPDES permits specify both technology and water-quality based effluent limitations. This Permit includes both technology-based and water quality-based effluent limitations, including numeric effluent limits (NEL), numeric action levels (NAL) and narrative effluent limitations. The NELs are for a selected number of constituents where current technology should be capable of meeting those limits. NALs are the same as those used by the USEPA in its MSGP. The Permit encourages the Permittees to implement preventative measures that include elimination of exposure (e.g., conducting industrial operations under a roof) and runoff volume reduction measures (e.g., 'non-industrial area' runoff isolation, percolation basins, onsite reuse, etc.) and provides an incentive for implementing such measures. The Permit also establishes a mechanism for evaluation of treatment systems that may lead to additional NELs for this industry category.

The goal of the control measures specified in this Order is to comply with water quality standards* in the affected receiving waters*. Each facility regulated under this Order is required to develop and implement a storm water pollution prevention plan (SWPPP)* designed to control the discharge of pollutants in storm water runoff from these facilities so as to meet applicable water quality standards in the receiving waters. Special provisions are included for discharges to impaired waterbodies* (listed under CWA Section 303(d)) with or without approved TMDLs. If the SWPPPs are designed to address TMDL implementation plans and meet the WLAs, the Permittees would not be required to take additional steps to meet the WLAs specified in the TMDLs.

This is an NPDES permit and there is no legal requirement to address the factors set forth in Water Code sections 13241 and 13263, unless the Permit is more stringent than what federal law requires. (See *City of Burbank v. State Water Resources Control Bd.* (2005) 35 Cal.4th 613, 618, 627.) None of the requirements in this Permit are more stringent than the federal requirements, which include technology-based requirements for achieving BAT/BCT standards and strict compliance with water quality standards*. As indicated above, numeric effluent limitations* and narrative effluent limitations based on best management practices are simply two different methods of achieving the same federal requirement of compliance with state water quality standards*. The use of NELs to achieve compliance with water quality standards is not a more stringent requirement than the use of BMPs. (State Water Board Order No. WQ 2006-0012 (*Boeing*).)

Therefore, the Regional Board does not need to take into account the factors in Water Code Sections 13241 and 13263.

The Permit includes prohibitions, effluent limitations*, receiving water limitations, SWPPP requirements, special provisions for discharges to impaired waters and monitoring and reporting requirements. The basis for each of these requirements is discussed below.

A. PROHIBITIONS

This Order prohibits the discharge of any substance other than storm water associated with industrial activities* and authorized non-storm water discharges*, consistent with the definition of storm water associated with industrial activities* contained in 40 CFR § 122.26(b)(14). It also prohibits the discharge of storm water containing hazardous substances in excess of reportable quantities established at 40 CFR §§ 117.3 and 302.4. Most non-storm water discharges such as wash water from the cleaning of: vehicles, equipment, buildings and pavement, are prohibited. However, some non-storm water discharges are not directly related to industrial activities (e.g., air conditioning condensate) and do not normally contain significant quantities of pollutants. These types of discharges are not prohibited provided they have been found not to contain pollutants in significant quantities. Pursuant to Water Code § 13377, the Regional Board is authorized to adopt waste discharge requirements as required or authorized by the Federal Clean Water Act that prohibit discharges from containing pollutants that cause or threaten to cause pollution, contamination, or nuisance together with any more stringent effluent standards or limitations necessary to implement the Basin Plan.

B. EFFLUENT LIMITATIONS

This is an NPDES permit issued under authorization from the USEPA. Section 402(p)(3)(A) of the CWA states that NPDES permits for storm water discharges must meet all applicable provisions of sections 301 and 402 of the CWA. These provisions of the CWA require that the discharge of pollutants be controlled using best available technology economically achievable (BAT)* for toxic and non-conventional pollutants and best conventional pollutant control technology (BCT)* for conventional pollutants. (CWA sections 301 and 402.) These provisions of the CWA require technology-based controls of pollutant discharges and any more stringent controls necessary to meet water quality standards. The CWA and the federal regulations provide states with the discretion to formulate permit terms, including specifying best management practices (BMPs), to achieve strict compliance with federal technology-based and water quality-based standards. (*Natural Resources Defense Council v. USEPA* (9th Cir. 1992) 966 F.2d 1292, 1308.) The CWA requires that discharges from existing facilities, at a minimum, meet technology-based effluent limitations reflecting, among other things, the technological capability of Permittees to control pollutants in their discharges which are economically achievable.

The requirements specified in storm water permits have slowly transitioned from BMP-based permit requirements for permits issued in the early 1990s[69] to numeric effluent limits for permits issued recently[70]. On May 18, 2000, the USEPA promulgated water quality standards for priority toxic pollutants for the State of California, generally referred to as the California Toxics Rule (CTR)[71]. The 2009 statewide general construction storm water permit[72] has incorporated limited numeric effluent limits for higher risk construction sites, where the risk is based on the sensitivity of the receiving water(s) and site's erosion potential. In 2009, there were two U.S. District Court, Central District of California, cases involving facilities in the Los Angeles region[73] that indicated that CTR may be applicable to storm water discharges.

In 2005 and 2006, the State Board convened an expert panel (Blue Ribbon Panel or Panel) to address the feasibility of numeric effluent limitations (NELs) in California's storm water permits. The Blue Ribbon Panel reviewed technical feasibility of establishing numeric effluent limitations, or some other quantifiable limit, for inclusion in storm water permits for industrial, construction and municipal storm water permits. The Panel reviewed technology-based limitations and water quality-based limitations, the feasibility of establishing any objective criteria, compliance determination methodology and the technical and financial ability of dischargers to comply with any criteria that is established. The Panel's final report can be downloaded from:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/numeric/swpanel_final_report.pdf

For industrial storm water permits, the Blue Ribbon Panel indicated that numeric effluent limits are feasible for some industrial categories. The Panel recognized that numeric effluent limits based on the current monitoring database might not be advisable due to inconsistencies in monitoring. For the construction category, the Panel stated, "Board should consider the phased implementation of Numeric Limits and Action Levels, commensurate with the capacity of the dischargers and support industry to respond." The Panel also noted that in cases where the industrial activity is similar to construction or municipal activity, a similar approach could be considered.

The Regional Board carefully considered the findings of the Blue Ribbon Panel and related public comments. In developing effluent limitations for this Permit, the Regional Board also reviewed the Preamble prepared by the Committee, a 2011 draft for the renewal of the State's General Industrial Permit and permits recently issued/drafted for industrial storm water runoff by other states[74] and the USEPA[75].

[69] For example, see State Board Order No. 97-03-DWQ
[70] For example, see State Board Order No. 2009-009-DWQ
[71] [71] http://www.epa.gov/region9/water/ctr/
[72] State Board Order No. 2009-0009-DWQ
[73] Santa Monica Baykeeper v. Kramer Metals, 619 F. Supp 2d 914 (C.D. Cal. 2009) and Santa Monica Baykeeper v. Int'l Metals Ecko, 619 F. Supp 2d 936 (C.D. Cal 2009).
[74] Draft/adopted permits posted on the websites of New Jersey and Washington states.
[75] USEPA, NPDES Permit, Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activity

After consideration of the Panel's and the Committee's recommendations, this Permit includes an option for phased implementation of numeric effluent limitations and action levels for this specific industrial sector. A number of pollutant control measures as well as numeric action levels* (NALs) and numeric effluent limitations* (NELs) are included in this Permit, consistent with the federal standards. Discharges that do not exceed a benchmark are typically not likely to cause a violation of water quality standards*. Discharges that exceed one or more benchmarks represent a higher risk of violating water quality standards*. An actual water quality standards violation can only be confirmed after site-specific conditions of the discharge and receiving water body are evaluated. In addition, the Permit requires the development and implementation of a storm water pollution prevention plan (SWPPP)*. This Order specifies the minimum BMPs* that must be incorporated into the site-specific SWPPP*. The SWPPP requires the dischargers to implement specific BMPs* during different phases (explained below). As dischargers are required to implement specific BMPs to meet NALs and NELs, this Permit ensures that the dischargers do not "write their own permits", and does not require each discharger's SWPPPs to be reviewed and approved by Regional Water Board staff.

The USEPA establishes technology-based effluent limitation guidelines for various industrial categories. It has not established effluent limitation guidelines for scrap metal facilities. In instances where there are no effluent limitation guidelines, permit writer uses best professional judgment to establish requirements that the discharger must meet using BAT/BCT* technology. The CWA and the US EPA's regulations provide states with the discretion to formulate permit terms, including specifying best management practices (BMPs) to achieve strict compliance with water quality standards. (*Natural Resources Defense Council v. USEPA* (9th Cir. 1992) 966 F.2d 1292, 1308.) This Permit contains numeric effluent limitations for pH, turbidity, oil and grease, and specific conductance, set using best professional judgment. This permit also contains numeric effluent limitations for arsenic, cadmium, copper, lead, nickel, silver and zinc for facilities that opt for the Non-Phased Approach*, set using the California Toxics Rule. This is consistent with CWA provisions which states, "Such conditions as the Administrator determines are necessary to carry out the provisions of this Chapter" (CWA § 402(a)(1), 33 U.S.C. § 1342(a)(1).) In developing the numeric effluent limits, Regional Board staff considered good housekeeping practices that could be implemented at scrap metal facilities, the treatment technologies that are available for scrap metal type of facilities, expected effluent quality if these treatment technologies are used and the effluent monitoring data from scrap metal facilities within the region.

There are proven and cost-effective technologies to control pH, turbidity, oil and grease and specific conductance. With the implementation of Phase I (see below) programs, all facilities should be able to meet these numeric limits. The Permittees are required to meet the NELs upon full implementation of early-action BMPs (see Phase I below). Since the NELs are based on best professional judgment, the Permittees or the Committee has the option of proposing alternate NELs for the four parameters in Table 1 based on monitoring data from Phase I. These parameters should provide a good indication of the effectiveness of a facility's pollution control measures.

The pH indicates the alkaline or acidic nature of the runoff and is a measure of the hydrogen-ion concentration. The acceptable range is usually considered to be within 6.5 to 8.5. At values less than 6.5, the water is considered acidic; above 8.5 it is considered alkaline or basic. Pure rainfall tends to have a pH of slightly less than 7. Many industrial facilities handle materials that can affect pH. Storm water discharges with significantly higher or lower pH values are a good indicator of contamination. A pH meter can be used for on-site measurement of pH. The effluent limitation specified in this Permit for pH, 6.5 to 8.5 pH units, is consistent with the Basin Plan objectives.

Turbidity is an indicator of the un-dissolved solids, both suspended (total suspended solids or TSS) and colloidal, present in the discharge. Sources of turbidity include sediment from erosion and dirt from impervious (i.e., paved) areas. Because many pollutants can adhere to sediment particles, reducing sediment can reduce the amount of these pollutants in storm water discharge. Turbidity is sometimes used as a surrogate for TSS. Suspended solids can settle and impact bottom dwelling benthic organisms. Fish gills could be clogged by suspended solids and colloidal particles. Turbidity is an indirect measure of TSS and can be measured on-site using turbidity meters. Turbidity sampling provides a direct basis for determining compliance with some of the narrative requirements of the Permit, such as sweeping requirements. An effluent limit of 250 NTU is used for turbidity in this Permit, based on best professional judgment, using information related to currently available treatment technologies and monitoring data from scrap metal facilities.

Specific Conductance (SC) is a measure of the ability of the water to carry an electric current and therefore a measure of the water's ionic content. It provides an indication of the total dissolved solids present in the discharge. Rainwater has a SC of close to zero. Seawater has a very high SC. High SC could affect the freshwater habitat beneficial use of a receiving water and the usability of waters for drinking, irrigation, and other commercial or industrial purposes. This Permit has set the effluent limit for specific conductance at 1,500 micro mhos (also referred to as micro siemen) per centimeter (µmhos/cm) at 25^0C based on best professional judgment. This level is much higher than the specific conductance for rainwater to provide credit for chemical treatment that reduces toxic pollutants but increases the ionic content of water.

Oil and Grease (O&G) is a measure of the amount of oil and grease present in storm water discharge. At very low concentrations, O&G can cause sheen on the surface of water and can adversely affect aquatic life. Sources of O&G include vehicle and equipment use, as well as dismantled auto parts. An O&G limit of 15 mg/l is specified in this Permit based on USEPA's benchmark level.

The Permit does not have numeric effluent limits for all potential pollutants because the treatment technologies and their effectiveness are still being evaluated for many of these constituents. The Metal Recyclers Water Quality Committee has started an evaluation study of a number of treatment technologies for this industry category with the goal of establishing technology-based treatment standards. The Permit

establishes a methodology for testing a number of treatment control technologies to determine appropriate technology-based effluent limitations. These studies are expected to generate data that could be used for development of additional NELs for this industry sector. This Permit may be reopened to include additional NELs developed through this process. Generally the USEPA establishes the effluent limitation guidelines for specific industry categories or subcategories after conducting an in-depth analysis of that industry and the available treatment technologies. If the USEPA develops effluent limitation guidelines for this industry category, those effluent limitation guidelines would take precedence over the NELs developed through the above process.

