

PUBLIC COMMENT RESPONSE DOCUMENT
Eastern Metal Recycling

JUNE 7, 2011

The Pennsylvania Department of Environmental Protection (DEP) has prepared this response to the comments received on the permit applications submitted by Eastern Metal Recycling (EMR), formerly Camden Iron and Metal, submitted to DEP for the company's proposed metals recycling facility in Eddystone Borough (Borough), Delaware County. The following DEP permit applications were submitted to DEP by EMR:

- Air Plan Approval Application (No. 23-0115) on March 5, 2010
- An Individual NPDES Permit application for the Discharge of Stormwater from Construction Activities (No. PAI01231001) on August 26, 2010
- An Individual NPDES permit application for Discharge of Stormwater from Industrial Activities (No. PA0244562) on August 26, 2010
- A Water Obstruction and Encroachment General Permit GP-4 for construction of outfalls along the Delaware River on August 26, 2010, subsequently revised by an individual permit application (No. E23-488) on September 23, 2010

This project location was considered by DEP as an Environmental Justice (EJ) Community of Concern and subject to enhanced public participation consistent with DEP's EJ Public Participation Policy. DEP representatives attended a meeting hosted by Eddystone Residents for Positive Change (ER4PC) in April 2010, shortly after the initial permit application was received and many concerns were raised by the citizens. Because there was significant public interest with the proposal, public input was encouraged. During the course of our review, DEP received public comments throughout the application review process, but particularly during the following phases of the process:

1. Release of the draft air Plan Approval for public comments on April 24, 2010
2. Prior to, during, and after a public meeting held by DEP on September 27, 2009
3. During and after the DEP public hearing held on December 14, 2010
4. Release of Draft Industrial Stormwater NPDES permit for public comment on March 15, 2010

A list of public commentators, in addition to the applicant (EMR), is included in **Attachment A**. The commentators are numbered for reference purposes in the comments and responses, e.g. Nos. 2, 3, etc.

The following are the DEP's responses to the comments received on the EMR proposal, sorted by the particular technical program area/applicable permit. A separate document **Attachment B** provides answers to a list of questions raised to the DEP by ER4PC prior to the above-referenced public meeting. **Attachment C** is comments from the applicant on the air Plan Approval application and the DEP's response to those comments. **Attachment D** is a list of acronyms.

Air Quality Program

Air Quality Application Received May 11, 2010

COMMENT 1: The Eddystone area has low air quality. It is requested that a cumulative air impact study be performed due to current poor air quality. (Nos. 2, 3, 4, 8, 13, 14, 15, 17, 18, 21, 27, 29, 31, 32, 33, 35, 36, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 52, and 53)

RESPONSE: The DEP reviewed the past air toxic studies conducted for Southern Delaware County and the current air monitoring results and determined that a cumulative air impact study is not warranted at this time.

Since the proposed source is a metal recycling facility, during our review we focused primarily on the metals and particulate sample results from the three ambient monitoring stations in Southern Delaware County. The *Southern Delaware County Third Interim Report* released by DEP on July 31, 2003, concluded that of all the pollutants measured, those that posed the greatest risk to human health in that area are 1,3-butadiene, 1,2-dibromoethane, benzene, and carbon tetrachloride. Benzene and 1,3-butadiene are common industrial chemicals, and are present in small amounts in gasoline and motor vehicle emissions. 1,2-dibromoethane has been used as a fumigant and in anti-knock gasoline. Carbon tetrachloride is used as a solvent. The metals and particulates sampled during that study were not considered to be a concern for health risks.

We then looked at the metals and particulate sampling levels for the last twelve years and found that there was either no trend or a downward trend in particulate amounts found in the ambient air. Based upon this information and the estimated amount of pollutants from the addition of the metal shredding operation, we concluded that a cumulative air impact study was not warranted at this time.

COMMENT 2: Request that a public hearing should be held. (Nos. 2, 3, 4, 7, 13, 17, 18, 21, 24, 27, 28, 29, 31, 32, 33, 35, 36, 40, 41, 42, 43, 45, 46, 52, and 53)

RESPONSE: The DEP held the public hearing on Tuesday, December 14, 2010. Comments and responses from that hearing are included in this document.

COMMENT 3: Requesting a meeting with the PADEP and EMR. (Nos. 2, 3, 4, 7, 8, 13, 15, 17, 18, 21, 24, 27, 28, 29, 31, 32, 33, 35, 36, 40, 41, 42, 43, 44, 45, 46, 48, 49, 52, and 53)

RESPONSE: A public meeting was held on September 13, 2010.

COMMENT 4: Health problems. (a) Presence of higher than average incidences of asthma and cancer, (b) Chronic Obstructive Pulmonary Disorder (COPD) concerns, and (c) dental problems caused by the asthma medicine. (Nos. 2, 3, 4, 7, 8, 13, 15, 17, 18, 21, 24, 27, 28, 35, 36, 40, 42, 44, 45, 46, 47, 48, and 49)

RESPONSE: These issues were discussed on May 24, 2010, at the public meeting held between EMR and the residents of Eddystone at Lighthouse Hall. We have no evidence that the operation of this facility as permitted will contribute to public health problems in the surrounding area.

