



Institute of
Scrap Recycling
Industries, Inc.

www.isri.org

April 18, 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: Draft 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 Santa Ana Regional Water Quality Control Board's (henceforth, "the Board's") request for public comments on its draft Scrap Metal Sector-Specific Permit, NPDES No. CAG 618001 (henceforth, "the Draft Permit").

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 2009, 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 Draft Permit is sufficiently potentially precedent-setting for stormwater general permits nationwide that submitting comments from the national perspective is warranted. ISRI's brief comments on the Draft Permit are preceded by some background on the scrap recycling industry (henceforth, "the industry").

Background

Stormwater management is one of the most important issues for the industry as it affects every aspect of facility operations. From the inception of stormwater regulations in the early 1990s, ISRI has been active in stormwater management issues for the industry, from working with EPA to develop ISRI's Industry Group Permit to providing information to members on

stormwater management and compliance to advocating for the industry during the development and renewal of state general permits and the Federal Multi-Sector General Permit (MSGP).

Over these 20 years, the industry's preferred approach to stormwater management has focused on the design, implementation, operation, and maintenance of appropriate, effective nonstructural and structural best management practices (BMPs) and control measures to reduce and minimize the impact of recycling activities on the quality of stormwater discharges. Because advances in stormwater technology have led to the availability of better, cost-effective BMPs and control measures over time, this approach is still viable to achieve on-site stormwater goals.

At the same time, the trend for general permits – starting with the Federal MSGP in 1995 and continuing today with state general permits – has been the increasing adoption of benchmark monitoring of stormwater discharges with lower benchmark values and in some cases numeric effluent limits (i.e., effluent concentration limits). This trend has been leading to the increasing need for advanced treatment of stormwater discharges to meet lower and lower benchmark values, or in some cases, even-lower applicable water-quality standards. Not only does this lead to an incredibly inefficient use of resources – the creation of so many small, intermittently used, treatment systems that lack economies of scale – but it threatens to become burdensome to the industry by imposing treatment controls that may be neither justified nor directly related to water quality needs. At the same time, ISRI recognizes that a minimum set of BMPs and control measures for the industry may be appropriate, but not any minimum set.

In the face of increasingly stringent requirements, ISRI believes that it is possible for a general permit to contain the proper balance between investment in stormwater-management infrastructure and degree of stormwater runoff treatment to protect water quality. However, it is unclear whether the Draft Permit is such a permit for scrap metal recyclers (henceforth, “the industry” means scrap metal recyclers).

While the Draft Permit contains some beneficial features, it also contains a number of provisions that, depending upon future data, could prove to be very burdensome to the industry while providing relatively little marginal water-quality benefit beyond a certain level of investment in stormwater-management infrastructure. The following brief comments address these features and provisions.

Comments

While the Draft Permit describes much in the way of process, it does not provide a clear indication of what the industry will need to do to comply with its terms five years from now.

This makes difficult offering comments on a permit that has its final terms potentially established via a process with an unknown future outcome.

The Draft Permit contains provisions that are helpful and others that are potentially problematic. On the helpful side, the Draft Permit contains these beneficial features:

- Phased implementation of control measures;
- Credit against measured discharge concentration for implementation of volume reduction BMPs and preventative measures;
- Use of “maximum extent practicable” in connection to minimizing runoff via low-impact-development (LID) BMPs, because LID BMPs may not be feasible at a given facility due to impervious soils, space constraints, insufficient potential for on-site use of retained stormwater, etc.; and
- Opportunities to reduce monitoring and inspection frequencies.

These features, in their various self-evident ways, would in principle assist permittees in complying with the requirements of the Draft Permit by reducing permittees’ level of effort or effort intensity (i.e., level of effort per unit time), or both.

At the same time, the Draft Permit contains some provisions that could prove to be burdensome to the industry. These are reviewed next.