This Permit provides two options to control the discharge of pollutants from scrap metal facilities: (1) Option 1: A Phased Approach*; and (2) Option 2: A Non-Phased Approach*. In the phased approach, the facilities are required to implement certain BMPs, including identification, training and certification of key facility staff, development of a Rain Event Action Plan (REAP), and good housekeeping practices. During each phase, the runoff will be monitored to determine the need for additional control measures including treatment controls. All facilities are required to develop and implement a SWPPP that is designed to meet water quality standards. Those facilities with established treatment controls have volunteered to participate in a study to evaluate currently available treatment control technologies. During Phase II, the facilities are to evaluate their monitoring data and determine the need for additional BMPs, including any further treatment control measures, and implement those BMPs. These increasing more effective BMPs must be part of the Phase II Corrective Action Plan. During Phase III, the Permittees are required to develop and implement a Phase III Corrective Action Plan. To minimize monitoring costs, the Permittees are encouraged to: (1) minimize exposure of industrial activities to storm water; (2) separate storm water runoff from industrial and non-industrial areas; (3) divert all flows from industrial areas to a single discharge point; (4) participate in group monitoring programs. Once sufficient monitoring data is collected, all scrap metal facilities will be required to meet specified effluent limitations either through BMP implementation or through BMPs and treatment technologies.

On an interim basis, this Permit has adapted the benchmarks developed by the USEPA for a number of constituents as NALs. Attachment B, Numeric Action Levels, is an updated version of the benchmarks developed by the USEPA for its MSGP[76]. While an exceedance of these benchmark numbers is not considered as a violation of the Permit, if the benchmarks are exceeded, the permittees are required to report those exceedances, review their control measures, including treatment controls and identify appropriate controls to meet water quality standards*. If additional NELs are developed through the treatment technology evaluation process discussed above, some or all of the NALs could be replaced with NELs.

C. RECEIVING WATER LIMITATION

This Permit includes receiving water limitations to protect the beneficial uses* of the receiving waters. Water quality standards* must be met in the receiving water at the point of discharge. (CWA section 301 and CWC section 13377.) In the case of

[76] USEPA's Multi-sector General Permit for Stormwater Discharges Associated with Industrial Activity.

Defenders of Wildlife v. Browner ((9th Cir. 1999) 191 F.3d 1159.), the court determined that federal law requires that discharges of storm water associated with industrial activity must achieve strict compliance with water quality standards*. The SWPPP must be designed to meet water quality standards in the receiving waters. The three-phased approach included in this Permit for compliance with water quality standards provides an opportunity for the dischargers to meet the standards using a BMP approach that may or may not require treatment controls. This approach provides sufficient flexibility to the Permittee to select appropriate BMPs and/or treatment control measures, while including strict time schedules for the various phases to be implemented. The discharge shall not cause or contribute to an exceedance of water quality standards.

D. STORM WATER POLLUTION PREVENTION PLANS (SWPPPs)*; THREE–PHASED COMPLIANCE APPROACH

In accordance with 40 CFR § 122.44(k) and 40 CFR § 122.44 (s), all facilities regulated under this Order are required to develop and implement a facility-specific SWPPP. The SWPPPs are public documents and shall be maintained on site and shall be available for Regional Board staff review upon request. The SWPPP must be a "living" document that the Permittee continuously reviews and revises as necessary to assure that storm water discharges do not degrade water quality. The Permit specifies the minimum requirements for a SWPPP and it is the Permittees' responsibility to develop and implement the SWPPP.

The SWPPP must document: (a) Persons (by name and title) responsible for developing and implementing the SWPPP; (b) the boundaries of industrial operations in a facility map or site plan; (c) storm water flow patterns across the facility, all discharge points from the facility and the closest receiving water (as listed in the Basin Plan*); (d) potential pollutant sources and pollutants; (e) materials and chemicals used at the site; (f) employee training program and record keeping for the training program; (g) BMPs (description, location and maintenance & operating procedures); (h) monitoring locations, sampling procedures, responsible persons; location of sampling equipment, sample preservation, and sample delivery to the laboratory.

All existing SWPPPs prepared under the State's General Industrial Permit must be reviewed and updated, as necessary, to be in conformance with the requirements specified in this Permit. This Permit includes minimum BMPs, including housekeeping practices, which each facility must implement. These BMPs are to be documented in the SWPPP. These BMPs, along with any site-specific treatment controls, are expected to result in compliance with the BAT/BCT standards specified in the CWA. All SWPPPs must be designed to meet BAT/BCT standards. The SWPPP shall document the technology-based effluent limitations (BMPs) and other requirements specified in this Permit. The Permit incorporates a three-phased approach to meet BAT/BCT standards. This approach provides the flexibility needed to select site-specific, technically and economically feasible BMPs, for each facility. In Phase I, all facilities shall implement the minimum technology-based effluent limitations (BMPs) and conduct monitoring to determine compliance with the technology-based standards. After implementation of these minimum measures, if

the BAT/BCT standards are not met, then the Permittees shall implement Phase II control measures. The Phase II control measures may include treatment controls, designed to treat at least 95% of the average annual runoff volume (design volume)* from exposed industrial areas and any comingled runoff volume from non-industrial areas. If the Permittees do not meet the BAT/BCT standards after implementation of Phases I and II, a Corrective Action Plan shall be developed and submitted for approval of the Regional Board. Once approved, the Corrective Action Plan shall be implemented within 90 days.

All regulated facilities in the Region should have completed Phase I as was required under the State's General Industrial Permit. However, inspections conducted by Regional Board staff indicate varying levels of compliance with these requirements. Therefore, this Order requires all facilities regulated under this Permit to have the following minimum BMPs and requires that the SWPPPs be developed and implemented by qualified persons (see SWPPP Certifications and Qualifications, below). Each phase is based on certain triggers as explained below.

Triggers for Further Action Applicable to Facilities Opting for Option 2*:

The Metal Recyclers Water Quality Standards Committee recommended strict compliance with numeric effluent limits for those dischargers not opting for a phased compliance strategy. The permittees under the non-phased approach are required meet the NELs specified in Table 1.b.

Triggers for Further Action Applicable to Facilities Opting for Option 1*:

In most cases a single exceedance of a NEL (the effluent limits specified in Column 4 of Table 1.a) or a NAL may not be a good indicator of sustained water quality impacts in the receiving waters. To account for the high variability in the storm water runoff quality from scrap metal facilities, this Permit establishes a trigger mechanism for exceedances of the NELs and NALs. For purposes of establishing a trigger for further actions and for the various steps in Phases I, II and III of this Permit, the following procedures are to be followed:

1) If a facility has multiple discharge points for storm water that has come in contact with industrial areas, processes, materials, products or wastes, area-weighted averages shall be calculated using the relative tributary area for each discharge point.

2) If a single event (either a grab sample from a storm event or a composited sample from a single storm event) exceeds the NEL or NAL by a factor of two or more (except for pH), or an exceedance of the instantaneous maximum, it is considered an exceedance that would require additional steps as outlined under Phases I, II and III, below. For pH, any values less than 5.5 or more than 9.5 pH units shall be considered as an exceedance requiring additional steps outlined under Phases I, II and III.

3) If the annual average (geometric mean of all the analytical results during the reporting period for all constituents except for pH. For pH, an arithmetic mean

shall be used) of any of the constituents exceeds the NEL (effluent limits specified in Column 4 of Table 1.a) or the NAL, then it is considered as an exceedance that would require additional steps as outlined under Phases I, II, and III, below. For pH, any values less than 5.5 or more than 9.5 shall be considered as an exceedance requiring additional steps as outlined under Phases I, II and III.

4) If a facility has implemented volume reduction BMPs (e.g., percolation basins) or preventative measures (e.g., having industrial operations under a roof), a credit may be applied to the above calculations. For example, if a Permittee installs no-polluting roof over 25% of its operational area, the geometric mean for that facility will be reduced by 25% to arrive at an adjusted geometric mean. This credit cannot be applied to pH. The credit will be applied based on areas addressed without regard to whether the BMP was implemented before the adoption of this Permit.

Design Storm for Treatment Control Measures:

This Permit includes a criterion for designing treatment controls based on a specified design storm event. All treatment systems shall be sized and designed to treat greater than or equal to 95th percentile* of the annual average daily runoff volume from exposed areas, based on a continuous simulation of historical daily rainfall information available for the location where the regulated facility is located. Depending on the facility location, this design storm magnitude will be roughly equivalent to the 95th percentile storm*.

Option 1 - Three-Phased Approach

1. **Phase I Requirements (to be developed and implemented by December 31, 2012 or within 30 days of NOI filing for new facilities filing their NOI after November 30, 2012)**

   Phase I requirements are generally operational source control BMPs, such as schedule of activities, prohibition of practices, maintenance procedures, employee training, good housekeeping and other practices to control pollutant sources. The following Phase I requirements include a few structural source control and treatment control measures, such as paving the industrial areas, constructing percolation basins and oil-water separators, etc. Volume control BMPs, such as percolation basins, evapotranspiration systems, and reuse should be a major component of pollution control techniques to protect aquatic habitats.

   The following minimum BMPs must be implemented during Phase I of the program:

   a) Identify persons (name and title) responsible for developing and implementing the SWPPP (see QSD/QSP requirements under Section III.D.e.1 of the Permit).

   b) Maintain a current inventory of materials and chemicals used at the facility

and identify proper storage locations and handling procedures.

c) Maintain a current facility map identifying potential pollutant sources throughout the facility and the control measures used for each source/area, including good housekeeping practices. Control measure documentation shall include procedures, specific equipment used, maintenance schedules and a record of all maintenance performed with dates and signatures.

d) Identify spill prevention and response procedures, including management of any non-storm water runoff. All unauthorized non-storm water discharges must be eliminated.

e) Develop and implement an employee training program, including documentation of training materials and attendance. All new employees shall receive training within 30 days of employment and all employees shall have refresher training at least on an annual basis.

f) Develop a Rain Event Action Plan (REAP). This plan shall be implemented in the event of a predicted storm with a 40% or greater probability. The probability of a storm shall be determined no more than three days in advance and need only be documented once a day. The facility shall refer to the National Weather Service (weather.gov) to determine the storm probability. This plan shall address the following additional measures in the event of a predicted storm: (a) temporarily covering exposed materials where feasible; (b) ensuring that all control measures are fully functional; (c) sweeping the site and clearing debris and trash; (d) making sure that the trash bins are covered; and (e) any other measures to isolate industrial areas from contact with rainfall and runoff. A record of all activities related to REAP shall be part of the SWPPP and shall be dated and signed.

g) Develop and implement a program, to the maximum extent practicable, to percolate, evaportranspirate, or use on site, the design volume of runoff from non-industrial areas and uncontaminated runoff from industrial areas. These onsite systems shall be designed such that they do not cause groundwater contamination.

h) To the extent practicable, minimize dust generation and erosion from the site by paving or lining industrial areas.

i) Consolidate all industrial area discharges to as few discharge points as possible, preferably to one discharge point, and divert all non-industrial area runoff away from industrial areas. Manage run-on to the facility by diversion or other means.

j) Minimize storm water contact with contaminating building materials by removal, painting or other measures.

k) Explore the possibility of diverting first flush or any contaminated storm water

to the sanitary sewer system. This option shall only be considered if the sanitary sewage collection agency reclaims and distributes and/or uses reclaimed water.

l) Develop and implement a treatment system for any oil contaminated wastes from the site, such as an oil-water separator.

m) Develop and implement a monitoring program or join the group monitoring program (see MRP No. R8-2011-0011 attached to this Permit). If the Permittee has not joined the group monitoring program, the person responsible for sample collection, preservation and handling shall be identified in the monitoring program and must have received the requisite training (see MRP Section VI.B.3).

n) Develop and implement a plan to properly operate all installed control measures. This plan shall identify the control measure, the person responsible for regular operation and/or maintenance of the system, the schedule for any required maintenance, and a record of the maintenance activities including the name of the person performing the maintenance, the date and a signature.

o) Develop and implement an advanced media filtration or other treatment control measures, if warranted. If prior year monitoring indicates any water quality standard violations or site conditions warrant, the Permittee shall consider advanced media filtration or other treatment control measures early in the planning process. This step is not required for facilities without any identified water quality standards violations.

2. **Phase II Requirements**

Phase II includes treatment controls and is required only if Phase I BMPs are not capable of meeting water quality standards.

a. By April 30, 2013 or within 16 months of NOI filing for new facilities filing their NOI after November 30, 2012,,assess monitoring results and the effectiveness of Phase I BMPs and determine if any of the specified triggers have been exceeded (see criterion for triggering further action, above). If there are no exceedances of the triggers, Phase II and III may not be necessary. If any of the triggers have been exceeded, implement steps b) and c), below.

b. By May 30, 2013, or within one month of Phase I exceedance determination occurring after April 30, 2013, reassess Phase I BMPs and determine the need for any additional BMPs to minimize pollutant discharges. If the additional BMPs are designed to meet technology-based standards, the following steps and Phase III may not be necessary. However, the system design details, including the expected discharge quality, shall be submitted for Regional Board staff approval (in the Phase II Corrective Action Plan) prior to implementation.

c. If Phase I monitoring results indicate violations of the triggers, and if it is determined that additional BMPs as discussed in Item b), above, cannot be implemented, advanced media filtration or other equivalent treatment systems shall be developed and implemented. All proposals for advanced media filtration systems or other equivalent treatment systems shall be submitted to the Regional Board staff for approval by June 15, 2013 and shall be implemented within 90 days of approval by the Board staff.

