



Institute of  
Scrap Recycling  
Industries, Inc.

www.isri.org

May 30, 2011

Michael J. Adackapara, Supervising Water Resource Control Engineer  
Santa Ana Regional Water Quality Control Board  
3737 Main Street, Suite 500  
Riverside, CA 92501

**Re: 2<sup>nd</sup> Draft of Scrap Metal Sector-Specific Permit, NPDES No. CAG 618001**

Dear Mr. Adackapara,

The Institute of Scrap Recycling Industries, Inc. (ISRI) would like to submit the following brief comments in response to the request by the Santa Ana Regional Water Quality Control Board (henceforth, "the Board") for public comment on the second version of its draft Scrap Metal Sector-Specific Permit, NPDES No. CAG 618001, dated April 29, 2011 (henceforth, "the 2<sup>nd</sup> Draft Permit"). ISRI appreciates this opportunity to comment and also the earlier opportunity to participate by phone in the May 12, 2011 Scrap Metal Permit Workshop.

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 1,550 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.

ISRI believes that the 2<sup>nd</sup> Draft Permit is sufficiently potentially precedent-setting for stormwater general permits nationwide that submitting comments from the national perspective is warranted.

Based on review of the 2<sup>nd</sup> Draft Permit, ISRI reiterates by reference its previous comments on the (1<sup>st</sup>) Draft Permit, submitted April 18, 2011 to the Board.

ISRI would further like to provide additional comments that may be useful for the third draft to be issued by the Board.

## **Additional Comments**

The following additional comments address a number of potential issues in the 2<sup>nd</sup> Draft Permit.

### Applicability of Scrap Metal Permit

The 2<sup>nd</sup> Draft Permit is not completely clear about the applicability of the future Scrap Metal Permit. Section I states that *“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”*. This could be read to mean that this Permit applies to industrial facilities engaged in any amount of metals recycling. The later statement in Section I—*“Other types of facilities listed under SIC Code 5093 and engaged in wastes recycling are not required to get coverage under this Permit”*—seems to support this interpretation, even if narrowing the scope. At the same time, Section II.A.2 states that *“all scrap metal facilities within this Region will be required to get coverage under this Permit”*. The Section II.A.2 statement seems to be narrower in scope than the Section I statements, because *“facilities engaged in metals recycling”* may not necessarily be scrap metal facilities (e.g., facilities engaged only or primarily in metals recycling). To the extent that some facilities will be required to get coverage under this Permit (i.e., scrap metal facilities) while other facilities may be eligible for coverage under this Permit (e.g., recycling facilities that recycle both metals and non-metals), definitions for such facilities, a clear delineation of permit applicability, or both seem warranted.

### Requirement to Get Permit Coverage within 90 Days

Given the numerous activities that facilities must complete to get coverage under this Permit, the 2<sup>nd</sup> Draft Permit allows too little time, “[w]ithin 90 days of adoption of this Order” (Section II.A.2), for facilities to complete them to obtain coverage. For instance, Section III.D.5 states that *“a site-specific SWPPP [Storm Water Pollution Prevention Plan] shall be developed and implemented prior to start of operations at each facility regulated under this Order”*. At minimum, a SWPPP must include the following elements:

- (a) Qualification Requirements for Developing and Implementing SWPPP and Corrective Action Plans;
- (b) Facility Information;
- (c) Preventative Measures;
- (d) Mitigative Measures; and
- (e) Visual Inspections and Monitoring and Reporting Requirements.

First, development and implementation of a SWPPP are dependent upon a facility’s ability to get personnel trained as a Qualified SWPPP Developer (QSD) and a Qualified SWPPP Practitioner (QSP), respectively. It is not known how quickly QSP and QSD training programs

can be rolled out prior to or after adoption of this Permit, which the Board seems poised to do very quickly, or what “*other equivalent programs or professional experience and other certifications*” may currently exist that could substitute for QSP and QSD training programs. Any delay in the ability to get QSPs and QSDs in place would likely consume some part of the 90-day window to obtain coverage under this Permit after its adoption, which requires prior development and implementation of a site-specific SWPPP.

Even with a QSP and a QSD in place, SWPPP development and implementation may require design and implementation of on-site structural Phase I preventative and mitigative measures (e.g., paving, consolidation of discharge points, and installation of an oil/water treatment system). Conducting those activities, as well as the other required Phase I activities, could require more than 90 days, independent of the time needed to get a monitoring and reporting program in place, even if a facility participates in a group monitoring program. It is worth noting that the October 3, 2011 deadline for implementing Phase I requirements would be more than 120 days after the proposed adoption date of June 3, 2011 in the 2<sup>nd</sup> Draft Permit.

