

---

**Santa Ana Regional Water Quality Control Board**

NOTICE OF PUBLIC HEARING  
and  
HEARING PROCEDURE  
FOR ADOPTION OF WASTE DISCHARGE REQUIREMENTS  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT  
For  
SECTOR-SPECIFIC GENERAL PERMIT FOR STORM WATER RUNOFF ASSOCIATED WITH  
INDUSTRIAL ACTIVITIES FROM SCRAP METAL RECYCLING FACILITIES  
WITHIN THE SANTA ANA REGION

ORDER NO. R8-2018-0069  
NPDES NO. CAG618001

SCHEDULED FOR OCTOBER 19, 2018

**NOTICE OF PUBLIC HEARING**

On the basis of staff review and application of lawful standard and regulations, the California Regional Water Quality Control Board, Santa Ana Region (Regional Board) proposes to adopt waste discharge requirements for discharges of storm water runoff associated with industrial activity from scrap metal recycling facilities within the Santa Ana Region.

This notice sets forth the procedures and processes the Regional Board will use at this hearing.<sup>1</sup>

**I. HEARING DATE AND LOCATION**

The Board is scheduled to hold a public hearing to consider this matter at its regularly scheduled board meeting on:

DATE: October 19, 2018  
TIME: 9:00 a.m.  
PLACE: Orange County Sanitation District  
10844 Ellis Avenue  
Fountain Valley, CA 92708

Please check the Regional Board's website (<https://www.waterboards.ca.gov/santaana/>) for the most up to date public hearing location as it is subject to change. If there should not be a quorum on the scheduled date of this hearing, all items will be automatically continued to the next scheduled meeting. A continuance of this item will not extend any deadlines set forth herein.

**II. BACKGROUND**

Currently storm water discharges from scrap metal facilities within the Santa Ana Region are regulated under NPDES No. CAG618001. This existing NPDES permit expired on February 9, 2017

---

<sup>1</sup> Should it become evident to the Regional Board that no parties desire to participate in a public hearing on this matter, this matter may be placed on the October 19, 2018 meeting agenda as a consent calendar item. Any party may request that the item be removed from the consent calendar prior to, or on the day of, the October 19, 2018 meeting.

and has been administratively extended. Regional Board staff hosted two public workshops on May 29 and May 30, 2018. A tentative Order was public noticed on June 25, 2018 with the comment period ending on August 6, 2018. On September 7, 2018, a formal public workshop was conducted seeking comments from interested parties and the permittees. Based on comments received, a final draft will be released on or before September 24, 2018.

### **III. NATURE OF HEARING**

This proceeding will be a formal adjudicatory proceeding pursuant to section 648 et seq. of title 23 of the California Code of Regulations. Chapter 5 of the California Administrative Procedure Act (commencing with section 11500 of the Government Code) relating to formal adjudicative hearings does not apply to adjudicative hearings before the Regional Board, except as otherwise specified in the above-referenced regulations.

### **IV. AVAILABILITY OF DOCUMENTS**

The proposed Order, Fact Sheet, and related documents are posted on the Regional Board's website at:

[https://www.waterboards.ca.gov/santaana/water\\_issues/programs/stormwater/scrap\\_metal\\_permit.html](https://www.waterboards.ca.gov/santaana/water_issues/programs/stormwater/scrap_metal_permit.html). These materials will be available for inspection and copying between the hours of 9:00 a.m. and 3:00 p.m. at the following address:

California Regional Water Quality Control Board  
Santa Ana Region  
3737 Main Street, Suite 500  
Riverside, CA 92501

Arrangements for file review and/or obtaining copies of documents in the Administrative Record may be made by contacting Christine Silken via phone at (951) 782-7961. Responses to comments and other subsequent relevant documents will be available online as they are generated.

The entire Administrative Record may not be present at the hearing. Should any parties or interested persons desire Regional Board staff to bring to the hearing any particular documents in the Administrative Record, they must submit an electronic request to Christine Silken no later than **12:00 p.m. on October 15, 2018**. The request must identify the documents with enough specificity for Regional Board staff to locate them.

### **V. PARTICIPANTS TO THIS HEARING**

Participants in this proceeding are identified as either "Parties" or "Interested Persons." Designation as a Party is not necessary to participate in this proceeding. Both Interested Persons and Parties will have the opportunity to present written and/or oral comments regarding the proposed Order. Both Interested Persons and Parties may be asked to respond to clarifying questions from the Regional Board, staff or others, at the discretion of the Regional Board.

#### **A. Interested Persons**

Interested persons include any person or organization that is interested in the outcome of the hearing, but who has not been designated as a party. Interested persons may present written and/or oral comments, as provided in Section VI.A below, but they may not present evidence. Interested persons are not subject to cross-examination and may not cross-examine witnesses.

## **B. Parties**

Parties are those persons or organizations anticipated to have the greatest interest in the outcome of the hearing. They are generally expected to take a leadership role in presenting any evidence or argument about the nature of the matter under consideration. Parties to the hearing may request to present evidence or to cross-examine other parties' witnesses (if any are called). Parties are subject to cross-examination about any evidence they present.

## **C. Regional Board Staff**

Regional Board staff is not a party to this proceeding. This is a proceeding to modify a permit, which does not involve investigation, prosecutorial, or advocacy functions. Staff's proposals, recommendations, and their participation in this proceeding exist for the purpose of advising and assisting the Regional Board. Likewise, attorneys for the Regional Board will advise and assist the Regional Board, which includes board members and its entire staff. Given the nature of this proceeding and the limited facts in dispute, assigning a separate staff to "advocate" on behalf of a particular position would not further the development of the issues before the Regional Board.