3. **Phase III Requirements**

Phase III includes development and implementation of a Phase III Corrective Action Plan and is not needed if there were no exceedances of the triggers through implementation of either Phase I or II, above.

By April 30, 2014 or within 28 months of NOI filing for new facilities filing their NOI after November 30, 2012, all Permittees must assess their water quality monitoring data. If no standards are violated (based on triggers specified above), Phase III actions described below are not necessary.

After implementation of Phases I and II, if the triggers are being exceeded, the Permittee shall develop a Phase III Corrective Action Plan by May 30, 2014 or within one month for Phase II exceedance determinations occurring after April 30, 2014. This Plan shall identify the potential causes of the violation, proposed solutions, and a time schedule for implementing the proposed corrective actions. The Corrective Action Plan, when fully implemented, shall meet the BAT/BCT standards and constitutes a water-quality based effluent limitation as per 40 CFR § 122.44(k). The Permittee will be considered to be in compliance with the effluent limitations once the Corrective Action Plan is fully implemented.

<u>Development of Sector-Specific Additional NELs:</u>

Based on the group monitoring data and evaluation of treatment technologies, the Regional Board may consider establishing additional numeric effluent limitations for both the Phased Approach and Non-Phased Approach. This Permit may be reopened to incorporate additional NELs.

E. CERTIFICATION AND QUALIFICATIONS FOR THOSE PREPARING AND IMPLEMENTING SWPPP

Since the previous general permits did not include any training or educational requirements for those preparing and implementing SWPPPs, the SWPPPs did not consistently include the minimum requirements and were not properly implemented. In the same manner, storm water sample collection, preservation and handling also did not meet the quality assurance and quality control needed to produce consistently reliable data. This Permit requires that the SWPPPs be developed and implemented by qualified professionals and encourages the Permittees to participate in a group monitoring program. The Regional Board intends to develop a program to

train and certify persons as Qualified SWPPP Developer (QSD) and Qualified SWPPP Practitioner (QSP). Any person who is certified by the State Board under a similar program as a QSD or a QSP is also considered to be a qualified person. If the QSD/QSP is not a responsible person from the facility, a responsible facility person must countersign the SWPPP. Similarly, a Regional Board approved Group Monitoring Program is considered as an acceptable alternative to having QSP located on site to oversee the monitoring and reporting program.

Special Provisions for Impaired Waterbodies:

There are a number of waterbodies within the region that are listed[77] for metals and other pollutants under section 303(d) of the CWA. Under the federal requirements for developing total maximum daily loads (TMDLs)* for these impaired waters, the Regional Board has developed TMDLs, including wasteload allocations (WLAs), for some of these waterbodies. No new industrial scrap metal sources shall be permitted to discharge storm water to a 303(d) listed waterbody if the discharge could cause or contribute to an exceedance of water quality standards. Furthermore, the SWPPPs and the treatment technologies shall be designed such that the discharges meet the WLAs and all other applicable requirements of this Permit.

F. MONITORING AND REPORTING REQUIREMENTS

This Permit includes visual observations, storm water discharge sampling and analysis, treatment system influent and effluent monitoring and reporting requirements. To minimize sampling, analysis and reporting costs to the individual Permittees, participation in an approved Group Monitoring program is encouraged.

The monitoring program is designed to minimize sampling and analyses costs to the Permittee by selecting core indicator parameters, group monitoring programs, and frequency reduction upon establishing compliance.

Visual Observations:

Visual observations are necessary to identify and control pollutant sources and to ensure that all treatment control systems are operational. Visual observations are also critical to eliminate and/or to control pollutant sources prior to a predicted storm event.

All facilities are required to inspect all discharge points from the facility during each month to determine the presence of any (or indications of any prior) authorized or unauthorized non-storm water discharges. All control measures, including any treatment systems, shall be inspected on a monthly basis. During storm events that produce a discharge from the site (a storm intensity of 0.1 inches or greater), all discharge points must be visually inspected for the presence of oil sheens, turbidity, sediment, debris, trash, foam, and/or other floatables. A permanent log of these inspection reports (date, time, location, name of inspector, findings, weather conditions, corrective actions implemented, revisions to SWPPP, if any, etc.) must be maintained and made available to Regional Board staff upon request.

[77] The 2010 Integrated 303(d)/305(b) report is available at: http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtml

All inspections must be performed by a qualified SWPPP practitioner (see QSD/QSP, above) or under the guidance of a QSD/QSP.

Effluent and/or Receiving Water Monitoring

Federal regulations, 40 CFR § 122.44, require that all NPDES permits must specify effluent monitoring and reporting at least on an annual basis. Effluent and/or receiving water monitoring is critical to determine: (1) the effectiveness of control measures to reduce the discharge of pollutants from the facility consistent with the BAT/BCT standards; and (2) the discharge is not causing or contributing to an exceedance of water quality standards.

This Permit requires all permittees to sample and analyze runoff from their facilities at least during four qualifying storm events per year. A qualifying storm event is defined as any storm event that produces a runoff from the site (a storm with an intensity of 0.1 inches or greater) preceded by two consecutive dry days[78]. For discharges to an MS4, samples shall be collected before the discharge mixes with any other flow (flows from other sources) and for direct discharges into waters of the U.S., samples must be collected either from the storm water conveyance from the facility or within 10 feet of the discharge point from the downstream side of the discharge.

To develop quality data from the sampling and analysis program, strict quality control and quality assurance requirements are included in the Permit. To produce consistently high quality and reliable data, this Permit encourages all permittees to enroll in the group monitoring program.

The analytical parameters are taken from the USEPA's Multi-Sector Permit and the State's draft General Industrial Permit. The selected parameters are good indicators of the presence of pollutants in runoff from scrap metal facilities.

The pH is an indicator of any acidic (pH<7.0) or alkaline (pH>7.0) wastes in the runoff; turbidity is a measure of the undissolved solids in the runoff; specific conductance is an indicator of dissolved minerals; and oil and grease provides a measure of the oil and grease; and various metals are generally present in runoff from scrap metal facilities. Toxicity tests are a good indicator of the toxicity of the runoff to aquatic organisms and overall quality of the runoff. The Permittees are required to add additional site-specific parameters based on potential pollutants present at the site or based on TMDL/303(d) requirements.

Individual Monitoring Program

If a facility does not elect to participate in the group monitoring program, it shall implement the following quality control, quality assurance programs to ensure that the monitoring data it generates is reliable and indicative of the quality of runoff from the site.

[78] Dry days are defined as those without any measurable storm event or with storm events with an intensity less than 0.1 inches.

1. Qualifications for Sample Collection, Preservation and Handling: Each facility shall designate a qualified person for sample collection, preservation and handling. This person must have received at least one hour of classroom training provided by a certified laboratory in sample collection, sample preservation, sample handling, quality assurance and quality control protocols. Each laboratory providing such training shall provide a certificate of completion only after testing the participants understanding of the protocols for sample collection, sample preservation, sample handling, quality assurance and quality control. Proof of such training, such as a certificate of completion from the certified laboratory, shall be included in the SWPPP.

2. Qualifications for Preparation of Quality Assurance Program Plan (QAPP): The USEPA and the State Board's Surface Water Ambient Monitoring Program (SWAMP) require development and implementation of a QAPP in preparation for any sample collection and analysis. A qualified professional with experience in USEPA and the State Board's SWAMP program shall prepare the QAPP and it shall be included in the SWPPP for the site.

Group Monitoring Program

The Permit encourages permittees to participate in group monitoring programs: (1) to reduce the overall burden on the individual Permittees; (2) to develop and implement a monitoring program that is consistent with the quality assurance and quality control programs developed for the State Board's SWAMP program; (3) to develop monitoring data that is reliable and defensible; (4) to develop industry-specific treatment controls and compliance strategies; and (5) to promote industry-wide cooperation, compliance and consistency. All group monitoring program proposals shall be submitted to the Regional Board for approval. The group leader (the entity or person proposing the group monitoring program) shall be a professional with experience in the SWAMP program, industrial storm water runoff characterizations, and must have received a certificate of completion (see Subsection 1., above) from a certified laboratory. The group leader shall also take full responsibility to train any facility personnel involved in the sample collection, handling and sample preservation protocols.

Requirements for a Group Monitoring Program: All group monitoring programs shall identify the Permittees participating in the program and a detailed description of the program. It shall include a mechanism for enrolling additional members. The program description shall include: (1) quality assurance and quality control protocols including a QAPP; (2) sampling and analysis frequency; a list of constituents, analytical methods and method detection limits (only if they are different from what is prescribed in the monitoring and reporting program); and (4) identify the group leader's resources and experience to oversee the group monitoring program.

Those who participate in the group monitoring program may receive reductions in the monitoring frequency and reductions in the constituents to be monitored based on the overall commitment in the group monitoring plan.

Special Monitoring Provisions for Discharges to Impaired Waters

If a facility discharges directly (a discharge within 500 feet of a receiving water is considered as a direct discharge) to an impaired water (a waterbody that is listed on the 303(d) list or for which a TMDL has been developed), the Permittee must include the listed constituents in its list of parameters to be analyzed.

Record Keeping

Either electronic or paper copies of all records are to be retained for at least five years from the date generated or the date submitted to the Regional Board. 40 CFR §§ 122.21(p) and 122.41(j). All records are public documents. If requested by the Regional Board, the records may have to be retained beyond the five year period.

Reporting Requirements

All dischargers must electronically submit an annual report by August 1 of each year for the previous reporting period (from July 1 to June 30). The annual report is to be submitted electronically using SMARTS. At a minimum, the report shall include all monitoring data; any new BMPs implemented, including any treatment controls; and any corrective actions implemented to address any violations or exceedances of water quality standards.

Reduction in Monitoring Requirements

If a facility has consistently met the numeric effluent limits and numeric action levels for two consecutive years, the facility may request a reduction in the frequency of sampling and analysis requirements. A certification by a group leader or a QSP regarding the reliability of treatment systems installed at a facility, supported by at least 8 sets of monitoring data (from 8 qualifying storm events over a period of at least two years), could be also used as supporting documentation for any request for reduction in the sampling and analysis frequency. The Permittees may also request for a removal of certain constituents not detected or detected below any significant levels after two years of monitoring.

G. COMPLIANCE DETERMINATION

For purposes of compliance determination with the Option 1 requirements of the permit (see also triggers for the three-phased approach, above), all monitoring results collected during the reporting period shall be considered.

Compliance Determination with NELs

The Permittees will be considered to be in violation of the NELs if the annual geometric mean (arithmetic mean for pH) of all the monitoring data collected during the reporting period exceeds the NELs (effluent limits specified in Column 4 of Tables 1.a and1.b) specified in the Permit. Any exceedance of an instantaneous

maximum is a violation of the NEL.

Compliance Determination with NALs

Exceedances of NALs are not violations of the Permit. However, any exceedance of the NALs shall trigger further action to evaluate currently implemented BMPs and to determine the need for additional BMPs and/or other treatment controls so that water quality standards are not violated.

Compliance Determination with other Requirements

Compliance with WLAs will be based on monitoring results of the discharge if the facility has a WLA. If there is no assigned WLA for the specific site, compliance will be based on receiving water monitoring that shows compliance with the water quality standards*.

VII. HOW TO OBTAIN/TERMINATE COVERAGE UNDER THIS PERMIT

No-exposure and No Discharge Exemptions

Consistent with the USEPA's Phase II storm water regulations, permit coverage is not required for industrial facilities that do not discharge storm water associated with industrial activities. If all industrial activities are carried out under a roof without exposure and if materials, processes, wastes, finished products, byproducts, and intermediate products are not exposed to storm water, coverage under this Permit is not needed. However, the dischargers must complete a "No-Exposure Certification" on SMARTS. Federal regulations require renewal of No-Exposure Certification every five years. Based on our experience with expansion, relocation, and turn over of staff at industrial facilities, Regional Board staff believes that recertification should be done every year. This Permit requires that "No-Exposure Certification" must be renewed by June 30 of each year. The first No-Exposure Certification and the renewal applications submitted every fifth year after that shall include analytical results of storm water runoff from the facility.

If a facility discharges to a retention pond or percolation pond with a design capacity of the volume of runoff from a 100-year, 24-hour storm event, any discharge beyond the design storm is not expected to have any significant amount of pollutants in it. As such, such facilities are not required to get coverage under this Permit. For a no discharge exemption, the facility shall submit the engineering details, certified by a professional engineer, for the storm water retention or percolation systems to the Regional Board's Executive Officer.

Facilities Currently Regulated Under the State's General Permit

Within 90 days of adoption of this Order, permit coverage under the State's General Permit shall cease for those facilities that are identified in Attachment A. These are scrap metal facilities that are currently regulated under the State's General Permit. Those facilities must re-certify under this Order within 90 days of adoption of this Permit.

