

RESPONSES TO THE APRIL 29, 2011 DRAFT OF THE SCRAP
METAL PERMIT

Comment 1. What is the “Metal Water Quality Standards Committee?” (Ecology, Frog)

Response: 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.

Comment 2. What technologies were considered in setting effluent limits? (Ecology)

Response: The draft order proposes numeric effluent limits (NELs) only for four constituents: pH, turbidity, oil and grease and specific conductance. These NELs go into effect a year after adoption of the permit and only if the permittees are unable to develop and propose industry-specific effluent limits for these constituents. While the proposed order uses USEPA’s multi-sector industrial storm water permit as a starting point for most of the numeric action levels (NALs) and NELs, it also provides an opportunity for the permittees to propose alternate effluent limits based on improved water quality monitoring and technology evaluation. As indicated in the Fact Sheet, the current NELs are based on USEPA’s multi-sector permit, the Basin Plan objectives or monitoring data provided by scrap metal industries within the region.

Comment 3. Where are the results of the “independent evaluation of a number of treatment technologies” identified in Finding 26? Where were the referenced studies performed? (Ecology)

Response: Finding 26 indicates that the USEPA has not established technology-based effluent limitation guidelines for the scrap metal industry. We have not performed an independent evaluation of any treatment technologies. However, the draft order provides an opportunity for the scrap metal industry to evaluate treatment technologies and propose appropriate BAT/BCT standards for this industry group. We have not referenced any studies in this finding as stated in the comment.

Comment 4. There is no allowance for run-on or contributions from existing soil contamination. (Ecology)

Response: Finding 31 states that pollutants due to offsite sources and run-on from forest fires or other natural disasters do not apply towards NAL/NEL exceedances. Specifically with regards to run-on, the permit identifies in numerous locations, that run-on and non-industrial area runoff should be diverted away from industrial areas. Areas of existing surface soil contamination should be remediated, removed or capped. While the proposed permit identifies infiltration as a BMP, areas with potential soil contamination should determine whether existing conditions support infiltration. The permittees will be held responsible only for pollutants generated from industrial activities that they are engaged in through the scrap metal recycling operations.

Comment 5: Permittees should not be held responsible for atmospheric deposition or “dustfall”. Dustfall can deposit from 40-800 lbs/acre/month. (Ecology)

Response: Finding 31 has been revised and it states that pollutants in storm water runoff caused by atmospheric deposition, run-on or due to natural disasters should not apply towards NAL/NEL exceedances.

Comment 6: Finding 35: BMPs should not be mandated where treatment controls are implemented. (Ecology)

Response: Finding 35 does not mandate BMPs. This finding reiterates the federal regulations.

Comment 7: Finding 37: What is the mechanism for approval of the comprehensive SWPPP? (Ecology)

Response: Please note that a comprehensive SWPPP is only required where a permittee has a designated wasteload allocation (WLA) as per an approved TMDL. In general the SWPPPs do not require approval by the Regional Board.

Comment 8: The registration requirements for Qualified Storm Water Pollution Prevention Plan Developer (QSP) is too restrictive. (Ecology)

Response: Some revisions have been made to this provision in the third draft of the permit.

Comment 9: Total suspended solids (TSS) and total organic carbon (TOC) should be used instead of turbidity and oil and grease (O&G), respectively. These constituents have been traditionally used and are cost effective to monitor and analyze. Turbidity in this draft permit is substituted for

TSS in the State's proposed draft of the General Permit. (Ecology, IEA)

Response: Turbidity refers to how clear the water is and is an expression of the optical property that causes light to be scattered by the suspended particles. It is not a measurement of the amount of suspended solids present or the rate of sedimentation of a stream since it measures only the amount of light that is scattered by suspended particles. Measurement of total suspended solids is a more direct measure of the amount of solid particles contained in water. An internet search indicates that a portable turbidity meter costs less than a thousand dollars (Hanna Instruments Portable Turbidity Meter=\$790; <http://www.nextag.com/turbidity-meter/shop-html>). It is easy to use and can be used in the field and is a good indicator of clarity in the runoff from the site.

