



STATE OF CALIFORNIA AUTO DISMANTLERS ASSOCIATION

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February 14, 2018

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000



RE: SWRCB Industrial General Permit Amendment Comment Letter

Dear Ms. Townsend:

On behalf of the State of California Auto Dismantlers Association (SCADA), I appreciate the opportunity to provide the following comments in response to amendments to the General Permit for Storm Water Discharges associated with Industrial Activities (IGP) to incorporate the total maximum daily load (TMDL)-specific permit requirements and provide additional compliance options for industrial dischargers.

SCADA represents approximately 150 small and medium sized businesses throughout California. SCADA was formed in 1959 to serve its members in the area of government relations, education, and business. SCADA members are licensed by the state Department of Motor Vehicles and take responsibility for recycling and disposing of End-of-Life Vehicles using environmentally responsible practices.

Licensed auto dismantlers provide an essential service that directly addresses society's ever increasing problem of what to do with end-of-life vehicles (ELVs). An estimated 1.3 million vehicles will reach the end of their useful lives this year in California, either by determination of their owners or by being declared a total loss by an insurance company. While those vehicles might otherwise end up on the roadside or abandoned in empty lots, licensed dismantlers acquire them and safely convert them into reusable/recycled commodities. This dismantling is done in partnership with other state agency programs that support the recycling of vehicles, thereby abating the severe environmental hazards associated with improperly disposed vehicles.

Component parts are tested and examined to determine which can be reused or recycled. Fluids are extracted and properly recycled. The reusable parts are removed, cleaned, catalogued and stored. They are then sold to repair other cars at a savings of up to 80% over the cost of new parts. Recyclable materials are sent to a processor, and manufactured into new products. There are about 1,200 dismantlers licensed by the California Department of Motor Vehicles.

SCADA members support responsible recycling, worker safety, and environmental protection. SCADA promotes the proper handling and disposal of all automotive-related hazardous materials, including gasoline, oil, Freon, antifreeze, brake fluid, transmission fluid, batteries, mercury switches, and tires. As we have discussed with the SWRCB and staff over the years, the auto dismantling industry faces severe challenges from unlicensed and unregulated operators who can pay more for salvage vehicles because they do not spend money on measures to protect the environment, including complying with the IGP.

While we appreciate the engagement of staff on the development of this amendment, we remain concerned that the cost of compliance is alarmingly high further fueling the competitive advantage that unlicensed and unregulated dismantlers have against those of us attempting to comply with the permit. As a matter of fact, the Department of Motor Vehicles (DMV) has acknowledged that as at least 30% of ELV's are being dismantled by unlicensed, unregulated entities. In this regard, we respectfully offer the following comments for your consideration and would like to also note our support of the comments submitted by the WATER Coalition.

Applicability

As you well know, the IGP amendment incorporates over thirty TMDLs in four regions for similar constituents near the same or possibly downstream waterbodies. Given no comprehensive TMDL list organized by water body and industrial discharger sites exists to date, it will be incredibly difficult for auto dismantlers and other industrial dischargers to identify whether they are subject to one or multiple TMDLs. Further, we note some TMDLs overlap watersheds and the associated waterbodies for the same constituent. In this regard, an auto dismantler could find itself needing to comply with multiple TMDLs for the same constituent with different, potentially conflicting requirements in the same watershed. In this regard, we urge the Board to clarify industrial dischargers are only subject to the TMDLs for which they directly discharge to a correlated impaired waterbody.

Additionally, we urge the Board to clarify that industrial facilities are only deemed dischargers and subject to the TMDL requirements if the relevant TMDL pollutant is determined to be an industrial pollutant present at the facility and a result of industrial activity. Additionally, it should be clarified that such a pollutant should also be located within the corresponding area leading to the impaired water body. Under the current IGP, it is generally understood that not all industrial operations have the same industrial pollutant sources and discharges. In this regard, it provides for industrial facilities to conduct a pollutant source assessment to evaluate these issues. The outcome of the assessment drives the BMPs implemented at a facility and the associated monitoring requirements for the facility-relevant pollutants rather than all that have been attributed to industrial activity. The IGP amendments related to TMDLs should be consistent with this approach, requiring only those facilities whose assessment identifies the TMDL pollutant and that are located within the impaired water body drainage area to comply with the new TMDL requirements.

SCADA would also urge consideration of the pollutant loading differences among permittees. One discharger might be responsible for significant pollutant loading into the waterway annually, while another may load a de minimis amount. We are concerned they may be treated equally and this assessment does nothing to account for risk and the differences among permittees who are attempting to be in compliance versus those that choose to ignore regulatory requirements in their totality.

Process & Compliance Flow Chart Needed to Provide Clarity

As if compliance with the IGP adopted in 2014 wasn't challenging enough, the auto dismantling industry finds itself again in a position to have to grapple with the complexities and costs associated with compliance under these amendments. Among other issues, we must ensure that the new language under the IGP requirements is sufficiently reasonable for auto dismantlers and other industrial dischargers to understand, much less comply with to protect water quality.

In this regard, we understand staff may be contemplating developing a flow chart describing the requirements under the IGP as currently drafted, proposed to be amended and the compliance pathways associated with the entirety of the IGP. Notably, the IGP amendment includes multiple compliance

pathways, but each of them has monitoring, exceedance requirements, follow up actions, reporting and more that are not consistent in each circumstance. A flow chart would be incredibly helpful for auto dismantlers, in particular, as many do not have the resources to hire consultants to understand, much less manage their IGP and compliance requirements. Development of a process and compliance flow chart would provide clarity for all industrial dischargers regardless of their size and resource level.

Compliance with the TNAL or NEL TMDL Requirements Should be Sufficient for Compliance

Under the proposed amendment to the IGP, industrial dischargers would be required to continue to comply with the current IGP's NALs identified in Table 2 in addition to complying with the TNALs and NELs in the amendment provisions related to the incorporation of TMDLs. SCADA members believe this lacks clear justification and is ultimately unnecessary. TMDLs have been adopted on a site-specific basis with associated TNALs or NELs. Requiring dischargers to comply with different requirements for the same constituents is confusing, overly burdensome and unnecessary. NALs are more general values derived from the U.S. EPA Multi Sector Permit benchmark values; where TNALs and NELs are locally derived based on site specific impacts and discharger characteristics. Further, the TNAL and NEL thresholds are typically more stringent than the current NAL values.

In this regard, we urge the Board to explicitly recognize that compliance with TMDL TNAL and NEL requirements shall replace the NAL requirements for the same constituent.

Effective Date Should be Extended

Finally, as currently written the TMDL provisions are set to become effective upon the Board's adoption of the proposed IGP amendment. SCADA is concerned that because the IGP amendment language is still under discussion and it is not yet certain what the requirements will be for compliance, the immediate effective date will likely render all industrial dischargers out of compliance on day one. Instead, SCADA strongly urges the Board to extend the effective date to allow time for auto dismantlers and other industrial dischargers to update their SWPPPs and Monitoring Implementation plans (MIP), assess the workability of the alternative compliance options, and for those subject to NEL requirements to have sufficient time to make the case for a TSO from the Regional Water Board.

On behalf of SCADA, I appreciate the opportunity to provide these comments. If you have questions regarding the points raised in this letter, please contact Gavin McHugh with McHugh, Koepke & Associates at (916) 930-1993. Thank you.

Sincerely,

G. Umphenour

Gary Umphenour
President

cc: Mr. Jonathan Bishop, Chief Deputy Director, SWRCB
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