Phased Implementation of Control Measures: While phased implementation can ease the burden of implementing a large number of measures by stretching out effort over time, it is not clear why the proposed timetable needs to be so short:

- Phase I to be completed by October 3, 2011, with implementation of Phase I BMPs constituting compliance;
- Phase II (in the case of a numeric action level (NAL) exceedance during Phase I) to include an assessment of Phase I BMPs by April 30, 2012 and submission of a Phase II Corrective Action Plan by May 30, 2012, by which date default numeric effluent limits (NELs) for pH, Turbidity, Specific Conductance, and Oil & Grease would take effect in the absence of previously established NELs; and
- Phase III (in the case of a NEL/NAL exceedance during Phase I or II) to include an assessment of Phase I and II data by April 30, 2013 and submission of a Phase III

Corrective Action Plan, with full implementation of the Phase III Corrective Action Plan constituting compliance.

During this phased implementation, an on-going independent evaluation of treatment technologies will continue for the purpose of developing and recommending NELs and technology-based effluent limitations for potential inclusion in the future Scrap Metal Permit. To the extent that permittees will need to act (i.e., to implement treatment technologies) before they can benefit from the results of the independent evaluation, it is conceivable that permittees could select and implement the “wrong” treatment technologies, as deemed necessary by their Phase I or Phase II data, and waste significant resources in the process. Given that the requirements for future compliance are unknown, seemingly dependent upon the results of the independent evaluation, ISRI believes that the best and proper course of action is to delay consideration of the Draft Permit until after the independent evaluation is completed and any potential NELs and required treatment technologies have been developed for potential consideration and inclusion in the Draft Permit.

Numeric Effluent Limits: The use of NELs should not occur – including the proposed default set of NELs for pH, Turbidity, Specific Conductance, and Oil & Grease to take effect May 30, 2012 – until the independent evaluation is completed and any potential NELs and technology-based effluent limits have been developed for potential consideration and inclusion in the Draft Permit. As the Board would probably agree, the phased implementation would likely involve some amount of “experimentation” by permittees with control measures and, potentially, treatment technologies and entail some amount of uncertainty in the results (i.e., stormwater effluent quality). If permittees would be required to use treatment technologies without the benefit of the results of the independent evaluation, the permittees should not be subject to NELs during this “experimental” period. To the extent that the independent evaluation identifies treatment technologies that consistently provide acceptable stormwater effluent quality, technology-based effluent limits would be preferable to NELs in a future Scrap Metal Permit.

Beyond the provisions of the Draft Permit, ISRI is concerned about the timing of the Draft Permit itself with respect to the proposed statewide draft Industrial General Permit (IGP). As the Board knows, the draft IGP is open for public comment and also not complete enough to be finalized based on the initial draft version. ISRI understands that the IGP is currently undergoing substantial changes that may be relevant to the Draft Permit. Against this uncertain statewide backdrop, it would be appropriate to delay the Draft Permit until the process for the draft IGP is completed.

Lastly, almost as an aside, among the proposed NALs in Appendix B, the value for Lead is listed as 0.0122 mg/L. Based on the accompanying table, “Numeric Action Levels for Copper,

Lead and Zinc Based on Receiving Water Specific Hardness Data", the value for Lead should be 0.122 mg/L.

Summary

The Draft Permit contains some flexible provisions that would help the industry to comply with its requirements but also contains some problematic provisions that could be potentially burdensome. The problematic provisions include the timetable for phased implementation of control measures and the use of NELs. Because the on-going independent evaluation of treatment technologies has not been completed, the potential NELs and technology-based effluent limits that might apply are not known. This fact makes the timetable and use of NELs particularly problematic for the industry. Taking these factors into account, as well as the on-going process for the draft IGP, ISRI believes that consideration of the Draft Permit should be delayed until after completion of the independent evaluation, by which time the process for the draft IGP should be resolved.

In closing, ISRI thanks the Board for this opportunity to provide comments on the 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 DavidWaggen@isri.org.

Sincerely,



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