

**State of Wisconsin
Department of Natural Resources**

**Responses to Public Comments on Wisconsin Pollutant Discharge Elimination
System (WPDES) General Industrial Storm Water Discharge Permits
May 2016**

Recycling of Scrap and Waste Materials, Permit No. WI-S058831-3 (“scrap recycling general permit”)

Dismantling of Vehicles for Parts Selling and Salvage, Permit No. WI-S059145-3 (“vehicle dismantling general permit”)

On February 12, 2016, the Wisconsin Department of Natural Resources (Department) public noticed the WPDES general industrial storm water discharge permits listed above. The public comment period closed on March 14, 2016.

The Department received several written comments on the proposed general permits. The Department received written comments from the United States Environmental Protection Agency; Automotive Recyclers Cooperative Compliance Program of Wisconsin, Inc.; Blue Iris Environmental, Inc.; Cooperative Compliance Program, Inc.; and the Wisconsin Institute of Scrap Recycling Industries. In this document, the Department may have paraphrased or edited comments to capture the main point or to clarify a comment. Any minor corrections to typographical errors, updating page numbers and headers/footers, updating the Table of Contents and titles, and correcting formatting and web links are not included in this summary document. The acronyms below used in this document have the meaning indicated:

ARCCP Inc.	Automotive Recyclers Cooperative Compliance Program of Wis. Inc.
BICCP	Blue Iris Environmental Inc.
CCP Inc.	Cooperative Compliance Program Inc.
USEPA	United States Environmental Protection Agency
WISRI	Wisconsin Institute of Scrap Recycling Industries

Changes indicated below apply to both general permits unless otherwise indicated.

Changes Initiated by the Department

The following changes were initiated by the Department to clarify language in the general permits.

- Part A.(1)(b) has been **amended** to read: Facilities which dismantle motor vehicles for wholesale or retail distribution that request coverage from the Department under this permit rather than under the WPDES General Tier 1 Industrial Storm Water Discharge Permit, provided that the Department authorizes coverage under this permit in writing.

Comments by USEPA

By letter dated May 5, 2016, the USEPA stated it would not object to reissuance of the general permits but recommends that the Department consider and address the comments identified in Enclosure A in order to improve the clarity, enforceability and accuracy of the general permits.

USEPA Comment 1: EPA recommends that industrial facilities participating in a Cooperative Compliance Program (CCP) should also be required to conduct annual chemical monitoring. Facilities authorized by the general permit for discharges from Dismantling of Vehicles for Parts Selling and Salvage should monitor for those parameters in Part 8.M.5 of EPA's Multi-Sector General Permit (MSGP) for Storm Discharges Associated with Industrial Activities. Facilities authorized by the general permit for discharges from Recycling of Scrap and Waste Materials facilities should monitor for those parameters in Part 8.N.6 of EPA's MSGP.

Response: The Cooperative Compliance Program (CCP) is a voluntary option for permittees to participate in a privately-managed program to help oversee permit compliance. The CPP option requires the permittee to comply with the following conditions:

- Receive and participate in annual training provided by the CCP operator
- Implement the CCP operator's technical assistance recommendations
- Conduct monthly self-inspections
- Participate in annual compliance audits conducted by the CCP operator
- Utilize mutually agreed upon best management practices identified for the industry

Since the CCP concept provides these regulatory and environmental benefits that may not otherwise be utilized due to cost or the level of expertise at the facility, the Department provides permittee's an incentive to participate by de-emphasizing chemical monitoring. However, if the Department believes that a permittee is not in compliance with the requirements for participation in a CCP, under Part F.(2)(d) the Department may terminate the permittee's membership and require compliance with the non-CCP chemical monitoring provisions of the general permit. Additionally, the Department may make a determination under Part A.(2)(e) of the general permit that a storm water discharge is more appropriately covered under an individual WPDES permit, in which case more extensive chemical monitoring may be required on a case-by-case basis.

The Department has made no changes to the general permits in response to this comment.