The re-certification must be done electronically using SMARTS. SMARTS is a user account and password protected system where a valid user account and password are needed to access the system. The Permit Registration Documents (PRDs)* shall include the Notice of Intent, a facility-specific SWPPP, the site REAP, a site map, and any applicable filing fee (see Item 3, below). The following procedure must be used for re-certification and/or for new facility registration:

1. Identify a Legally Responsible Person* who would sign up for access to SMARTS in the login box at: https://smarts.waterboards.ca.gov An LRP is either the owner of the business or a responsible corporate officer. A responsible corporate officer means: (a) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (b) the manager of the facility if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

2. Login to the SMARTS2 system at: https://smarts.waterboards.ca.gov and click on the "Apply for New Notice of Intent (NOI)" link.

3. Complete the Permit Registration for each tab including the uploading of your SWPPP and Site Map under the "Attachments" tab, certify the submission under the "Certification" tab, and mail the applicable filing fee to the State Water Resources Control Board with the fee statement that you will receive in an e-mail upon completion of the certification. If the fees have been paid recently, a fee may not be required for re-certification.

4. Fully implement the SWPPP to control/eliminate the discharge of pollutants from the site.

New Facilities

For all new facilities, an LRP must electronically file the PRDs, which include a Notice of Intent (NOI), Storm Water Pollution Prevention Plan (SWPPP), and other documents required by this General Permit, and mail the appropriate permit fee to the State Water Board. The procedures for filing the PRDs are the same as in Section III.I of the Permit.

How to Terminate Coverage Under This Permit

The Permittees must file a Notice of Termination by signing into SMARTS when the operations at the site are discontinued and/or the facility becomes eligible to terminate permit coverage.

VIII. PUBLIC NOTIFICATION/PUBLIC HEARING

The draft Permit and the Fact Sheet were released for public comments on February 25, 2011 for a 45-day comment period. A public workshop to discuss the Permit conditions was conduced at a publicly noticed Regional Board meeting on March 4, 2011. A second and a third draft of the Permit and the Fact Sheet were released for public comments on April 29, 2011 and August 1, 2011, respectively. The Regional Board

conducted a public hearing on this item at a publicly noticed Board meeting on September 16, 2011. Regional Board staff provided written responses to all comments received within the comment period and oral responses to comments received at the public hearing and/or after the close of the public comment period. A summary of the comments received and written responses are posted on the Regional Board's website at:

http://www.waterboards.ca.gov/santaana/water_issues/programs/stormwater/index.shtml

IX. REFERENCE MATERIALS:

The following reference materials have been either referenced in this Permit or were relied upon in preparing this Permit.

Water Quality Control Plan for the Santa Ana River Basin – Region 8 (Basin Plan) http://www.waterboards.ca.gov/santaana/water_issues/programs/basin_plan/index.shtml
Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (2005) STATE WATER RESOURCES CONTROL BOARD http://www.waterboards.ca.gov/water_issues/programs/state_implementation_policy/docs/final.pdf
Storm Water Panel Recommendations to the California State Water Resources Control Board, "The Feasibility of Numeric Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Construction Activities (June 19, 2006) http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/numeric/swpanel_final_report.pdf
USEPA, NPDES, Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP) http://www.epa.gov/npdes/pubs/msgp2008_finalpermit.pdf
Metal Recyclers WQ Standards Committee, Technical Subcommittee, Compliance and Monitoring System, Preamble (December 2010)
Federal Clean Water Act § 301 (33 U.S.C. § 1311)
Federal Clean Water Act § 402(a) (33 U.S.C. § 1342(a)(1))
Federal Clean Water Act § 402(p) (33 U.S.C. § 1342(p))
Title 40 Code of Federal Regulations Part 122.2, or 40 CFR § 122.2
40 CFR § 122.26
40 CFR § 122.44
40 CFR § 122.48
40 CFR § 131.36 (National Toxics Rule)
40 CFR § 131.38 (California Toxics Rule)
USEPA – Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants for the State of California; Final Rule (65 Fed. Reg. 31682 et seq., May 18, 2000; 40 CFR § 131.38)
USEPA's Final National Pollutant Discharge Elimination System (NPDES) Permit Application Regulations (55 Fed. Reg. 47990 et seq., Nov. 16, 1990; 40 C.F.R. §§ 122, 123, 124)
USEPA - NPDES Application Deadlines, General Permit Requirements and Reporting Requirements for Storm Water Discharges Associated With Industrial Activity (57 Fed. Reg. 11394 et seq., Apr. 2, 1992; 40 C.F.R. § 122)
USEPA NPDES – Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges; Final Rule, Report to Congress on the Phase II Storm Water Regulations; Notice (64 Fed. Reg. 68722 et seq., Dec. 8, 1999; 40 C.F.R. §§ 9, 122, 123, and 124)
USEPA - National Pollutant Discharge Elimination System, General Permit for Discharges from Large and Small Construction Activities (68 Fed. Reg.39087 et seq., July 1, 2003)
USEPA, Final Reissuance of National Pollutant Discharge Elimination System (NPDES) Storm Water Multi-Sector General Permit for Industrial Activities (65 Fed. Reg. 64746 et seq., Oct. 30, 2000)

To: USEPA Water Division Directors From: Robert Wayland, USEPA, Office of Oceans, Wetlands and Watersheds and James A. Hanlon, USEPA, Director, Office of Water Management Re: Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs (Date: 11/22/02)
USEPA, Office of Water, Document No. EPA 833-B-96-003 entitled, "U.S. EPA NPDES Permit Writers' Manual" (December 1996)
USEPA - Questions and Answers Regarding Implementation of an Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits (61 Fed. Reg. 57425, Nov. 6, 1996)
USEPA - Final Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits – (69 Fed. Reg. 43761, Aug. 26, 1996)
USEPA - NPDES Storm Water Program Question and Answer Document Volume II – September 1993
USEPA, Office of Water, Document No. EPA 832-R-92-006 entitled "Storm Water Management for Industrial Activities: Developing Pollution Prevention Plans and Best Management Practices" - September 1992
USEPA - NPDES Storm Water Sampling Guidance Document – July 1992
USEPA - NPDES Storm Water Program Question and Answer Document Volume 1 – March 1992
Santa Ana RWQCB Basin Plan, Chapter 4, Water Quality Objectives (1995)
SWRCB Water Quality Control Plan, Ocean Waters of California, California Ocean Plan (2001)
State Water Resources Control Board, Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (2000)
National Pollutant Discharge Elimination System (NPDES) General Permit For Storm Water Discharges Associated With Construction Activity (General Permit) Water Quality Order 99-08-DWQ
SWRCB 2002 Clean Water Act Section 303(d) List of Water Quality Limited Segments
In the Matter of the Petitions of Building Industry Association of San Diego County and Western States Petroleum Association, SWRCB Order No. WQ 2001-15
Own Motion Review of the Petition of Environmental Health Coalition, SWRCB Order No. WQ 99-05
In the Matter of the Petitions of National Steel and Shipbuilding Company and Continental Maritime of San Diego, Inc., SWRCB Order No. WQ 98-07
In the Matter of the Petition of Natural Resources Defense Council, Inc., SWRCB Order No. WQ 91-04
In the Matter of the Petition of Citizens for a Better Environment, Save San Francisco Bay Association, and Santa Clara Valley Audubon Society, SWRCB Order No. WQ 91-03
Communities for a Better Environment, et al. v. SWRCB, et al. (2003) 109 Cal.App.4th 1089
Defenders of Wildlife v. Browner (9th Cir. 1999) 191 F.3d 1159
Committee to Save Mokelumne River v. East Bay Municipal Utility District (9th Cir. 1993) 13 F.3d 305
Natural Resources Defense Council, Inc. v. Costle et al., (D.C. Cir. 1977) 568 F.2d 1369
Environmental Protection Agency, et al. v. California ex rel. State Water Resources Control Board, 426 U.S. 200 (1976)
Engrossed Substitute Senate Bill 6415; Chapter 225, Laws of 2004, State of Washington, Storm Water Permits
State of Washington, Department of Ecology, *A National Pollutant Discharge Elimination System and State Waste Discharge General Permit for Stormwater Discharges Associated with Industrial Activities* (August 21, 2002).
State of New Jersey, Bureau of Nonpoint Pollution Control, Scrap Metal Draft Permit, http://www.state.nj.us/dep/dwq/pdf/draft_scrap_recyclers_gp.pdf

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August 31, 2011

Santa Ana Regional Water Quality Control Board
ATTN: Michael Adackapara
3737 Main Street, Suite 500
Riverside, CA 92501-3348

RE: **Comments on Scrap Metal Recycling Facilities Sector Specific General Permit for Storm Water Associated with Industrial Activities, Order No. R8-2011-0011, NPDES Permit No. CAG618001**

Dear Mr. Adackapara,

Orange County Coastkeeper (Coastkeeper) is an environmental organization with the mission to preserve, protect, and restore the watersheds and coastal environment of Orange County. After careful review of the latest iteration of the Scrap Metal Recycling Facilities Sector Specific General Permit for Storm Water Associated with Industrial Activities, Order No. R8-2011-0011, NPDES Permit No. CAG618001(Permit), Coastkeeper generally supports this permit while encouraging the Regional Board make some revisions to improve permit clarity.

When Coastkeeper initiated the Permit process our intent was to improve regional water quality through a reduction in metals originating from a specific class of industrial facilities in storm water discharges. Additionally, Coastkeeper aspired to collaboratively generate an industrial permit with a realistic potential for statewide applicability and adoption by the State Water Resources Control Board. We strongly believe the Permit has been significantly strengthened during the process, with the third draft being the nearest to our goal of an enforceable permit resulting in measurable improvement to regional water quality. There are, however, some revisions that could improve the Permit's latest draft.

I. The Draft Permit Must Provide Numeric Effluent Limits That Apply Equally to Dischargers

Coastkeeper maintains our opposition to a specific element embedded within the draft Permit that allows some Permittees to avoid the enforcement of Numeric Effluent Limits (NELs) for storm water discharges. Section III.D.6 of the draft Permit states, "[I]f the Permittees have opted for the Phased Approach and fully implemented each phase as per the time schedules specified below, they will not be found in violation of Section III.D. of this Permit." Section III.D.6.c.2 states, "[T]he Permittee will be deemed to be in compliance with the effluent limitations once the phase III Corrective Action Plan is fully implemented." Either Section of the draft Permit can be interpreted to provide a Permittee with the ability to submit and implement plans and be rewarded with avoiding compliance with mandatory NELs if those plans do not result in meeting basic NELs, such as those in Table 1a with Section III.D.6.

As written, Sections III.D.6 and III.D.6.c.2 are in direct conflict with Section III.D.1.'s mandate that regulated facilities under the Phased Approach and Non-Phased Approach to comply with effluent limitations. For example, in the unlikely event that a regulated facility which opts for a Phased Approach and fully implements each phase and still does not meet basic NELs, that all facilities should as a minimum be able to satisfy, the Regional Board's options for improving water quality would be unreasonably constricted. Section III.D.1 sets a minimum bar for all regulated facilities in Tables 1a and 1b, depending on which approach the facility opts to follow, and clearly establishes that those effluent limitations "shall be compli[ed]" with. Submission and implementation of plans should insulate some facilities, but the draft Permit allows some yards to remain in technical compliance even when they cannot meet the elemental NELs found in Table 1a. Compliance with NELs is a necessity. This type of technical compliance was not anticipated when Coastkeeper organized the creation of the stakeholder process.

Specific to Section III.D.6.c.2 of the draft Permit, the last sentence, insulating the regulated facility from a violation of the Permit so long as they fully implement the Phase III Corrective Action Plan, presents the question of the need for a Reasonable Potential analysis under 40 C.F.R. § 122.44(d)(1) in order to meet water quality standards (WQS).

II. The National Toxics Rule and California Toxics Rule are Applicable to Storm Water Discharges

Section II.E. of the draft Permit should be deleted to provide regulatory consistency in compliance with recent legal precedent on the application of the National Toxics Rule (NTR) and the California Toxics Rule (CTR) to storm water discharges. Section II.E. of the draft Permit reads, "[T]his State Implementation Policy does not apply to storm water discharges (See footnote 1 of the State Implementation Policy)." Footnote 1 of the State Implementation Policy has been previously litigated in reference to the applicability of CTR to storm water. On at least three occasions, and recently confirmed in *Santa Monica Baykeeper v. Kramer Metals, Inc.*, 619 F. Supp. 2d 914, 927 (C.D. Cal. 2009), the Federal Court has applied CTR to end of pipe discharges at scrap facilities.

Recently, the Federal Court rejected the Regional Board's assertion that footnote 1 of the Policy for the Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (also referred to as the "State Implementation Policy") precludes the application of CTR to storm water discharges. *See Baykeeper v. Kramer Metals.* According to the Court,

> "The CTR expressly applies to 'all waters' for 'all purposes and programs under the Clean Water Act.' By noting that the Implementation Policy does not apply to storm water discharges, the Implementation Policy does not purport to exempt storm water dischargers from the limits imposed by the CTR, a federal regulation. [Further], the CTR criteria apply 'end of the discharge pipe, unless the State authorizes a mixing zone.' The General Permit authorizes no mixing zone."

Santa Monica Baykeeper v. Kramer Metals, 619 F. Supp. 2d at 927. As stated in our letter dated May 24, 2011, this is controlling law, and the draft Permit's inclusion of Section II.E. is inconsistent with existing case law. The Regional Board responsibly revised previous iterations of the draft Permit to reflect the court's interpretation of this footnote. Coastkeeper encourages the Regional Board to complete this revision by deleting Section II.E. of the draft Permit in order to reflect an accurate statement of the law and ensure internal consistency within the draft Permit.