# **VI. PUBLIC COMMENT AND SUBMITTAL OF EVIDENCE**

## **A. Public Comments**

Public comments will be accepted in writing before the hearing, within the time specified in Paragraph C, below. Interested persons will also have the opportunity to address the Regional Board orally at the hearing (see Section VIII below).

## **B. Request to Submit Evidence**

"Evidence" includes witness testimony, documents, and tangible objects that tend to prove or disprove the existence of an alleged fact. "Relevant evidence" is evidence that relates to any fact in dispute in the proceeding.

Any requests to submit evidence that is not identified in the Administrative Record Index must be submitted within the time specified in Paragraph C, below. Requests to submit evidence must include a detailed description of the evidence and an explanation about why the evidence is relevant evidence in this proceeding. Requests to submit documentary evidence must also be accompanied by a complete copy of the pertinent portions of the documentary evidence. Any party wishing to present testimonial evidence (i.e. witness testimony), shall submit their entire proposed testimony in writing pursuant to subdivision © of section 648.4 or title 23 of the California Code of Regulations, along with the information described in subdivision (b) of that section.

The Parties will be advised prior to the hearing if any additional evidence has been received into the administrative record.

## **C. Time to Submit Written Comments and Requests to Submit Evidence**

To be evaluated and responded to by the Regional Board staff, included in the Regional Board's agenda packet, and fully considered by the Regional Board members in advance of the hearing, any written comments or requests to submit evidence must be submitted to the Regional Board, as provided in Section X, below, and received at the Regional Board office no later than **12:00 p.m. on October 15, 2018**.

Pursuant to section 648.4, title 23 of the California Code of Regulations, untimely written comments will not be accepted into the Administrative Record without a showing of good cause for the delay,

and in no event if any party would be unduly prejudiced by the late submittal or if staff or the Regional Board would not have an adequate opportunity to review, consider, and respond to the comments.

## VII. *EX PARTE* COMMUNICATIONS PROHIBITED

Parties and interested persons are forbidden from engaging in *ex parte* communications regarding this matter with members of the Regional Board. An *ex parte* communication is a communication not authorized in the California Government Code, to a Regional Board member from any person, about a pending matter, that occurs in the absence of the other parties and without notice and opportunity for the parties to respond. The California Government Code generally prohibits the board members from engaging in *ex parte* communications during permitting, enforcement, or other “quasi-adjudicatory” matters. As a permitting proceeding, Regional Board members may not discuss the subject of this hearing with any person, except during the public hearing itself, except in the limited circumstances and manner described in this notice.

## VIII. HEARING PROCEDURES

Adjudicative proceedings before the Regional Board generally will be conducted in the following order:

- Administration of oath to persons who intend to testify
- Regional Board staff presentation
- Interested persons’ comments
- Designated parties’ presentation
- Questions from the Regional Board to parties
- Questions from the Regional Board to Staff
- Deliberations (in open or closed session)
- Regional Board decision

While this is a formal administrative proceeding, the Regional Board does not generally require the cross examination of witnesses, or other procedures not specified in this notice, that might typically be expected of parties in a courtroom.

Each party will be advised after the receipt of public comments, but prior to the date of the hearing, of the amount of time the party will be allocated for its presentations. That decision will be based upon the complexity and the number of issues under consideration, the extent to which the parties have coordinated, the number of parties and interested persons anticipated, and the time available for the hearing. The parties should contact Regional Board staff no later than **12:00 p.m. on October 15, 2018** to state how much time they believe is necessary for their presentation. It is the Regional Board’s intent that reasonable requests be accommodated.

Interested persons are invited to attend the hearing and present oral comments. Oral comments may be limited to 3 to 5 minutes each for their comments, in the discretion of the Chair, depending on the number of persons wishing to be heard.

Parties and interested persons with similar concerns or opinions are encouraged to choose one representative to speak, and are encouraged to coordinate their presentations with each other. Repetitive comments will not be allowed.

The Regional Board will include in the Administrative Record written transcriptions or oral testimony or comments that are made at the hearing.

## **IX. OBJECTIONS TO THE MATTER OF HEARING**

Parties or interested persons with procedural requests different from or outside of the scope of this notice should contact Regional Board staff no later than **12:00 p.m. on September 26, 2018**. The Regional Board will endeavor to accommodate reasonable requests.

Objections to (a) any procedure to be used or not used during the hearing, (b) any document or evidence in the administrative record, or (c) any other matter set forth in this notice, must be submitted in writing and received by Regional Board staff no later than **12:00 p.m. on October 15, 2018**. Any objections related to the amount of time allocated for the parties' presentations must be submitted within two business days of notice thereof.

**Untimely objections will be deemed waived. Procedural objections about matters contained in this notice will be addressed prior to and will not be entertained at the hearing.**

## **X. REGIONAL BOARD STAFF CONTACTS**

Communication with the Regional Board regarding the proposed Order prior to the hearing should be directed to:

Christine Silken  
Regional Water Quality Control Board  
3737 Main Street, Suite 500  
Riverside, CA 92501  
[Christine.Silken@waterboards.ca.gov](mailto:Christine.Silken@waterboards.ca.gov)  
(951) 782 – 7961

Communication with the Regional Board regarding the procedural matters prior to the hearing should be directed to:

Teresita Sablan  
State Water Resources Control Board  
1001 I Street, Floor 22  
Sacramento, CA 95814  
[Teresita.Sablan@waterboards.ca.gov](mailto:Teresita.Sablan@waterboards.ca.gov)  
(916) 341 – 5174

Dated: September 19, 2018