USEPA Comment 2: The USEPA's May 5 letter itemized several revisions to the general permits that reflect discussions between the USEPA and the Department for agreed upon changes. In response, the Department has made the following changes to the general permits to capture the concepts discussed by the USEPA and the Department:

- Part B.(1)(a) has been **amended** to read: This permit specifies the conditions under which storm water may be discharged to waters of the state for the purpose of achieving water quality standards contained in chs. NR 102 through 105, NR 140, and NR 207, Wis. Adm. Code. For the term of this permit, compliance with water quality standards will be addressed by adherence to the storm water discharge limitations in this Part B. If the permittee or the Department becomes aware that storm water discharges do not meet the discharge limitations in this Part B, the permittee shall undertake corrective actions in accordance with s. NR 216.27(4), Wis. Adm. Code, and Part C.(2) of this permit.
- In Part B.(1)(b), the follow sentence has been **deleted**: However, the Department may authorize coverage under this permit where the SVIPPP required will include appropriate controls and implementation procedures designed to bring the storm water discharge into compliance with water quality standards.
- Part B, DISCHARGE AND MINIMUM SOURCE AREA CONTROL REQUIREMENTS FOR ALL PERMITTEES, has been **recreated** as a separate and distinct part of the general permits.

This part contains provisions that were previously in Part A: Water Quality Standards, Outstanding and Exceptional Resource Waters, Impaired Water Bodies and Total Maximum Daily Load Requirements, Fish and Aquatic Life Waters, and Toxic Pollutants. In addition, Part B.(6) has been **created** to specifically identify the minimum source area control requirements, whereby source areas (a) to (j) that are present at the facility are identified by the permittee and addressed in the Storm Water Pollution Prevention Plan through source area controls.

- Part B.(7), Compliance with Runoff Management Performance Standards, was existing language previously in Part B.(1)(i) of the public noticed version of the general permits. It has been **moved** because it is more appropriately located in this part of the general permits.
- Part C.(1)(d)1. has been **amended** to read:

(Vehicle dismantling general permit) Source Areas: All potential source areas of storm water contamination and any polluting activities associated with the source areas. The SWPPP shall consider all areas including but not limited to: vehicle inspection areas, areas where vehicle fluids are drained and stored, vehicle dismantling areas, parts storage areas, parts washing areas, equipment maintenance and fueling areas, liquid storage tanks and drums for fuel and other fluids, areas of actual or potential significant soil erosion, and any other areas capable of contaminating storm water runoff including immediate access roads and rail lines.

(Scrap recycling general permit) Source Areas: All potential source areas of storm water contamination and any polluting activities associated with the source areas. The SWPPP shall consider all areas including but not limited to: processing areas, maintenance areas, material handling sites, storage areas, areas of actual or potential significant soil erosion, and any other areas capable of contaminating storm water runoff including immediate access roads and rail lines.

- (Vehicle dismantling general permit only) In Item 4 in Table A, the following sentence has been **added**: Vehicles intended for dismantling shall be drained of all fluids as soon as practicable and appropriate means shall be employed to prevent spills and leaks. Fluids shall be appropriately stored and disposed of.
- (Vehicle dismantling general permit only) In Item 9 in Table A, the following sentence has been **added**: At a minimum, these materials shall be stored in covered leak-proof containers.
- (Scrap recycling general permit only) In Item 6 in Table A, the following sentence has been **added**: Vehicles intended for scrap but not already drained of all fluids shall be drained as soon as practicable and appropriate means shall be employed to prevent spills and leaks. Fluids shall be appropriately stored and disposed of.
- In addition to other changes Part D.(4) (see USEPA comment 3 below), the following sentence has been **added** to Part D.(4): The inspections shall include checking for signs of leakage of any fluids from equipment and storage containers, and checking the condition of storage areas.
- The following sentence has been **added** to Part D.(7): As applicable, the employee training program shall include proper handling, removal, collection, storage, and disposal of all fluids, solvents, and waste materials.