In conclusion, Coastkeeper continues to support the adoption of the draft Permit by the Regional Board and commend the Regional Board staff on their continued dedication to maintaining and improving regional water quality. We appreciate your efforts in working with Coastkeeper on this matter and look forward to your continued cooperation.

Sincerely,

Garry Brown
Executive Director
Orange County Coastkeeper

August 31, 2011

Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501
Attn: Mr. Mark Smythe

Subject: Order No R8- 2011-0011

Dear Mr. Smythe:

The undersigned is a concerned member of the industrial sector and as an Environmental Engineer, Storm Water Group Program Manager, representative from several auto recycling trade Associations: California Automotive, Dismantling, Recycling Association, CADRA, Valley Auto Dismantlers Association, VADRA, Automobile Dismantlers of Southern California, ADASC, Inland Auto Dismantlers Association, IADA, and numerous independent Southern California scrap metal facilities that have reviewed this Perm. and wishes to provide comments on behalf of stake holder interests. The undersigned qualifications include a State of California Professional Engineering Certification, a Trainer of Record, a CPSWQ, CPESC, Masters Degree in Industrial Engineering and a Master's Degree in Environmental Engineering.

We recognize that water quality is an important issue, as is the State's economy. Regulation is an important part of the process that leads to improved water quality. The difficult task at hand is the implementation of a Permit that improves water quality to levels that do not adversely impact the beneficial uses of the receiving water while at the same time being cost effective and sustainable. Sustainability should include consideration as to the number of small or not well financed or not very profitable businesses that could be forced out of business for small increases or deminimus increases in water quality.

Although the subject Permit clearly intends to seek stormwater water quality improvements, the question remains, is the Permit the most cost effective approach to water quality, particularly in light of today's economy? In light of the foregoing we are seeking consideration of the following points:

Cost

Laboratory analysis fees have increased more than five to eight times. Previously 5093 scrap facilities were required to test for five metals pH, total dissolved solids, Oil and Grease, conductance, total suspended solids, and Chemical Oxygen Demand. The new Permit requires sampling more frequently, four times a year, minimum. Previously if the permitee was a group participant, sampling was once in two years, and the suite of samples has increased five to eight times. The costs range has increased from $200-$300 a year to $1500 per year. How does the

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increase in testing costs improve water quality?

It appears that sooner or later each facility will be required to install a media filter system. It appears that these systems are in the $100,000 range, installed. The Permit refers to the BAT standard as Best Available Technology Economically Achievable. No economic analysis was found within the Permit to establish "economic achievability." In order for the Permit to achieve BAT an economic analysis should be completed. It should be pointed out that numerous scrap metal facilities are small operations that could not afford a $100,000 media bed filter system, let alone a $10,000 system.

After the installation of the $100,000 system there is no submitted evidence that there are multiple sources to supply the media filters, nor is there any proof that storm water after passing through the filter will meet the required testing limits as defined on Table 1.b. More information should be collected and evaluated before any BMP becomes a requirement. The proof of concept aspects of a BMP program should not be forced on the industry to establish the feasibility of the concept. Proof of concept should come from small scale (pilot or bench scale systems) before being established as an industry standard.

Effluent Limit Standards

The effluent standards on Table 1b. appear to be based upon BPJ or best professional judgement. As a term of art, the BPJ standard appears reasonable in establishing safety factors in engineering work that relates to materials, but the application of BPJ to discharge limits appears to not consider all the aspects of water transport from source to receiving water, and there is no indication that the BPJ standard is appropriately established as to it being too high or too low.

Group Program

The concept of the Group Strom Water Monitoring Program is supported by industry. In previous permits the higher cost of group participation was off set by a reduction in sampling frequency. In this Permit no-cost off set was observed. A cost off set should be provided to those Scrap metal recyclers that opt for group participation to off set the cost of higher scrutiny, resulting in higher levels of compliance, than for non group participants.

Pervious versus Impervious

Paragraph 6.a. iii. indicates that areas prone to erosion shall be paved. Paragraph 6.a. v. requires the development of a program to the maximum extent practicable to percolate, evapotranspirate, or use onsite, uncontaminated runoff. These two paragraphs seem to be in conflict. Converting more than 500 square feet from pervious too impervious triggers the SUSMP provisions of the Municipal Permit which are extremely costly.

QSD

As a Trainer of Record for the IGP I am aware that this program began far before the Permit's passage. This Permit states the requirements for QSD/P program is to be establish in 18 months and if not developed by the SWB within the 18 month time period the SARWB will create the

QSD/P program. Having worked closely with CASQA, Sacramento State University, and the SWB in the development of the CGP it is believed that this will be an extremely challenging undertaking for the SARWQCB or any RWQCB in both time and resource availability.

Permit Complexity

After reading the Permit several times and discussing with other member of the regulated community, and as a California Licensed Professional engineer there appears to be a universal sense that this Permits complexity will preclude straight forward implementation by the regulated community. It is suggested that a far less complex document be prepared to facilitate ready implementation by any Permitee.

It is hoped that this Permit's final form considers not only the adverse impact on receiving waters but also the adverse impacts on the business community, contrasted against the deminus gains in water quality.

Thanking Board and Staff for their consideration.

Sincerely,

M. H. Sachse

Marvin H. Sachse, P.E., CPSWQ, CPESC, CESSWI, ToR, QSD/P

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ISRI
Voice of the Recycling Industry
Institute of Scrap Recycling Industries, Inc.
www.isri.org

August 31, 2011

Mark Smythe, Chief of Stormwater – Coastal
Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501

Re: 3rd Draft of Scrap Metal Sector-Specific Permit, NPDES No. CAG 618001

Dear Mr. Smythe,

The Institute of Scrap Recycling Industries, Inc. (ISRI) submits the following comments in response to the request by the Santa Ana Regional Water Quality Control Board (henceforth, "the Board") for public comment on the third version of its draft Scrap Metal Sector-Specific Permit, NPDES No. CAG 618001, dated August 1, 2011 (henceforth, "the 3rd Draft Permit"). ISRI appreciates this opportunity to comment and also the Board's consideration of previous comments.

ISRI is the "Voice of the Recycling Industry". With 21 chapters nationwide, including the West Coast Chapter for California and neighboring states, and headquarters in Washington, DC, ISRI represents more than 1,600 companies that process, broker, and consume scrap commodities, including metals, paper, plastics, glass, rubber, electronics, and textiles. ISRI provides education, advocacy, and compliance training, and promotes public awareness of the value and importance of recycling to the production of the world's goods and services. During 2010, the latest year with complete figures, the industry employed more than 100,000 people and processed more than 130 million metric tons of scrap materials, conserving impressive amounts of energy and natural resources and minimizing environmental emissions associated with production of the world's goods and services.

As with the previous two draft versions, ISRI believes that the 3rd Draft Permit is sufficiently potentially precedent-setting for stormwater general permits nationwide that submitting comments from the national perspective is warranted.

As previously stated explicitly (first comments) and implicitly (second comments referring to the first comments), ISRI continues to believe that the timing of this scrap metal permit is premature relative to the state's activities on its industrial general permit.

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Based on review of the 3rd Draft Permit, ISRI believes that some issues in the 2nd Draft Permit have not been adequately addressed in the 3rd Draft Permit and that the 3rd Draft Permit has some new issues that need to be addressed.

Comments on Outstanding Issues from the 2nd Draft Permit

In its response summary dated August 1, 2011, the Board provided responses to ISRI's comments on the 2nd Draft Permit, identified as follows:

- Comment 19—Metal recycling threshold for permit applicability;
- Comment 20—Insufficient time for QSD/QSP qualification, implementation of on-site Phase I measures, and SWPPP preparation;
- Comment 21—Design standards; and
- Comment 22—Trigger exclusion for flows exceeding the design standard.

ISRI appreciates the Board's responsiveness to the issues raised in Comments 19 and 20 and the resulting changes in the 3rd Draft Permit. At the same time, ISRI finds that the 3rd Draft Permit does not adequately address the issues identified in Comments 21 and 22.

<u>Comment 21</u>

Regarding Comment 21, ISRI finds that the design standards in Sections III.D.4 (at 21) and III.D.6.b.3 (at 26) are still inconsistent (underlining added):

> Section III.D.4: "*All treatment systems shall be sized and designed to allow no more than 5% bypass of <u>annual average daily runoff</u>, based on a continuous simulation of historical daily rainfall information available for the location where the regulated facility is located.*"
>
> Section III.D.6.b.3: "*The design volume shall be greater than or equal to 95th percentile* of the <u>annual average runoff</u> volume from exposed areas not eliminated by Phase I BMPs.*"

Depending upon the Board's intent here, resolving this inconsistency may be as simple as inserting "daily" between "<u>average</u>" and "<u>runoff</u>" in the sentence above in Section III.D.6.b.3. Alternatively, Section III.D.6.b.3 could refer to Section III.D.4 to define the design volume, or both sections could refer to a new definition for design storm (see

below). However accomplished, these sections must have or articulate consistent design standards.

Comment 22

Regarding Comment 22, ISRI did not find any clarifying language in Section III.D, as indicated in the response summary, concerning the inapplicability of an analytical result representing a storm event in excess of the design storm to determining a NAL or NEL exceedance. Such clarifying language would articulate that an analytical result representing an excess storm event could not be considered any of the following:

1. An exceedance of a NAL or NEL.
2. A permit violation.
3. A value to be used in determining a NAL or NEL exceedance.

Such clarifying language should and must be added to the next version of the Permit, whether the Final Permit or the 4th Draft Permit.

Other Issues

ISRI would like to take this opportunity to mention a very small, persistent issue—both on substance and actual size—in Footnote 52 to Section III.D.6.a, "Phase I Requirements" (at 22). Footnote 52 mentions a "singed report" to be submitted to the Board. For many reasons, "singed report" should be changed to "signed report".

Comments on New Issues in 3rd Draft Permit

In addition to the above comments, ISRI has some comments and questions on some new features in the 3rd Draft Permit.

Non-Phased Approach with "Immediate" Applicability of NELs

The sudden appearance of the voluntary Non-Phased Approach in the 3rd Draft Permit is more puzzling to ISRI than inherently objectionable. It would be helpful to have more background on the Non-Phased Approach other than that the Metal Recyclers Water Quality Standards Committee recommended adding it to the 3rd Draft Permit.

If the Non-Phased Approach is truly voluntary, then ISRI has no objection to the Board providing members of the regulated community the opportunity to freely commit themselves to more-stringent standards (i.e., the Non-Phased Approach) than other standards otherwise freely available to them (i.e., the Phased Approach). The potential

danger lies in overt and covert coercion upon members of the regulated community to opt for the voluntary more-stringent standards (i.e., Non-Phased Approach). As it is, in the absence of more-stringent standards, "overcompliance" (relative to less-stringent standards) is always an option anyway. Why then does the Board feel compelled to formally add the Non-Phased Approach to this 3rd Draft Permit?

If the Board is concerned about backsliding under a Scrap Metal Permit without a Non-Phased Approach by subject facilities already meeting the requirements of the Non-Phased Approach, it is worth noting that such facilities are already "overcomplying" today without any Scrap Metal Permit. It seems unlikely that they would suddenly backslide—and essentially waste much of their effort and investment to be able to meet the requirements of the Non-Phased Approach—just because they had become subject to a Scrap Metal Permit without a Non-Phased Approach. As it is, at some time in the future, all subject facilities would have to meet the same set of stringent requirements under the Scrap Metal Permit.

In ISRI's view, given the free choice, very few facilities would opt for the Non-Phased Approach. For such facilities, the Non-Phased Approach contains a potential regulatory danger. In their earnest efforts to (continue to) meet the Non-Phased NELs in Table 1.b (see below), effective December 31, 2011, such facilities would be potentially exposing themselves to permit violations for stormwater discharge concentrations that trigger the Non-Phased NELs but would otherwise, perhaps easily and safely, meet the Phased NELs in Table 1.a, effective July 31, 2013, and Phased NALs in Attachment B. This would be a disincentive to opting for the Non-Phased Approach, especially for facilities that cannot consistently meet the Non-Phased NELs with sufficient margins of safety.

In the end, ISRI finds that the Non-Phased Approach is unnecessary and questions its inclusion in the next version, whether the Final Permit or 4th Draft Permit.

<u>Non-Phased NELs in Table 1.b</u>

Concerning the Non-Phased NELs in Table 1.b (at 19) and the Phased NALs in Attachment B (at 64), ISRI notes that the values for hardness-dependent metals in these two tables do not reflect the same hardness level. The values in Table 1.b ostensibly reflect a total hardness of 100 mg/L (see Footnote e[1] of 40 CFR §131.38(b)(1)) whereas those in Attachment B reflect the default receiving water hardness range of 125–150 mg/L. While the values of applicable NALs and NELs would depend upon the

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[1] "Freshwater aquatic life criteria for metals are expressed as a function of total hardness (mg/L) in the water body. The equations are provided in matrix at paragraph (b)(2) of this section. Values displayed above in the matrix correspond to a total hardness of 100 mg/l."

hardness of the actual receiving waters, and could be significantly different from those in these tables, the values in these (or any) tables, when rendered generically, should and must be based on the same hardness level, with that hardness level clearly indicated.