Both oil and grease are generally used to lubricate machine parts, tools and equipments. Therefore, oil and grease are expected to be present in scrap metal recycling facilities. Total organic carbon (TOC) is a non-specific indicator of water quality and provides a broad measure of the amount of organic material in water. The organic materials include decaying natural organic matter as well as synthetic organics. TOC measurements are generally used as an indicator of water quality for drinking water. As such, oil and grease appears to be a better indicator of storm water pollution at scrap metal facilities as opposed to TOC.

Comment 10: We compliment board staff for proposing a reasonable effluent limit for specific conductance. (Ecology)

Response: Comment noted.

Comment 11: The referenced web address in Item 4 (footnote 31) needs correction. (Ecology)

Response: The article has been moved to a new location by the USEPA and is currently located at:
http://www.epa.gov/greeningepa/documents/epa_swm_guidance.pdf.
The title of the publication is, "Technical Guidance on Implementing the Stormwater Runoff Requirements for Federal Projects under Section 438 of the Energy Independence and Security Act."

Comment 12: Since treatment technologies are preferred (see Item 6.a.2), preventative measures should not be mandatory. (Ecology)

Response: Please note that we do not mandate treatment technologies. We believe that the preventative measures are critical to bring down the treatment costs. The preventative methods have a two-fold purpose. First reducing the pollutant load entering a treatment system better insures that the treatment system will be able to lower pollutant concentrations to acceptable levels. Secondly, BMP implementation will lower pollutant concentrations in situations where treatment systems either fail, due to power outage, equipment failure or technician error; or where a storm size is larger than the treatment technology design storm.

Comment 13: There are missing attachments. (Ecology)

Response: As noted on our website, the missing attachments (Attachments C, D and E) will not be developed as stand alone paper documents. These are web-based forms and will be developed when the Permit is incorporated into the State Board's SMARTS program. These attachments essentially request information related to the regulated facility.

Comment 14: Allow related industries, such as SIC 3341 which includes scrap metal recycling but with smelting processes involved, to opt into this program. (TST, Inc.)

Response This is a sector-specific permit developed only for scrap recycling facilities and it does not include any provisions for regulating other related industries. A number of other related industries have requested that this sector-specific permit be modified to include those related industries. At this time, we would like to limit coverage under this permit to the scrap metal facilities. Once the permit has been successfully implemented for a number of years, there could be efforts to expand the types of facilities covered by this or similar permits.

Comment 15: Since the current QSD and QSP programs only apply to construction storm water, alternate qualifications should be considered, such as REA or applicable college degrees with industrial experience. (TST)

Response The requirements for QSD and QSP have been revised in the third draft of the permit.

Comment 16: The 'Qualified Storm' definition does not specifically state that the two preceding dry days must be working days. (TST)

Response The two preceding dry days need not be working days.

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Comment 17: The monthly visual inspection program described in the MRP Section III.A does not specify the weather conditions on or preceding the inspection as is done in the current General Industrial Permit. (TST)

Response The monthly visual inspections could be conducted under wet or dry weather conditions.

Comment 18: The commenter supports taking this program statewide and/or extending it to other regions. (TST)

Response: It is our understanding that the Water Quality Committee intends to work with the State Board to develop a statewide sector-specific permit.

Comment 19: The specifics on what amount of metals recycling needs to take place at a facility for it to be subject to the proposed permit needs to be clarified in Sections I and II.A.2. (ISRI)

Response If metals recycling is not the primary business activity, coverage under this order is not required.

Comment 20: The 90 days allowed to gain coverage after adoption of this Order is insufficient to get a QSD and QSP in place, implement on-site Phase I measures and prepare a SWPPP. This should be extended to at least 120 days, possibly with an approvable extension past 120 days with show of progress. Additional time may be necessary to develop a QSD/QSP training program. (ISRI, IEA)

Response The requirements related to QSD/QSP have been revised in the third draft of the permit. It provides additional time to develop the QSD/QSP training program.