- The following sentence has been **added** to Part E.(1)(e): As applicable, the employee training program shall include proper handling, removal, collection, storage, and disposal of all fluids, solvents, and waste materials.
- The language in Part E.(2)(c)2. has been **added** to require non-CCP permittees to compare the results of the annual chemical monitoring for total suspended solids, total recoverable aluminum, and total recoverable iron to the values in Table B in the general permits. If an annual monitoring result for a parameter exceeds the value indicated and the exceedance is attributable to the permittee's facility, the permittee shall do either of the following:
 - In accordance with s. NR 216.27(4), Wis. Adm. Code, and Part C.(2) of this permit, amend the SWPPP and implement the necessary modifications so that the next annual monitoring result for a parameter listed in Table B does not exceed the value; or
 - Make a determination and document in writing to the Department that no further pollutant reductions are technologically practicable or economically achievable beyond the BMPs implemented to meet the discharge and minimum source area control requirements in Part B of this permit.
- Part F.(1)(b)1. has been **amended** to indicate that a CCP organization shall maintain a minimum membership of at least 10 permitted facilities.
- The following sentence has been **added** to Part F.(2)(b)2.: The annual report shall also include an evaluation of the effectiveness of the CCP program and whether the planning and operational practices implemented through the CCP were effective in minimizing pollutants in storm water discharges.
- The following sentence has been **added** to Part F.(2)(h): Program evaluation results shall be reported in the Annual Compliance Report.
- Due to the re-creation of Part B and moving Part B.(7), other parts of the general permits have been **re-numbered** as necessary.

USEPA Comment 3: The USEPA provided its understanding of the final language for Part. D.(4), which is correct and reads as follows:

The permittee shall conduct monthly inspections beginning in the third month of permit coverage. The inspection shall be adequate to verify that the site drainage conditions and potential pollution sources identified in the SWPPP remain accurate, and that the BMPs prescribed in the SWPPP are being implemented, properly operated and adequately maintained. The inspections shall include checking for signs of leakage of any fluids from equipment and storage containers, and checking the condition of storage areas. At least two of the monthly inspections shall include visual observations of storm water discharge quality at each storm water discharge outfall during a runoff event. The observations shall be conducted within the first 30 minutes of discharge or as soon thereafter as practical, but not exceeding 60 minutes. These inspections of storm water discharge quality shall be conducted between March 15 and September 15 and at least 3 months apart, and shall include any observations of color, odor, turbidity, floating solids, foam, oil sheen, or other obvious indicators of storm water pollution. Written records for all monthly inspections shall be maintained on site and shall document the inspection date, inspection personnel, scope of the inspection, major observations, and revisions needed in the SWPPP. If there were no runoff events large enough to conduct a visual observation of storm water discharge quality, the circumstances shall be documented and maintained on site.

Public Comments

Comments by CCP Inc. and WISRI on Recycling of Scrap and Waste Materials, Permit No. WI-S058831-3

CCP Inc. and WISRI Comment 1: We support the proposed WPDES Permit No. WI – S058831-3 which continues the best management practice-based approach and the option for permitted facilities to participate in authorized CCP programs. WISRI and the CCP believe that compliance with the permit requirements and pollution control performance must improve over time. Therefore, we are committed to working with DNR to implement the following improvements:

Update and Improve the Best Management Practices: We recently submitted to DNR a suggested set of BMP updates and improvements that will significantly increase pollution control. We look forward to updating the list of BMPs that apply to the scrap recycling industry.

Improve BMP Technology: Our international trade association (Institute of Scrap Recycling Industries – ISRI) is nearing completion of a major multiyear study that examines the water quality impacts of the industry and the performance of various BMP and storm water treatment scenarios. We will be incorporating the results of that study into our compliance program to help members select and implement effective BMPs and treatment systems.

Watershed Protection: We are prepared to comply with the TMDL requirements outlined in the proposed permit.

Compliance Improvement: Our CCP is implementing advanced training and follow up audits to verify that members remain in compliance and correct any identified deficiencies. As always, DNR staff are encouraged to participate in our training programs and compliance audits.

Response: The Department appreciates your comments, and the opportunity to participate in the training programs and compliance audits. While no changes to the scrap recycling general permit are necessary in response to this comment, the Department will continue to work with the industry on these and other implementation issues.

CCP Inc. and WISRI Comment 2: We believe that storm water sampling is ineffective and unnecessary. However, we recommend that DNR consider adding storm event visual observations to the proposed permit. The visual observations, which would document the appearance of the storm water runoff being discharged from a facility, would help provide a generalized indicator of BMP performance and help identify problems that need to be addressed. We suggest that the visual observations be performed during storm events twice per year.

Response: For non-CCP permittees, quarterly visual inspections of storm water discharge quality at each storm water discharge outfall are required during a storm event. See Part E.2.(b). The Department agrees that visual inspections of storm water discharge quality during a storm event are also important for CCP permittees but was not previously required in the scrap recycling general permit. In response to this comment, language has been added to Part D.(4) to specify the requirements for at least two monthly inspections per year to include visual observations of storm water discharge quality at each storm water discharge outfall during a runoff event (see USEPA Comment 3 above).