Diversion to Sanitary Sewer System

Regarding potential diversion of first flush or contaminated stormwater to the sanitary sewer system, ISRI notes that Section III.D.6.a.2.xxii (at 24) was modified to allow such diversion "*if the sanitary sewage collection agency reclaims and distributes and/or uses reclaimed water*" (underlined text is new). It would be helpful to know under what circumstances such diversion to a sanitary sewer system would be disallowed. ISRI notes that on this matter, Section III.D.6.a.2.xxii and the Fact Sheet (at FS15) are slightly inconsistent.

Need for Oil-Water Separator

ISRI notes that Section III.D.6.a.3.iv (at 25) includes the following new final sentence: "*An oil-water separator is not needed if there is no potential for oil contaminated wastes to be processed at the facility.*" Assuming that the Board intends "oil contaminated wastes" here to mean "oily scrap metal", ISRI objects to the (mis)characterization of oily scrap metal as "oil contaminated wastes". The phrase "oil contaminated wastes" should and must be removed and replaced by the phrase "oily scrap metal"—unless "oil contaminated wastes" is intended to refer to materials other than oily scrap metal.

Definition of "Design Storm"

While ISRI agrees that the 3rd Draft Permit should have a definition for design storm (see above), ISRI notes that the new definition of "Design Storm" (at 41)—

> "*This is the rainfall depth or intensity to which the treatment systems should be designed. The Permit defines it as the 95th percentile storm event* for the area*"

—contains two slight errors.

First, notwithstanding this new definition, the 3rd Draft Permit does not define the design storm **as** "the 95th percentile storm event". Rather, Section III.D.4 (at 21) states that "[d]*epending on the facility location, this design storm magnitude will be roughly equivalent to the 95th percentile storm*" (underlining added). This definition should and must be changed to reflect approximate equivalence to the 95th percentile storm and also should probably include some of the detail in Section III.D.4.

Second, this new definition "misidentifies" another new definition, "95th percentile rainfall event", as "95th percentile storm event". In reality, the new definition of "95th percentile rainfall event" appears to be the problem because the phrase "rainfall event" appears only in it, and nowhere else in the 3rd Draft Permit. Similarly, the phrase "rain event" appears only in the context of the "Rain Event Action Plan" (REAP). If "storm event", "rainfall event", and "rain event" are intended to be synonymous, then it may be helpful to state this fact. In the new definition of "95th percentile rainfall event", including the defined phrase itself, "rainfall event" should be changed to "storm event". While "rain event" could also be changed to "storm event", doing so would change (perhaps ironically) the acronym REAP ("Rain Event Action Plan") to SEAP.

Summary

In summary, ISRI reiterates its general position that the timing of this scrap metal permit is premature relative to the state's activities on its industrial general permit. On the substance of the 3rd Draft Permit, ISRI finds many issues, some old and some new, that need to be addressed in the next version, whether the Final Permit or the 4th Draft Permit. Old issues requiring correction include the inconsistent articulation of the design standard and the missing promised clarification about the inapplicability of analytical results from excess storm events to determining a NAL or NEL exceedance. New issues requiring further explanation or correction include the unnecessary Non-Phased Approach, the inconsistent rendering of hardness-dependent NALs and NELs, diversion of certain flows into sanitary sewer systems, the inappropriate characterization of scrap metal as "waste", and the problematic definition of "design storm".

In closing, ISRI thanks the Board for this opportunity to provide comments on the 3rd Draft Permit and for its consideration of these comments. If you have any questions or comments, you can reach me at 202-662-8533 or DavidWagger@isri.org.

Sincerely,

David L. Wagger, Ph.D.
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DavidWagger@isri.org

California Refuse Recycling Council
CELEBRATING 50 YEARS
1961-2011

August 31, 2011

Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3348
Attn: Michael Adackapara
Mark Smythe

Via Email & U.S. Mail
madackapara@waterboards.ca.gov
msmythe@waterboards.ca.gov

Re: Comment Letter

Draft Sector-Specific General Permit for Storm Water Runoff Associated with Industrial Activities from Metals Recycling Facilities (Scrap Metal Facilities), Order No. R8-2011-0011, NPDES No. CAG 618001 (Draft Permit)

Gentlemen:

The California Refuse Recycling Council (CRRC) is a trade association comprised of more than a hundred solid waste collection and recycling firms throughout California. Our membership includes material recovery facilities (MRFs), transfer stations, green waste composting facilities, construction and demolition facilities, and e-waste collection facilities. As an industry that facilitates the recycling of waste, we work on a daily basis to keep our state clean and healthy. Multiple new provisions in the Draft Permit make positive strides towards improving the regulation of storm water, something our industry supports. However, we feel the intent of the Board is unclear in the applicability of the Draft Permit and additional clarification is needed, especially for storm water dischargers in the refuse removal and recycling industry.

We are pleased the SARWQCB has recognized that the challenges of storm water pollution management can vary within certain industries; hence, the need for Sector-Specific Permits to address the unique conditions at relevant facilities. On Page One of your Draft Sector-Specific Permit for Metal Recyclers dated August 01, 2011, the language states that "This Permit is not applicable to recycling facilities commonly referred to as material recovery facilities that only receive source-separated recyclable materials primarily from non-industrial and residential sources." This language is potentially confusing, in that many of our MRFs process source-separated <u>and/or</u> commingled recyclables (mixed waste) in order to achieve AB 939 compliance for their primary customer base (municipalities). The sorting and processing activities are similar with both recycling streams; however, it would be difficult to distinguish between the stormwater discharge from a source-separated MRF that processes largely contaminated recyclables, and a commingled MRF that processes largely uncontaminated recyclables.

To this end, we respectfully request that the Board consider modifying the language on the first page to include both source-separated and commingled MRFs. The suggested language would read as follows: "This Permit is not applicable to recycling facilities commonly referred to as material recovery facilities that receive source-separated and/or commingled recyclable materials primarily from nonindustrial and residential sources."

We feel that our request is consistent with the language of the third draft on Page 5 of 65, regarding "Facility Information (Facilities regulated under this order)". Specifically, the following text language supports our recommendation: "Other types of facilities listed under SIC Code 5093 and engaged in wastes recycling <u>are not</u> required to get coverage under this Permit".

Please know that the members of CRRC and the refuse removal and recycling community as a whole fully support measures that improve the quality and health of California's environment. As members of the regulated community, we want to eliminate aspects of the Draft Permit that will result in confusion or hinder compliance efforts. Hopefully, our comments will assist the SARWQCB in revising the Draft Permit in a manner that will serve our environment and businesses together.

Please feel free to contact Paul Ryan (951) 288-5049, Ken Pretell (909) 908-7976 or myself if you have questions or would like to discuss this matter further. Thank you for your consideration of these comments.

Sincerely,

For

David Fahrion
CRRC-Southern District President
Telephone: (951) 657-7512

ORANGE COUNTY
PublicWorks
Our Community. Our Commitment.

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August 31, 2011

Mr. Michael Adackapara
Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501

RE: Sector Specific General Permit for Storm Water Runoff Associated with Industrial Activities from Scrap Metal Recycling Facilitities within the Santa Ana Region, Order No. R8-2011-011

Dear Mr. Adackapara:

OC Public Works has previously provided comments on the prior draft of the proposed "General Permit for Storm Water Runoff Associated with Industrial Activities from Scrap Metal Recycling Facilitates within the Santa Ana Region, Order No. R8-2011-011." While a response to these comments was provided, it does not address the basis of our concerns. The following clarifications of these concerns are therefore offered:

1. The benchmarks established in the monitoring provisions of USEPA's Multi-Sector General Permit for Stormwater Discharges Associated With Industrial Activity were never intended by USEPA to be used as effluent limits. Indeed, USEPA's intention in this matter is clear: "EPA notes that Part 6.2.2 emphasizes that the benchmark thresholds used for monitoring are not effluent limits" (see Federal Register Vol. 73, No 189, September 29, 2008, pg 56574 as noted in prior letter). While your response (Comment 29) states that the Numeric Action Levels (NALs) proposed in the draft order serve the same purpose (i.e. benchmark monitoring thresholds for determining BMP effectiveness), it does not recognize that the permit NALs become NELs on July 31, 2013. In drawing your attention to USEPA's clear intent regarding NALs/NELs, Regional Board should explain why it is requiring NELs beyond the requirements of EPA.

2. The County notes that the Metal Recycling Permittees are provided the opportunity to develop and propose an alternative set of technology-based effluent limitations. Based upon the discussion in H.26, it is evident that these limitations will need to be derived in a manner consistent with USEPA's effluent limitation guidelines and based on an in-depth analysis of treatment technologies available. If the proposed NALs are found to be unattainable, the Permittees have little more than a single storm season to perform this study and complete a reopening of the permit prior to the NALs becoming NELs. Moreover, the permit is ambiguous on whether there is indeed an opportunity to develop an alternate set of NELs. For example, while H.29 refers to "alternate NELs",

the commitment of the Regional Board in H.30 is simply to "determine the need to reopen the permit to incorporate any "additional NELs." With respect to this provision of the permit, it needs to be more clear that the Metal Recycling Permittees have a genuine opportunity to reopen the permit for the purpose of revising the NALs/NELs. The County recommends that the permit include detailed information regarding the procedures required to revise the NALs/NELs and the process for incorporating the revised NALs/NELs into the permit. Also, instead of establishing a fixed date for the NALs to become NELs, the permit should be revised such that the NALs become NELs only when sufficient data is available to establish technology based NELs in accordance with EPA's effluent limitations guidelines.

In concluding, we would again draw your attention to the Blue Ribbon Panel report. In its discussion of the applicability of NELs to industrial activities the Panel noted that that "The Board needs to reexamine the existing data sources, collect new data as required and for additional water quality parameters .... to establish practical and achievable Numeric Limits." We remain concerned that, contrary to this observation, the draft permit is taking the precedential step of establishing NELs in a stormwater permit in a manner contrary to both federal direction, expert advice and with no explicit consideration in the Findings as to whether the NALs/NELs are indeed practical and achievable. Not translating the NALs into NELs on July 31, 2013, and using the period of the permit instead to evaluate the application of NALs would be an approach consistent with the Panel's observations and address the concerns we have raised.

We appreciate the opportunity to provide comments. If you would like to discuss these comments further, please contact Richard Boon at (714)955-0670.

Very truly yours,

Chris Crompton, Manager
Environmental Resources

FROG ENVIRONMENTAL

Your Business Is Our Environment

August 30, 2011

California Water Quality Control Board – Santa Ana Region
3737 Main Street, Suite 500
Riverside, CA 92501
ATTN: Michael Adackapara

RE: Sector-Specific General Permit for Storm Water Runoff Associated with Industrial Activities from Scrap Metal Recycling Facilities Within the Santa Ana Region: **Order No. R8-2011-0011**

Dear Michael Adackapara,

The Santa Ana Regional Board drafted a Sector-Specific General Permit to regulate storm water discharges associated with scrap metal recycling facilities (hereinafter referred to as the "Scrap Metal Permit") upon the recommendation of the Metal Recyclers Water Quality Standards Committee, and we have reviewed the third draft of the proposed Scrap Metal Permit. Although certain revisions were incorporated into this latest draft, we stand firm in our position that the proposed Scrap Metal Permit contains requirements and standards that are unsubstantiated, costly, punitive, unduly burdensome, and most importantly, outside of the law. The dramatic increase in costs, coupled with the inconsistencies and subjective gaps in the draft, will detrimentally impact the metal recyclers to the extent that compliance will be difficult, if not impossible.

We urge the Regional Board not to act in haste in adopting a permit that is premature and incomplete. Alternative options in regulating the industry should be further explored. Specifically, any action regarding the Scrap Metal Permit should be delayed until the passage of the Industrial General Permit has been finalized so that it can be utilized as guidance for and comparison against these proposed regulations. An unbiased committee should be formed in order to review the information provided by the Regional Board, environmental organizations, consultants, and vendors of storm water treatment technologies so that the necessary research can be performed to establish consistent requirements. The proposed regulations must be further examined in the context of the issues and obstacles that scrap metal recycling facilities will face in complying with the new standards in a timely and cost effective manner. In addition to framing the necessary regulations, the costs and size of the facility, as well as other relevant factors, should be reviewed as it is crucial in promulgating fair and reasonable regulations that can be successfully implemented.

Our concern for our clients and all scrap metal recycling facilities that are potentially subject to the proposed Scrap Metal Permit is paramount. Pursuant to the third draft of the proposed Scrap Metal Permit as revised on August 1, 2011, we respectfully submit the following comments for your consideration, action, and resolution:

General:

1. *[Previous Frog Comment 5/27/2011]: The adoption of the draft Scrap Metal Permit should be delayed until the passage of the draft Industrial General Permit has been approved as the Industrial General Permit serves as the foundation/basis for storm water compliance throughout all industries and regions. Implementing a regional, sector-specific permit prior to the finalization of the draft Industrial General Permit yields not only the appearance of inconsistency, but also one of a particular segment being targeted or penalized. Delaying the adoption of the draft Scrap Metal Permit would, at the very least, give the appearance that this regional, sector-specific permit took the new Industrial General Permit into consideration and display that there is a structured, sound, unified, simplified, and streamlined process for implementing regional, sector-specific permits. This would be a fair and good precedent to establish*

as the proposed requirements and stringent compliance period are unduly burdensome to the individual scrap metal recycler. There has been no mentioned consideration of the significant hardship and impact on the industry collectively or to the individual business owner. A sector-specific permit should be tailored to that industry; it should not be punitive in nature nor set that industry up for failure.