Comment 21: The design standards articulated in Section III.D.4 and Section III.D.6.b.3 are not the same as the first evaluates in 'real time', whereas the second evaluates the average cumulative volume. If they were not intended to be the same, the difference should be justified. (ISRI)

Response Section III.D.6.b.3 has been changed to be consistent with Section III.D.4.

Comment 22: The design standards in Section III.D allow up to 5% of expected annual runoff to be potentially released untreated under bypass conditions (i.e., during storm events greater than about the 95th percentile storm). As the probability of NAL or NEL exceedance may be significantly increased under these conditions, Section III.D

should specifically exclude from trigger determinations any exceedance from a storm event that exceeds the design standard for a given system. (ISRI, Frog)

Response Clarifying language has been added to account for flows exceeding the design flow with respect to compliance determination for NALs and NELs.

Comment 23: The commenter is opposed to the inclusion of NALs and NELs. A number of facilities have studied their existing discharge data and determined that they will exceed benchmarks even with the required BMPs. The draft permit does not provide the basis for the numeric technology-based effluent limits. (IEA)

Response The draft permit provides an opportunity for the scrap metal industrial facilities to propose appropriate BAT/BCT-based limits for storm water runoff from their facilities. The permit specifically allows adjustment to NALs and NELs should the data collected through the monitoring program show that these limits are not achievable through the implementation of control measures consistent with the BAT/BCT standards. The Fact Sheet in Section VI.B explains the basis for the numeric effluent limits.

Comment 24: No provisions are made for background levels of contaminants from naturally-occurring sources. (IEA)

Response The permittees are not responsible for naturally-occurring sources of contaminants. Some additional language has been added to Finding 31 to clarify this.

Comment 25: The proposed permit changes the reporting period from June 30 – July 1 to January 1 – December 31. (IEA)

Response The reporting period is from July 1 through June 30 and the reports are due on August 1.

Comment 26: The design storm should be lowered to the 85th percentile storm event. Over-designed BMPs may perform less effectively on more frequent, smaller storm events. (IEA)

Response The Water Quality Committee considered all the available information and determined that the 95th percentile storm event is the appropriate design storm that should be used for treatment controls. Should additional treatment system evaluation indicate that this is not the most appropriate design storm, this design criterion could be reevaluated.

- Comment 27: The proposed Santa Ana permit allows group monitoring, whereas the proposed Statewide permit does not. (IEA)
- Response We believe that a properly developed group monitoring program could provide some added benefits both for the regulated community and for the regulators.
- Comment 28: The inclusion of NALs and NELs based on Best Professional Judgment rather than basing these limits on actual California data, as recommended by the Blue Ribbon Panel is of significant concern. (OCPW, Frog)
- Response The NALs are based on USEPA's benchmark numbers and are the same as the numbers included in the USEPA's Multi Sector General Permit. The draft order provides an opportunity for the permittees to develop and propose limits based on California data consistent with the BAT/BCT standards.
- Comment 29: The benchmarks in USEPA's current multi-sector industrial permit are primarily used to for monitoring comparisons to determine BMP effectiveness and are not effluent limits. (OCPW)
- Response The NALs proposed in the draft order serve the same purpose.
- Comment 30: Commenter notes that if these facilities terminate coverage under the Statewide General Industrial Storm Water Permit, the MS4 permittees will no longer be obligated to conduct inspections of these facilities in accordance with the proposed order, nor will the MS4 permittees be obligated to provide notifications to Regional Board staff regarding site inspections. (OCPW)
- Response We disagree; Sections IX and XVII of the MS4 Permit require the MS4 permittees to conduct inspections of industrial facilities and report all violations.
- Comment 31: Facilities that do not recycle metals should not be regulated under the proposed order. (Fontana Recycling Center, Norm Plastics Trading Co., Amko Recycling, LLC).
- Response: Only metal recycling facilities are required to obtain coverage under the proposed order.
- Comment 32: The draft permit as written is setting up an entire industry to fail as it is unduly burdensome to comply with the proposed requirements and it imposes an undue burden on an industry sector. The adoption of the

draft scrap metal permit should be delayed until after the draft Statewide Industrial General Permit has been adopted. (Frog)

Response It is not clear when the Statewide Industrial General Permit will be adopted (renewed). 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. Furthermore, the framework for this draft permit was developed by the stakeholders (the Water Quality Committee) consisting of representatives from the industry, environmental organizations and consultants. Most requirements in the proposed permit were recommended by the Water Quality Committee based on currently available information on treatment technologies and other best management practices. Therefore the breadth and number of conflicts between the various stakeholders should be limited, allowing for a more rapid adoption and implementation schedule. Further, 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.