For these reasons, the amount of time after adoption of this Permit for facilities to obtain coverage should be at least 120 days – perhaps 180 days or extendable beyond 120 days with Board approval of written justification.

#### Design Storm for Treatment Control Measures

The 2<sup>nd</sup> Draft Permit provides a design standard for “all treatment systems” that, while very helpful in principle, is not articulated consistently in the 2<sup>nd</sup> Draft Permit. While it seems likely that the second articulation of the design standard in Section III.D.6.b.3 was intended to be same as the first articulation of the design standard in Section III.D.4, a plain reading of the second articulation yields a much more stringent standard than the first articulation.

The design standard in Section III.D.4 states that “[a]ll treatment systems shall be sized and designed to allow no more than 5% bypass of average annual runoff, based on a continuous simulation of historical daily rainfall information available for the location where the regulated facility is located”. This design standard replaced the original design standard in the 1<sup>st</sup> Draft Permit that “[a]ll treatment systems shall be designed to treat 95% of the annual average volume of runoff based on a continuous simulation of all rainfall data available for the area where the regulated facility is located”. The 1<sup>st</sup> and 2<sup>nd</sup> versions of this design standard are complementary (i.e., they state the same thing from opposite perspectives). In either version, this design standard is essentially an “experiential” evaluation of a treatment system in “real time” to demonstrate that it will not experience bypass conditions that allow more than 5% of the expected annual influent volume to be discharged untreated.

However, Section III.D.6.b.3 states that for an advanced media filtration system or an equivalent treatment system under Phase II, “[t]he design volume shall be greater than or equal to 95% of the annual average runoff volume from exposed areas not eliminated by Phase I BMPs”. (Note: this language remained unchanged from the 1<sup>st</sup> Draft Permit to the 2<sup>nd</sup> Draft Permit.) This second articulation of the design standard is very similar to the first articulation (at least in its first version in the 1<sup>st</sup> Draft Permit); however, it lacks any reference to an “experiential” evaluation in “real time”, as does the first articulation. Without such a reference, the second articulation can be understood to mean 95% of the annual average cumulative volume. On a unit area basis (i.e., inches of precipitation), 95% of the annual average cumulative volume can be expected to be significantly greater than a 95<sup>th</sup> percentile storm, which is approximately equivalent to the first articulation. Such a design volume would lead to treatment systems much larger than those based on the design standard in Section III.D.4.

Because of this large difference, it seems likely that the design standard in Section III.D.4 and that in Section III.D.6.b.3 were intended to be the same, but for the missing reference in Section III.D.6.b.3 to an “experiential” evaluation. If this is the case, the missing reference should be added to Section III.D.6.b.3, or Section III.D.6.b.3 should instead refer to the design standard in Section III.D.4. If not, the difference between the design standard in Section III.D.4 and that in Section III.D.6.b.3 must be justified.

#### Triggers for Exceedances of NELs and NALs

Section III.D.3 identifies the triggers for exceedances of numeric effluent limits (NELs) and numeric action levels (NALs) under this Permit. Because of the inherent variability of constituent concentrations in untreated stormwater runoff received by treatment systems, often log-normally distributed, the effluent of properly functioning treatment systems can be expected to contain reduced constituent concentrations with similar variability. Such effluent variability could conceivably result in a low-probability exceedance of a NEL or NAL. In recognition of this, Section III.D.3 states that “[i]n 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”.

However, Section III.D.3 makes no reference to the existence of a design standard for all treatment systems (see above regarding Section III.D.4). The design standard allows up to 5% of the expected annual runoff volume to be potentially released untreated under bypass conditions (i.e., during storm events greater than about the 95<sup>th</sup> percentile storm). Thus, the design standard increases the probability of exceeding of a NEL or a NAL. For this reason, Section III.D.3 should specifically exclude from trigger determinations any exceedance of a NEL or a NAL resulting from a storm event that equivalently exceeds the design standard for a given treatment system.

**Summary**

ISRI reiterates by reference its comments on the 1<sup>st</sup> Draft Permit and has concerns about permit applicability, the design standard for treatment systems, and triggers for exceedances of NELs and NALs. Permit applicability should be clearly delineated for facilities engaged in metals recycling, perhaps with additional definitions. The design standard should be consistent across the Permit as first articulated in Section III.D.4. Triggers for exceedances of NELs and NALs should exclude from consideration any exceedance of a NEL or a NAL resulting from a storm events that equivalently exceeds the design standard for a given treatment system.

In closing, ISRI thanks the Board for this opportunity to provide comments on the 2<sup>nd</sup> 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 [DavidWagge@isri.org](mailto:DavidWagge@isri.org).

Sincerely,

A handwritten signature in cursive script that reads "David L. Wagge".

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