Comments by ARCCP Inc. on Dismantling of Vehicles for Parts Selling and Salvage, Permit No. WI-S059145-3

ARCCP Inc. Comment 1: We support the proposed WPDES Permit No. WI – S059145-3 which continues the best management practice-based approach and the option for permitted facilities to participate in authorized CCP programs. We believe that compliance with the permit requirements and pollution control performance must improve over time. Therefore, we are committed to working with DNR to implement the following improvements:

Update and Improve the Best Management Practices: We recently submitted to DNR a suggested set of BMP updates and improvements that will significantly increase pollution control. We look forward to updating the list of BMPs that apply to the auto recycling industry.

Watershed Protection: We are prepared to comply with the TMDL requirements outlined in the proposed permit.

Compliance Improvement: ARCCP is implementing advanced training and follow up audits to verify that members remain in compliance and correct any identified deficiencies. As always, DNR staff are encouraged to participate in our training programs and compliance audits.

Response: The Department appreciates your comments, and the opportunity to participate in the training programs and compliance audits. While no changes to the scrap recycling general permit are necessary in response to this comment, the Department will continue to work with the industry on these and other implementation issues.

ARCCP Inc. Comment 2: As you know, we believe that storm water sampling is ineffective and unnecessary. However, we recommend that DNR consider adding storm event visual observations to the proposed permit. The visual observations, which would document the appearance of the storm water runoff being discharged from a facility, would help provide a generalized indicator of BMP performance and help identify problems that need to be addressed. We suggest that the visual observations be performed during storm events twice per year.

Response: For non-CCP permittees, quarterly visual inspections of storm water discharge quality at each storm water discharge outfall are required during a storm event. See Part E.2.(b). The Department agrees that visual inspections of storm water discharge quality during a storm event are also important for CCP permittees but was not previously required in the scrap recycling general permit. In response to this comment, language has been added to Part D.(4) to specify the requirements for at least two monthly inspections per year to include visual observations of storm water discharge quality at each storm water discharge outfall during a runoff event (see USEPA Comment 3 above).

Comments by BICCP on Recycling of Scrap and Waste Materials, Permit No. WI-S058831-3, and Dismantling of Vehicles for Parts Selling and Salvage, Permit No. WI-S059145-3

BICCP Comment 1: The definition of “waters of the state” in ch. 283, Wis. Stats., specifically exempts waters that are wholly contained within the boundaries of the property owner. Therefore, it would seem that unless a facility has a discharge that exits the property it is unregulated for the purposes of storm water. Moreover, the EPA and WDNR do not regulate diffuse surface water runoff under the storm water regulations as it takes a point source discharge to lead to permit applicability. The current storm water regulations ignore these issues and regulate all entities simply because they are under a specific SIC code.

Response: A facility owner or operator is free to attempt to demonstrate the applicability of an exclusion. However, the Department's believes it's unlikely that a facility can meet the conditions of an exclusion under all circumstances at all times.

BICCP Comment 2: Part A(2)(a) seems to suggest that if vehicles which are wholly secured from leakage and stored in an area segregated from main areas of activity, that that storage area is not regulated.

Response: The general permits only apply to storm water discharges and are intended to regulate and control contact with pollutants that could be mobilized and discharged via storm water runoff. Non-storm water discharges may indeed be regulated, but not by these general permits.

BICCP Comment 3: Part A (2)(f) suggests that any facility located in a municipality where there are combined sewers, the storm water regulations would not apply. Since most of the major municipalities have combined storm/sanitary sewers, it would seem that none of the facilities located in these areas are regulated. While some municipalities may claim storm/sanitary separation, I worked in a municipal wastewater plant for 10 years and know that absolute separation is not possible. Note: In the past Blue Iris Environmental has commented on the dual regulation on facilities located within a municipal storm water collection system and that facility being exposed to three charges if belonging to a CCP – the municipal charge, the WDNR charge, and the CCP charge. This subpart suggests that such dual regulation is unnecessary.