[Regional Water Board Response 8/1/2011]: This comment was submitted during the comment period for the second draft and responded to within the Regional Water Board response letter (Comment 32). The response stated: "One of the benefits of the proposed scrap metal recycler permit is that it only affects a handful of dischargers in a specific sector, in a specific geographical area." Regional Board also commented that, "...should the statewide general industrial permit renewal process be unduly delayed, or be re-adopted with minimal changes, the progress achieved by the proposed scrap metal recycler permit should aid in the development of the next generation of statewide general industrial permits or statewide sector-specific permits."

[Frog Comment to Regional Water Board Response]: The arbitrary response of the Regional Board underscores the necessity of establishing a precedent whereby the foundation for any sector-specific permit is based upon the Industrial General Permit. It is imperative that the industry is subjected to fair and consistent standards that reflect a fair balance between the substantiated need for the regulation and the impact on the industry. The idea of a sector-specific permit affecting a handful of dischargers in a specific sector, in a specific geographical area, can influence the State as a whole seems counterintuitive and raises concerns. The logic in passing legislation that may target or penalize a specific section of industry because it may, at some undetermined point in the future, "aid in the development of the next generation of statewide general industrial permits or statewide sector-specific permits" is unsound and unjust. This line of reasoning would be akin to saying that the needs of a few individuals in a particular area should affect the laws that apply to the large majority of the population throughout the entire State. This is not a sound method for implementing regulation.

2. *[Previous Frog Comment 5/27/2011]: It is unclear as to how exactly affected industries within this Region were represented, in what capacity they were represented, if they were accurately represented, and, ultimately, if they were fairly represented. It would go a long way in terms of demonstrating "good faith" to further explain how the "affected" group was represented during the permit writing process. Frog Environmental maintains numerous scrap metal recycling facilities as clients in this region, none of whom were consulted during this process to provide input; nor were their consultants, who could have provided helpful and accurate information to the Regional Board.*

   [Regional Water Board Response 8/1/2011]: This comment was submitted during the comment period for the second draft and responded to within the Regional Water Board response letter (Comment 1). The response stated: "The Metal Water Quality Standards Committee is a stakeholder group that was organized by some of the local scrap metal recyclers (many of these recyclers are members of the Institute of Scrap Recycling Industries, Inc. or ISRI, and were represented by George Adams of SA Recycling), environmental organizations, consultants, and vendors of storm water treatment technologies. Regional Board staff participated in the Committee meetings at the request of this stakeholder group. The Committee was not organized by the State or any State agency."

   [Frog Comment to Regional Water Board Response]: The fact that the Committee was not organized by the State or any State agency raises questions about the need for this sector-specific permit and the agenda of the Committee. If the information being used to justify the content of this permit came directly from the Regional Board, then why didn't the Regional Board independently determine the need for such a permit? In this instance, where the stakeholder group drafting the proposed sector-specific permit formed itself rather than the Regional Board assessing a need and conducting an unbiased selection process, including a representation of members from the affected industry, to form a committee. Therefore, Regional Board needs to release and make public on the Regional Board website the list of Committee

members and stakeholders and their findings to demonstrate "good faith" and clearly illustrate how the "affected" group was represented during the permit writing process.

The response quoted above also describes Committee members as local scrap metal recyclers, environmental organizations, consultants, and vendors of storm water treatment technologies. It is not uncommon for certain stakeholders within an industry to desire that more stringent requirements be put in place if these requirements could cause competitors within the industry to have an increased financial burden or even go out of business. Are the environmental organizations those that want more stringent regulations in order to facilitate more litigation? Will the consultants and vendors on the Committee potentially benefit financially from increased business due to more stringent regulation?

3. *[Previous Frog Comment 5/27/2011]: There are numerous instances throughout the draft Scrap Metal Permit which mention the use of "best professional judgment" to make a particular determination. While the Regional Board has made an effort to clarify the process used in establishing best professional judgment in the latest revision of the draft, many questions still remain about its definition. If there is no criteria that defines, outlines, or limits what best professional judgment is, then the judgment becomes an arbitrary term that can vary depending on the professional and his/her experience, biases, etc. There should be an objective definition for best professional judgment, and minimum requirements should be established for "professionals" that can use their "best judgment" to make determinations that could potentially be costly and/or significant. More importantly, best professional judgment or any other subjective standard should not be prematurely substituted for actual data and scientific information that will show a true representation of discharges from scrap metal recycling facilities. Requiring these facilities to take onerous and costly actions in response to such subjective standards, when Regional Board has admitted these standards may change in the near future, is inconceivable and a serious detriment to the success of the industry.*

   [Frog Comment to Regional Water Board Response]: This comment was submitted during the comment period for the second draft. However, it was not responded to within the Regional Water Board response letter. There is still no objective definition for best professional judgment or a set of criteria that defines, outlines, or limits best professional judgment. Furthermore, there are no minimum requirements established for "professionals" that can use their "best judgment." This term is currently open for subjective interpretation and application and must be clarified or removed from the proposed legislation.

4. *[Previous Frog Comment 5/27/2011]: The mechanics of the multi-purpose Phase I offer a dubious solution to a problem that hasn't been fully identified. It is counterintuitive to implement a discovery period (Phase I) to determine the baselines/ standards moving forward while simultaneously assessing the new information and applying it almost immediately in real-time to dictate what a facility must do in Phase II. If there is a basis being determined during a set timeframe, it is logical to first evaluate the data gathered, formulate the guidelines to be put into place, and then institute those formulated guidelines prior to beginning the process of enforcement/ compliance. A time period prior to Phase I (a "pre-Phase I" period, so to speak) should be set aside to conduct the appropriate research and analysis in a traditionally fair and practical manner. The adoption of the draft Scrap Metal Permit should be delayed until after the Regional Board has completed its evaluation of scrap metal recycling facilities and provides a scientific report detailing which specific facilities were visited, the number of facilities visited, the scope of its evaluation, and the findings as they relate to Best Management Practices (BMPs), NALs/NELs, proven available treatment technologies, etc. This report should also include an analysis about cost-effectiveness, availability, efficacy, and practicality with regards to the significant provisions within the draft Scrap Metal Permit (BMPs, additional monitoring frequency and parameters, observations, NALs/NELs, treatment control measures, QAPP, REAP, SWAMP, etc.). Currently, the language and requirements in the draft Scrap Metal Permit would add an undefined cost to businesses without providing a clear solution, and this may quickly drain resources that are already strained within the scrap metal recycling industry.*

[Frog Comment to Regional Water Board Response]: This comment was submitted during the comment period for the second draft. It is being reiterated with this set of comments because the need still exists for a scientific report addressing the factors listed above as the data listed within the SMARTS system is not sufficient in its current form. This listed data, in addition to other relevant information, should be analyzed and interpreted in a specific manner which logically relates to the content of the draft Scrap Metal Permit.

Specific:

1. *[Previous Frog Comment 5/27/2011]: Section IV of the Fact Sheet (p. FS3) states that "approximately 50% of the facilities exceeded the USEPA's benchmark levels for one or more metals" within the Regional Board's jurisdiction during the years of 2005-2010. The following page (p. FS4) continues along the same theme, citing deficiencies such as "(1) approximately 10% of the facilities do not implement the minimum control measures (BMPs) specified in the State' [sic] General Industrial Permit; (2) approximately 85% of the Storm Water Pollution Prevention Plans (SWPPPs) are not site-specific; (3) the employees are not properly trained in storm water pollution prevention methods; and (5) [sic] only about 20% of the facilities had any kind of storm water treatment systems installed." Regional Board should release a separate report detailing the data used to compile their statistics. One very important reason for releasing this report to the public is to allow for a peer review to determine the proper context for these statistics. For example, how many facilities actually sampled during this period? What if only 16 out of 100 facilities sampled consistently over the five year period, and only half of those 16 facilities experienced an exceedance? In that case, the 50% statistical figure would be skewed. What if a facility barely exceeded a benchmark once in 2005 and did not exceed again in the following years; will that facility be incorporated into the 50% statistical figure? If a site has not updated a contact name in a SWPPP, would this constitute as a non site-specific plan? Regional Board should provide the industry with transparent information to ensure a fair analysis of data was conducted and to instill confidence among the affected group.*

   [Frog Comment to Regional Water Board Response]: This comment was submitted during the comment period for the second draft and responded to within the Regional Water Board response letter (Comment 34). The response stated: "The data is available for public review through the SMARTS system." Data listed within the SMARTS system is not sufficient in its current form as it does not address factors 1, 2, 3, and 5 listed above. This listed data, in addition to other relevant information, should be analyzed and interpreted in a specific manner which logically relates to the content of the draft Scrap Metal Permit and be released to the public via the Regional Board website.

2. It is noted that the draft Scrap Metal Permit clarifies the design storm criteria for treatment systems as roughly a 95th percentile rainfall event, allowing no more than 5% bypass of annual average daily runoff, based on a continuous simulation of historical daily rainfall information available for the location of the facility. Is the historical period for daily rainfall to be understood as a specific period of record (i.e. 10 years), or is it for the entire period that historical data exists for? Regional Board should clarify its definition of historical daily rainfall information recommend/determine criteria and a universally accessible source for determining this information. For example, a facility should use the closest active weather station listed from a particular Regional Board approved website to refer to for rainfall data over a specific Regional Board determined time period.

3. The third draft offers permittees two routes towards compliance: a Phased Approach (Option1) or a Non-Phased Approach (Option 2). If a permittee should choose Option 2 and exceed an NEL from Table 1b, the draft Scrap Metal Permit states that the NEL exceedance is a violation; however, it is unclear what the consequences will be. In contrast, required actions for permittees exceeding an NAL/NEL within the Phased Approach are clearly stated. Would any consequence(s) for permittees exceeding an NEL within the Non-Phased Approach be up to the discretion of the Regional Board staff member/inspector/ regulator?

4. Page 21 of the draft Scrap Metal Permit (Section III.D.5.a.) states that "If the State Board does not develop an industrial QSD/QSP certification program as part of the General Industrial Permit within 18 months of adoption of this Permit, the Regional Board proposes to organize the development of a scrap metal-specific QSD/QSP certification program." It is fairly clear that there is an 18 month period for facilities to hire/retain properly qualified personnel to create SWPPPs that comply with the new requirements of this draft Scrap Metal Permit. However, there does not seem to be a similar grace period for implementing the Monitoring and Reporting Program (MRP). Page 51 of the draft Scrap Metal Permit (MRP Section I.A.) states "All facilities currently regulated under the State's General Industrial Permit shall update its MRP in accordance with the requirements specified in this section within 90 days of adoption of this Order." MRP Section I.B. continues on to say, "The MRP shall be implemented within 30-days of uploading the PRDs." This is a significantly smaller time frame to implement the MRP. Page 53 of the Permit (MRP Section III.A.1.) also states, "Each month a group leader, a QSP or a person under the direction of a QSP or the group leader shall conduct visual inspections of the industrial areas of the permitted facility..." Rather than allow a sufficient time period for a proper industrial/scrap metal QSD/QSP program to be in place, the Regional Board is requiring certifications solely specific to Construction activities to implement an Industrial program.

   Furthermore, on Page 57 (MRP Section IV.A.), the MRP calls for a QAPP to be developed by a SWAMP certified professional. The response to Comment 48 within the Regional Water Board response letter states, "We are working with local laboratories to develop such a program (SWAMP) and a list of such laboratories will be published *after* adoption of this order." The fact that yet another required program/ certification is still being developed is further evidence that there should be a longer implementation period for the MRP and that this draft Scrap Metal Permit is being rushed. Yet another example of the rushed nature of this program can be found on Page 19 of the Fact Sheet within the Group Monitoring Section where it states that one of its purposes is "(2) to develop and implement a monitoring program that is consistent with the quality assurance and quality control programs developed for the State Board's SWAMP program." Again, these groups will have to be formed, approved by the Regional Board, create an MRP with a QAPP in accordance with SWAMP (a certification program that is still in development), submit the information listed on Page 59 of the draft Scrap Metal Permit (Section VII.B.), nominate a group leader that will need to obtain a QSD/QSP and SWAMP certification, and meet any other additional necessary requirements. The time period with which to do so seems unreasonable, especially if a facility wanted to accomplish these things internally without the help of a consultant.

5. Page 21 of the draft Scrap Metal Permit (Section III.D.5.a.) also states that "In the absence of such a program, other equivalent programs or professional experience and other certifications may be considered by the Executive Officer." However, in its current form, the use of the term "equivalent" to describe the minimum criteria of a qualified person is too ambiguous. Regional Board should clearly list the other certifications and/or professional experience (e.g. CPSWQ, mechanical engineer, etc.) that may be substituted. This will enable the affected group to better plan and prepare.

