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VIA EMAIL

#77

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Re: Comment Letter – Draft Industrial General Permit

Dear Chair Hoppin and Members of the State Water Resources Control Board

SA Recycling (“SA”) thanks you for the opportunity to comment upon the latest draft of the State Water Resources Control Board’s General NPDES Permit for Storm Water Discharges Associated with Industrial Activities (“Permit”). SA has over 40 facilities located through California and the Southwest, and is a major leader in the metal recycling and processing industry. While processing millions of tons of scrap each year, SA is committed to being a steward of the environment and, consistent with that goal and the current permit requirements, is working diligently to improve the Stormwater Pollution Prevention Plans (“SWPPPs”) and Best Management Practices (“BMPs”) at their many facilities located statewide.

SA notes that staff revised the draft permit after receiving previous comments. However, we do not believe that the comments SA raised in response to the last draft have been adequately addressed. In addition, we share an additional concern regarding an ambiguity between the draft permit and the Draft Fact Sheet issued by staff. With respect to both issues, we seek further clarification from staff.

1. **The Permit Should Clarify That Specified Test Methods Are Not Requirements but Instead Serve As Minimum Guidelines.**

We are concerned that the permit requires very specific methods for testing constituents from sites. (See Draft Order, section XI.B, at pp. 39, 41.) Other commenters offered similar concerns in response to the last permit draft. (See, e.g., Staff Responses to Comments Worksheet, comments 230, 389, 985, 1616.) The State Board’s response was that while the permit might list only one test method, this was to avoid listing every acceptable method. Rather than be limited to only one method, dischargers could use any equivalent, standard, test method that achieves quality comparable data. (See Staff Responses to Comments Worksheet, responses 230, 389, 985, 1616.)

We appreciate staff's clarification regarding their flexibility for testing methodology, however we believe it should be reflected in the actual order, not merely in the staff responses to comments. This is especially so when existing permit language appears to contradict this attempt at flexibility. In Section XI.B.5.e, it states that permittees shall contact the Regional Board to determine the appropriate analytical methods for parameters not listed in Table 5. One could conclude from this statement that in contrast, for parameters that are listed in Table 5, the stated analytical methods are the only appropriate methods and that staff cannot provide further guidance.

To eliminate any confusion, staff should use an approach similar to what they have done on Table 5 (page 42 of the current draft) with respect to method detection limits. There, staff inserted a footnote to explain that more stringent test methods could be used. Similarly, staff could insert a footnote in Table 5 to indicate that the analytical method listed is the example of an acceptable method and that equivalent accepted methods might also be used.

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## 2. **The Permit Should Incorporate Regional Sector-Specific Permit Requirements.**

We appreciate the fact that the latest draft of the Permit allows facilities within the same industry to come together in compliance groups for monitoring and reporting purposes. However, we do not believe that the Permit's outline for compliance groups is current with the state of sector-specific permits. In its Draft Fact Sheet, staff have acknowledged that some regions have already begun adopting sector specific permits that supersede the General Industrial Permit. (DRAFT Fact Sheet, at pp. 13-14.) The Fact Sheet excludes from its jurisdiction those discharges covered by such sector-specific permits. (*Id.* at p. 13.) Staff specifically note that the Santa Ana Regional Water Board has adopted a Sector-Specific General Permit for Storm Water Runoff Associated with Industrial Activities from Scrap Metal Recycling Facilities. The current draft Permit, however, fails to make the same acknowledgement or exemption. Instead, the Permit sets such permits as a future goal, following a permit term of information gathering and study. We believe that for those industries that have already gone beyond where the State Board believes most industries are, the already-existing sector specific permits should be incorporated into the Permit.

In 2006, the State Water Board's Blue Ribbon Panel concluded that where activities and pollutants are comparable throughout an industry, Water Boards should consider the phased implemental of numeric limits and action levels. The Blue Ribbon Panel also concluded, among other things, that the State Water Board should move toward implementing the Panel's recommendations to achieve the greatest reduction of pollutants statewide. (DRAFT Fact Sheet at p. 5.) As the Santa Ana Regional Water Board has already found, scrap metal facilities are known to discharge pollutants such as oil and grease, gasoline, diesel and other petroleum products, metals, suspended solids, and acidity or alkalinity. These facilities share common processes, for which similar BMPs and technology can manage storm water run-off to prevent the discharge of pollutants.

Therefore, we believe that the State Water Board can easily apply the Santa Ana Board's Sector-Specific Permit to this same industry statewide, thereby implementing the Panel's recommendations. This will help to ensure statewide consistency and make great strides towards

achieving the Panel's recommendations and the reduction of pollutants in urban and storm water runoff. This consistency is of special concern to SA, as we have facilities throughout the State under the jurisdiction of eight different regional boards, including the Santa Ana Region with its own sector-specific permit. We do not believe that the concerns raised by staff in their DRAFT Fact Sheet – such as varied hydrogeologic zones, flow/volume limitations, variations in treatment technology, and economic achievability—apply to the approach taken in the Santa Ana Regional Board's permit, which gives facilities options for compliance. To simply ask facilities like the scrap metal facilities within the Santa Ana Region to monitor and plan for eventual sector-specific permits would be a move backwards, not forwards, for water quality. Instead, the State Board could push the Santa Ana Regional Board's efforts forward to bring this level of compliance to all scrap metal facilities statewide.

At a minimum, we believe that staff should bring its acknowledgment of sector specific permits out of the Draft Fact Sheet and into the permit itself. This will help eliminate confusion for those dischargers who are subject to the regional sector-specific permits that the regional permit takes precedence over the general industrial. Currently the draft Permit states that Regional Water Boards can adopt individual NPDES permits for industrial storm water discharges. (DRAFT Industrial General Permit, at p. 2, ¶ 7.) It further states that storm water discharges regulated under another Regional or State Water Board NPDES permit are not covered by the General Industrial. (*Id.* at p. 3, ¶ 18.) By bringing these provisions out of the Draft Fact Sheet and into the Permit, the State Board also would be clarifying which facilities are subject to the General Permit and which are not. Staff has noted that the Santa Ana Board's Permit is not tied to SIC codes but to a subsection of facilities classified within the SIC Code 5093. Acknowledging that not all facilities are subject to the same requirements is consistent with the Blue Ribbon Panel's finding that SIC code categories are not the proper means of identifying industrial activities at any given site and an alternative method of characterizing activities should be developed. (DRAFT Fact Sheet, at p. 5.)

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3. **The Permit Should Encourage Greater Use of Low Impact Development Methods to Address Discharges.**

SA agrees with a comment made in the October 17, 2012 presentation by CASQA at the State Water Board's workshop that the General Permit should be structured to better encourage development and use of Low Impact Development approaches to manage the discharge of pollutants. Rather than rely heavily upon storm water treatment, we believe the Permit should encourage and incentivize more recharge and retention of stormwater with reuse if possible.

Thank you for the opportunity to comment.

Sincerely,



Lindsay Maine  
Environmental Manager  
SA Recycling, LLC