Comment 33: The permit adoption, comment period and implementation schedules are all unrealistic and are being rushed. If the purpose of Phase 1 of the proposed permit is to gather data suitable to judge the appropriateness of the proposed NELs and NALs, then there should be a longer period between Phase I and Phase II to analyze that data, formulate appropriate guidelines and implement appropriate BMPs. (Frog)

Response In California, discharges of storm water associated with industrial activities have been regulated since 1992. By now most facilities within the state should have implemented the BMPs specified in Phases I and II of the proposed order or other equivalent control measures, where necessary to control pollutant loads. It is the intent of this permit that the implementation of all three phases take place during the 5-year life of the permit. Should the data collected during Phase I not conclusively lead to a confirmation of the appropriateness of the effluent limits/action levels of the proposed permit, reopening of the permit can provide the mechanism for adjusting the permit limits and/or timeline, as needed. With the postponement of the public hearing for adoption of this permit, we feel that adequate time has been provided for the review and comment of the draft order.

Comment 34: The data that was used to calculate the statistics presented on pages 3 and 4 of the Fact Sheet should be presented for determining proper context. (Frog)

Response The data is available for public review through the SMARTs system.

Comment 35: It is unclear how the Instantaneous Maximum NELs provided in Table 1 correlates to the statement in Section III.D.3.b, that “[i]f a single sampling event...exceeds the NEL or NAL by two times the specified Permit limit...it is considered an exceedance that would require additional steps.” (Frog)

Response Additional clarifications have been added to Section III.D.3.b.

Comment 36: The proposed permit does not identify whether the Effluent Limit or Instantaneous Maximum NELs would serve as NALs during Phase I. (Frog)

Response The footnote (18) now indicates that the effluent limits in Table 1 (4th column in Table 1) and the action levels in Attachment B are applicable as “numeric action levels” during the first 12 months after adoption of the permit.

Comment 37: While it appears from Section III.D.6.a.3.iv, that a treatment system for oil-contaminated wastes is mandatory, Section VI.C of the Fact Sheet states that treatment controls may or may not be required. Further, if in fact this particular treatment system is mandatory, is that the case for facilities without on-site oil-contaminated wastes? (Frog)

Response If there is no oil-contaminated waste present, there is no need for an oil-water separator.

Comment 38: Section III.D.6.b.3 states that “[i]t is expected that Phase II Corrective Action Plans will focus on Preventative Measures”, whereas the next sentence states that “[t]he facility shall select and design an advanced media filtration system....” Further, the Phase II Corrective Action Plan due date is listed as May 30, 2012 in Section III.D.6.b.3 and June 15, 2012 in Section VI.D.2.c of the Fact Sheet. (Frog)

Response The goal is to achieve water quality standards in the receiving waters. Once water quality standards are met, no treatment control measures are needed. The due dates for the Corrective Action Plans in the order and the Fact Sheets have been reconciled in the 3rd draft.

Comment 39: With regards to the QSD/QSP certification program, the permit should include a timetable for certification availability, qualifications to

participate in the program and differences between this program and that proposed in the Statewide General Industrial Permit. Where the permit allows for equivalent programs/experience/certifications, in the absence of a certified program, the permit should clearly list the specific qualifications for a QSD and QSP. (Frog)

Response The requirements for the QSD/QSP have been revised in the 3rd draft. The 3rd draft also provides additional time for the training and certification of QSDs and QSPs.

Comment 40: The proposed permit should clarify the number of samples, the number of sampling points and the time frame for those samples, to be included in a No-Exposure Certification. (Frog)

Response The 3rd draft added the number of samples, sample locations and the time frame.