6. Regional Board should also base its criteria for determining a qualified person on that of the upcoming draft Industrial General Permit QSD/QSP program to provide a consistent, unified, simplified, and streamlined approach. This uncertainty also highlights the importance of delaying the adoption of the draft Scrap Metal Permit until after the passage of the draft Industrial General Permit has been approved.

7. In its current form, the draft Scrap Metal Permit requires the collection of four samples (up from the two samples as currently required by the Industrial General Permit) from all discharge points, regardless of facility size. Regional Board should allow for a reduction in the number of sample locations at a facility, instead of requiring sampling from all discharge locations. Furthermore, the additional parameters listed in Table 2 (page 56) appear over-inclusive. Currently, facilities with an SIC code of 5093 are required to test for pH, Specific Conductivity, Total Suspended Solids (TSS), Total Organic Carbon (TOC) or Oil and Grease (O&G), Zinc, Aluminum, Iron, Lead, Copper, and Chemical Oxygen Demand (COD). The draft Scrap Metal Permit further requires that Turbidity, Benzene, Ethyl Benzene, Naphthalene, Toluene,

Total Petroleum Hydrocarbons, Methyl-tertiary-butyl Ether (MTBE), Total Xylenes, Nickel, Silver, Chromium, Cadmium, and Arsenic be tested as well. With the proposed increase of sample parameters required for analysis, individual scrap metal recycling facilities will need to invest thousands of dollars to certify compliance with the draft Scrap Metal Permit, prior to any actual site upgrades as mandated by the Phased Approach. Regional Board should provide and make public some type of scientific study/report which explains data reviewed and the process used to justify the requirement of these additional parameters.

8. Footnote 16 on Page 17 of the draft Scrap Metal Permit states, "The Permittees have the option to develop and submit for approval of the Regional Board alternate NELs based on performance evaluation of the BMPs and treatment technologies." This is also mentioned in the response to Comment 28 within the Regional Water Board response letter. Regional Board should provide further clarification about how this process is to take place and what type of information to gather/provide.

Conclusion:

Currently, the draft Scrap Metal Permit is premature, rushed, unsubstantiated, and unfinished. The absence of sound, reliable, and defensible data to justify the implementation these proposed and substantial provisions/ requirements sets a dangerous and unconstitutional precedent. A scientific report detailing the data and analysis methods is a prerequisite to any such implementation. Additionally, unless a clear definition with specific criteria listed is used to describe the term "best professional judgment," its subjective meaning can vary from inspector to inspector, region to region, and even day to day. At some point, the mandate for additional procedures, samples, parameters, equipment, documentation, plans, and so on and so forth will need to be reduced as businesses cannot continue to shoulder the increased cost. Simply passing the buck and creating an undue burden, without any evidence or indication of long-term, sustainable benchmarks or economic practicality, will simply force many scrap metal recycling facilities to close their doors. At what cost must these facilities achieve or try to achieve compliance?

We hope that these crucial issues will be re-evaluated and a feasible, alternative plan can be established for this industry.

If you have any questions, please don't hesitate to contact me via the phone/fax numbers listed below or via my e-mail address: terry@frogenv.com.

Sincerely,

8/31/11

Terry J Balog
President

cc: Ms. Carey A. Miller, Esquire

Tentative Order No. R8-2011-0011
Sector-Specific General Permit for Storm Water Runoff Associated with Industrial Activities from Scrap Metal Recycling Facilities within the Santa Ana Region

Response to Comments Received on the 3rd Draft (August 1, 2011)

Comments were received from the following:

Orange County CoastKeeper (OCCK) – August 31, 2011
Brash Industries (Brash) – August 31, 2011
Institute of Scrap Recycling Industries, Inc. (ISRI) – August 31, 2011
California Refuse Recycling Council (CRRC) – August 31, 2011
County of Orange, Public Works (OCPW) – August 31, 2011
Frog Environmental (Frog) - August 30, 2011

Comment 1. The draft permit must provide numeric effluent limits that apply equally to dischargers. (OCCK).

Response: The fourth draft of the Scrap Metal Permit includes clarifications to eliminate some of the conflicts pointed out in OCCK's letter, specifically in Sections III.D.6 and III.D.6.c.2.

Comment 2. The National Toxics Rule and California Toxics Rule are Applicable to Storm Water Discharges. (OCCK).

Response: OCCK noted that some of the more recent court cases are more relevant in discussing the applicability of National Toxics Rule and California Toxics Rule to storm water discharges. Please see revisions to Section II.E of the draft Permit.

Comment 3. Laboratory analysis fees will increase from $200-$300 a year to $1500 a year, especially as there is no reduction in analysis frequency for group monitoring participants. There should be a cost reduction incentive for those opting to participate in group monitoring. (Brash, Frog)

Response: Neither the group nor the individual monitoring programs under the current Statewide Industrial Storm Water Permit program has provided quality data needed to determine compliance with the permit. It is critical that we develop a monitoring program that provides reliable and quality data. The proposed Permit includes provisions to reduce the monitoring requirements if certain conditions are met.

Comment 4. It appears that each facility will be required to install a $100,000 media filter system. Further, there is no proof that

after installation of this system, a facility's discharge will meet the required testing limits as defined on Table 1.b. More information should be collected and evaluated before any BMP becomes a requirement. (Brash)

Response: If a facility implements good housekeeping practices including the minimum BMPs required under Phases I and II of Option 1, an advanced media filtration or other equivalent systems may not be necessary. Furthermore, if a facility is opting for compliance with the Permit under Option 1, then Table 1.b is not applicable to that facility. Under Option 1, the Permittees have the option to develop and implement appropriate treatment control technologies.

Comment 5. It appears that the application of Best Professional Judgment to discharge limits does not consider all aspects of water transport from source to receiving water. (Brash)

Response: Brash characterizes Best Professional Judgment (BPJ) as a term of art; we do not consider BPJ to be a term of art. As defined in the glossary, BPJ considers all reasonably available and relevant data.

Comment 6. The requirement that areas prone to erosion be paved conflicts with the requirement that uncontaminated runoff be percolated, evapotranspirated or used on site. Further converting more than 500 square feet from pervious to impervious triggers the SUSMP provisions of the MS4 permit which are extremely expensive. (Brash)

Response: First of all, construction of 500 square feet of impervious surface does not trigger the Water Quality Management Plan (in the Santa Ana Region we use the term Water Quality Management Plan, or WQMP instead of SUSMP) requirements. For most new development and redevelopment projects, the threshold for WQMP is 5,000 square feet. Each facility has to evaluate the site conditions to determine if low impact development types of BMPs provide better water quality benefits compared to paving the site.

Comment 7. The development the QSP/D training program within the needed timeframe will be challenging. (Brash)

Response: Comment noted. Based on earlier comments, the third draft provided additional time to develop the QSD/QSP program.

Comment 8. The permit is too complex and should be simplified. (Brash)

Response: To the extent practicable, we have tried to simplify the Permit.

Comment 9. The design standards for treatment systems need to be consistent throughout the permit. Section III.D.4 references the "annual average daily runoff" and III.D.6.b.3 references the "annual average runoff." (ISRI)

Response: The September 13, 2011 draft has made the design standard for treatment systems consistent throughout the Permit.

Comment 10: It should be made clear that analytical results representing a storm event in excess of the design storm will not be used in determining a NAL or NEL exceedance. (ISRI)

Response: The September 13, 2011 draft has added language to clarify this issue.

Comment 11. The voluntary Non-Phased Approach (Option 2) introduced in the 3rd draft is puzzling rather than objectionable. There is concern that there may be overt and covert coercion upon the regulated community to opt for the more stringent Non-Phased Approach. (ISRI)

Response: As detailed at a number of locations in the draft Permit, Option 2 is voluntary. The draft Permit neither has any overt nor covert language to coerce the Pemittees into complying with a more stringent standard than what is needed to protect water quality standards.

Comments 12. There are discrepancies between Cu, Pb, Zn NELs for the Non-Phased Approach in Table 1.b at 19 and the NALS that will become NELS for the Phased approach in Attachment B at 64. It appears that these discrepancies may be based on hardness. However, generic tables should be based on the same hardness numbers. (ISRI)

Response: The differences are only because of the differences in the hardness factors used in the calculations.

Comment 13. The opportunities to discharge to a sanitary sewer system in III.D.6.a.2.xxii and Fact Sheet 15 seem to be slightly inconsistent. It would be helpful to know what circumstances such a diversion would be disallowed. (ISRI)

Response: The language in the Fact Sheet has been made to be consistent with the Order.

Comment 14. The commenter has an objection to the (mis)characterization of “oily scrap metal” as “oil contaminated wastes” in III.D.6.a.3.iv. (ISRI)

Response: The language in the draft Permit has been revised.

Comment 15. The definition for the “Design Storm” in the glossary needs to match III.D.4 and the use of “rain event”, “storm event” and “rainfall event” need to be clarified. (ISRI)

Response: A number of changes have been made in the September 13, 2011 draft to clarify the design storm and other related terms.

Comment 16. The commenter reiterates their position that the timing of this permit is premature and should follow adoption of the draft Statewide General Industrial Storm Water Permit. (ISRI, Frog)

Response: Even though this draft Permit has considered some of the issues discussed in the draft statewide Industrial Storm Water Permit issued by California, the USEPA’s Industiral General Permit and permits issued by other states, it is not based on any of the storm water permits either issued by the states or the USEPA. It is based on a unique approach developed by the stakeholders in the region. It is our belief that if adopted, this Permit would provide better water quality protection. As such, we do not believe that delaying adoption of this Permit is consistent with the water quality protection goals of this Region.

Comment 17. The language describing the types of facilities covered by this permit, on page 1, should be modified so that non-applicability covers both “source-separated” and “commingled” material recovery facilities. (CRRC)

Response: The language has been revised in the September 13, 2011 draft.

Comment 18. This permit takes benchmarks established for USEPA’s Multi-Sector General Permit and will use them for numeric effluent limits, starting on July 31, 2013. Part 6.2.2 of USEPA’s permit states that these benchmarks are to be used for monitoring and are not effluent limits. The Regional

Board should explain why it's requiring numeric effluent limits beyond the requirements of USEPA. (OCPW)

Response: The NELs specified in Table 1.a are either based on Basin Plan objectives or best professional judgment. They become effective on July 31, 2013, only if alternative effluent limits are not proposed by the Permittees and approved by the Board. There is an opportunity for the Permittees to develop and propose appropriate technology-based effluent limits.

Comment 19. In the event that the proposed NALs are found to be unattainable, the mechanism that allows a reopening of the permit to propose new NALs/NELs does not allow enough time to conduct the studies necessary to support the new NALs/NELs, allow for public comment and hold a hearing. (OCPW)

Response: Option 1 provides for the Permittees to develop technology-based effluent limits; not NALs. If the Permittees have implemented all the three phases as provided for in Option 1, Provision III.D.6.c.2 states that they will be deemed to be in compliance with the BAT/BCT standards.

Comment 20. The Regional Board needs to release and make public the list of Committee members and stakeholders. (Frog)

Response: It is posted at: http://www.waterboards.ca.gov/santaana/water_issues/programs/stormwater/scrap_metal_committee.shtml

Comment 21. Certain NALs and NELs in the permit are identified as being based on Best Professional Judgment, however there no objective definition for BPJ or a set of criteria that define or limit BPJ, furthermore there are no minimum requirements established for "professionals" that can use their "best judgment." (Frog)

Response: The glossary includes a definition of BPJ derived from USEPA's definitions. The NALs that we have used in the draft Permit are the same as those used in the USEPA's Industrial General Stormwater Permit. Where we had to use BPJ, we used all reasonably available and relevant data.

Comment 22. The Monitoring and Report Program requires (in part) that a QSP certified individual perform or oversee facility inspections without providing a grace period for the

development of an industrial QSP/QSD training program. (Frog)

Response: The language in the draft Permit has been changed to provide a grace period (see Provision III.A.1 of the MRP at page 53 of the September 13, 2011 draft Permit).

Comment 23. Section III.D.5 allows for equivalent programs or professional experience to qualify individuals to perform the duties of the QSP and QSD, until those training/certification programs are established. However, those qualifications are too ambiguous. Specific certifications should be listed and/or be based on the upcoming draft Industrial General Permit. (Frog)

Response; The Executive Officer will consider education and experience in determining QSD/QSP equivalent programs.

Comment 24. The increase in number of sampling events and number of analytes will cost thousands of dollars, even before facility upgrades are considered. There should be some documented justification/study that identifies the need for these additional parameters and sampling events. (Frog)

Response: Neither the group nor the individual monitoring programs under the current Statewide Industrial Storm Water Permit program has provided quality data needed to determine compliance with the permit. It is critical that we develop a monitoring program that provides reliable and quality monitoring data. The proposed Permit includes provisions to reduce the monitoring requirements if certain conditions are met.

Comment 25. The Permit should provide clarification on the process by which alternate NELs are to be submitted and approved and the type of information that will be needed to substantiate these changes. (Frog)

Response: Frog Environmental is correct that the Permit does not provide a mechanism to submit proposals for alternate NELs. Regional Board staff is committed to develop a procedure for this in collaboration with the stakeholders after adoption of the Permit.