Response: As stated in the note under Part A.(2)(f), of both general permits, municipal combined sewer systems exist in portions of the City of Milwaukee, the City of Superior, and the Village of Shorewood. Therefore, the applicability of this exclusion is limited. Also, it's not the physical location of the facility but how storm water discharges from the facility that determines if this exclusion applies. If a facility discharges storm water to a municipal combined sewer system, the general permits do not apply to that storm water discharge. This exclusion applies where combining storm water and sanitary wastewater is by design and intended. Under s. 283.33, Wis. Stats., the Department is authorized to regulate storm water discharges and required to establish and collect the permit fees payable to the Department. Municipalities have their own authorities under state statutes to regulate activities and to raise revenue within their jurisdiction.

BICCP Comment 4: Part A.(5) provides for "No Exposure Certification." This section does not provide a facility which is currently regulated an option to upgrade its facility to the point of qualifying for "no exposure" as is stated in Part A.(2)(n) which indicates this option is available if applying under NR 216.21(3).

Response: The purpose of Part A.(5) is to describe the permit application requirements for a facility not currently covered under the general permit that does not qualify for No Exposure Certification if a request was made or that has had its No Exposure Certification status revoked. Under s. NR 216.21(3), Wis. Adm. Code, the owner or operator of a facility currently covered under a general permit is free to request No Exposure Certification if the owner or operator believes the facility qualifies.

BICCP Comment 5: Part A.(10)(b) [DNR note: This is now Part B.(3)(b) in the final general permits] requires a facility to conduct an annual check to determine if a pollutant of concern is being discharged to a water body with an associated TMDL. Since facilities which are in a CCP do not conduct chemical analysis it would be impossible to guess as to whether or not an annual check which in this case is only a visual inspection would be sufficient to make this determination. Unless an owner knows that phosphorus containing substances are present and could be discharged in runoff, the annual check of dubious value. Without clarification on what an annual check is here, this requirement is of little value and may be counterproductive.

Response: See common response to BICCP Comments 5, 6, and 7 below.

BICCP Comment 6: Part A.(10)(c) [DNR note: This is now Part B.(3)(c) in the final general permits] requires a knowledge of a discharge of a pollutant which cannot be obtained under the determinations required under Part A.(10)(b) [DNR note: This is now Part B.(3)(b) in the final general permits].

Response: See common response to BICCP Comments 5, 6, and 7 below.

BICCP Comment 7: Part A.(10)(e) and (f) [DNR note: This is now Part B.(3)(e) and (f) in the final general permits] concerning the annual check for pollutants in TMDL waters presents the same problem as noted in BICCP Comments 5 and 6.

Common response to BICCP Comments 5, 6, and 7: The Department recognizes that the impaired waters and TMDL requirements add a level of complexity to the general permits. Nevertheless, the Department believes that the general permits are the most efficient way to regulate a large number of facilities of a similar nature. As such, many of the provisions in the general permits are self-implementing and give permittees the flexibility on how best to comply. In general, the Department believes that a permittee or a permittee's consultant with an understanding of the possible pollutants associated with the facility, the facility's drainage patterns, the location of outfalls, the relationship between the facility and the receiving water and whether it's impaired can make a reasonable professional judgment about compliance with these permit requirements. At a minimum, these requirements should suggest to a permittee to revisit the facility's SWPPP annually to ensure it is up-to-date, effective, and being implemented.

BICCP Comment 8: In Part D.(2)(c)3. [DNR note: This is now Part E.(2)(c)4. in the final general permits] there are no waivers based on the inability of a facility to monitor where no outfall exists. This could be included in Part D.(2)(c)3.b) [DNR note: This is now Part E.(2)(c)4.b) in the final general permits] or an entirely new subpart which has not been created thus far. Nowhere in the document or the regulations is there a requirement for any facility to create an outfall and, since most of stormwater may exit a facility as diffuse surface water runoff (unregulated by definition), it would suggest that a monitoring waiver should exist here.

Response: Part E.(2)(c)4. of the general permits is consistent with s. NR 216.28(5), Wis. Adm. Code. If unique conditions exist at a facility that affect the permittee's ability to conduct monitoring, the Department can be consulted on a case-by-case basis to discuss other approaches or alternatives.

This document was prepared by Jim Bertolacini, DNR Storm Water Program Coordinator, Runoff Management Section, Wisconsin Department of Natural Resources.