Comment 41: Section III.I.1.states that if a “no discharge” facility discharges to a retention basin, it must be sized to retain a 100-year, 24-hour storm event and must be sampled. What is the justification for that sizing and will enforcement take place if retention basin samples exceed NALs or NELs? (Frog)

Response Section III.I.1.a does not require sampling of discharges to retention basins. A design criterion of 100-year, 24-hour storm has been selected based the fact that any discharges beyond such a large storm would be sufficiently diluted and should not cause a water quality problem.

Comment 42: Section III.I.1 implies that “no-discharge” facilities may need to apply for a certification separate from the “No Exposure Certification”, but no placeholder exists for a “No Discharge Certification.” Further, it would provide a clearer picture of expectations if all form, QAPP, REAP and report templates were provided during the permit adoption process. (Frog)

Response Section III.I.1.a states that the design details for the retention basin certified by a professional engineer shall be submitted to the Regional Board. No other certifications are necessary for “no-discharge”. This section also indicates that the Regional Board may issue waste discharge requirements for such facilities.

Comment 43: The proposed permit should provide justification for the addition of turbidity, benzene, ethyl benzene, naphthalene, toluene, total petroleum hydrocarbons, methyl-tert-butyl ether, total xylenes, chromium, cadmium and arsenic. (Frog)

- Response Most metal recycling facilities handle materials that have come in contact with petroleum products, including oil and grease. The constituents listed above are those that are expected to be present at metal recycling facilities.
- Comment 44: Requiring field testing of pH, turbidity and specific conductance will require an unfair burden on these facilities. Further, the requirement that field tested parameters be repeated at a lab should be justified. (Frog)
- Response See response to Comment 9. As stated in response to Comment 9, the field testing equipments are not prohibitively expensive and field testing for these constituents is critical as it provides an immediate indicator of inadequate BMP implementation.
- Comment 45: In order to ensure uniform and consistent procedures, the QAPP or a template of a QAPP should be provided by the Regional Board. (Frog)
- Response A template for QAPP or other guidance will be made available.
- Comment 46: There is a conflict between Section III.I.2 and Section VII of the Fact Sheet as to whether the REAP has to be uploaded as a PRD and it is not specified whether the REAP must be signed by a QSD, QSP or other person. (Frog)
- Response The REAP need not be loaded into SMARTS. The Fact Sheet has been revised to indicate this fact. As indicated on Page 14 of the Fact Sheet, activities related to REAP are considered as part of the SWPPP. As such, it should be prepared either by a QSD/QSP or under the guidance of a QSP or QSP.
- Comment 47: The filing fee for this permit is not listed. (Frog)
- Response The filing fee for this permit will match that for the Statewide General Industrial Permit, currently \$1,008 per year.
- Comment 48: Section VI.F of the Fact Sheet states that a group leader must be experienced in the SWAMP program and "...must have received a certificate of completion... from a certified laboratory." Information on the SWAMP certification as well as laboratories offering this certification must be included. (Frog)
- Response This certificate of completion applies to those who collect, handle and preserve samples. We are working with local laboratories to develop

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such a program and a list of such laboratories will be published after adoption of this order.

Comment 49: The draft permit is inconsistent with the stakeholder (Water Quality Committee) generated preamble for the permit terms. (Orange County Coastkeeper, OCCK)

Response: The 3rd draft of the permit has been made consistent with the principles developed by the Water Quality Committee.

Comment 50: The draft permit is inconsistent with the Clean Water Act and misstates that California Toxics Rule (CTR) is not applicable to storm water discharges. The permit also allows new discharges to impaired waters. (OCCK)

Response: The draft permit noted that the State's Implementation Policy for CTR states that the Policy is not applicable to storm water discharges, which is merely a statement of fact. We have deleted some of the other statements regarding the non-applicability of CTR to storm water discharges based on the 9th Circuit Court ruling.

The language for new and existing discharges to impaired waters is consistent with the USEPA's Multi Sector General Permit.

Comment 51: The language regarding numeric effluent limits (NELs) is imprecise and not enforceable. (OCCK)

Response: Additional clarifying language has been added to the effluent limits section of the permit.