COMMENT 5: Acceptance of white goods. These are household appliances and include, but are not limited to: refrigerators, washers, microwave ovens, dryers, air conditioners, etc. . . . These appliances have higher levels of Polychlorinated Biphenyls (PCBs) than automobiles, while the LCD (clock displays) contains mercury. (Nos. 2 and 21)

RESPONSE: The applicant proposes to accept scrap metal only from suppliers who remove LCD displays; electronics/e-waste; air bags; refrigerants; engine and other fluids before shipping scrap to the facility. Suppliers must remove fluids to the maximum extent possible before shipping vehicles. Compliance with this requirement is required by visual inspections, using cameras, radiation detectors, and quality assurance personnel. If at any point prohibited materials are detected, they must be rejected, segregated, and stored temporarily in required impervious containment until the materials are sent off-site for disposal at a permitted facility. The DEP recognizes that no process can eliminate 100 percent of all such materials, but is requiring that all received scrap metal be handled in a manner that insulates the public from any hazards associated with these materials. DEP required EMR to prepare and have approved a Preparedness, Prevention and Contingency (PPC) Plan to ensure that operational contaminant releases are addressed promptly. Nine oil/water separators (Clara treatment units) are proposed to treat any contaminated runoff.

COMMENT 6: Concerned about the outdoor activities, including: loading and unloading of material, automobile shredder residue (ASR) stockpiles sitting outside (flammability, wind erosion, and rain seepage into the soil), fluid leakage, and soil contamination. (Nos. 2, 7, 8, 14, 15, 21, 24, 27, and 28)

RESPONSE: Storage piles would be left uncovered due to frequent transfer of materials. The shredding operation will either have water sprays or foam suppression to reduce air-borne particulate matter (PM) and reduce the possibility of fires and explosions. Potential fugitive particulate emissions from these sources are addressed in Section C, Permit Condition Nos. 002, 003, 018, 019, and 021; and Section D, Source 102, Permit Condition Nos. 001, 002, and 003 of the Plan Approval. Title 25 Pa. Code Sections 123.1 and 123.2 address fugitive emissions and what reasonable means the facility must take to prevent any emissions from crossing property lines. Additionally, Section C, Permit Condition No. 011 of the Plan Approval requires a twice per operating day visual inspection of the site for visible, fugitive, or odorous emissions from the site. The DEP reviews this data during the permitting process and during routine compliance inspections and can require a change in the frequency of such site inspections, if needed.

COMMENT 7: PM less than 2.5 microns (PM 2.5) emitted from truck exhaust and idling, which lead to lung scarring, cancer, asthma, and possibly hardening of the arteries. (Nos. 2, 7, 21, 27, and 29)

RESPONSE: Act 124 of 2008 restricts diesel truck idling. DEP and local law enforcement are authorized to enforce this state law.

COMMENT 8: Use of Best Available Technology (BAT), what exactly is BAT, can it be updated over time? Water and Foam suppression is proposed, but a dry system has been read about. (Nos. 8, 14, 24, 31, 33, and 47)

RESPONSE: BAT to control emissions is determined at the time of construction or modification of a source. BAT may consist of any combination of work practices, raw material specifications, throughput limitations, source design characteristics, an evaluation of the annualized cost per ton of air pollutant removed, and air pollution control devices that have been previously demonstrated to operate satisfactorily in this state or other states with similar air quality on substantially similar air pollution sources. The Environmental Protection Agency (EPA) maintains such a database called RACT, BACT, LAER Clearinghouse – called the “RBLC.” In this case, the DEP considers the following to constitute BAT:

- The shredding of materials inside a building.
- Fugitive emissions from the hammer mill and air classifier limited to zero (0) percent opacity.
- Fugitive emission limits at the transfer points along the conveyor system and stock piles shall not exceed 10 percent opacity for a period of three minutes in any hour, or 30 percent opacity at any time.
- The use of water mists or foam suppression and the air classification system.

By regulation, once a source is installed or modified, BAT is not updated unless a specific law is written for an industry or an affected source.

COMMENT 9: Dust from the loading and unloading of material and from the roadways. (No. 2)

RESPONSE: Metal received would be generally in the form of automobiles, which have been sitting in salvage yards and have had many parts stripped from them. There may be some dust settling from the picking up and dropping of parts as well as from the use of the internal roadways. Section C, Permit Condition Nos. 002, 003, 018, 019, and 021; and Section D, Source 102, Permit Conditions Nos. 001, 002, and 003 of the Plan Approval as well as 25 Pa. Code Sections 123.1 and 123.2 address fugitive emissions and what reasonable means the facility must take to prevent any emissions and to keep them from crossing property lines. Water suppression is the generally accepted method for controlling dust from the operations mentioned and will be used by EMR.

COMMENT 10: Residual metals and chemicals will be released during the shredding process. These include: arsenic, lead, nickel, cadmium, mercury, and PM 2.5. (Nos. 2, 29, and 47)

RESPONSE: The applicant proposes to accept scrap metal only from suppliers who remove LCD displays; electronics/e-waste; air bags; refrigerants; engine; and other fluids before shipping scrap to the facility. Suppliers must remove fluids to the maximum extent possible before shipping vehicles. The DEP recognizes that no process can eliminate 100 percent of all such materials, but is requiring that all received scrap metal be handled in a manner which insulates the public from any hazards associated with these materials. Compliance with this requirement is required by visual inspections, using cameras, radiation detectors, and quality assurance personnel. If at any point prohibited materials are detected, they must be rejected, segregated, and stored temporarily in required impervious containment until the materials are sent off-site for disposal at a permitted facility.

Since the process involves shredding, rather than combustion, air releases will be both limited and contained. The shredding source uses a zero bleed air classification system, designed by Osborn Engineering. This is essentially a cyclone separator, except that the outlet of the separator is directed back to the inlet side of an induced draft fan and is all part of a closed loop system. The metals drop out while the lighter fraction enters the cyclone and then drops out into a surge hopper. Section D, Source 103, Permit Condition No. 001 requires that there be no visible or fugitive emissions from the air classification system, including uncombined water.

COMMENT 11: Request the presence of a medical professional who is knowledgeable in the types of chemicals that will be admitted to the atmosphere and how they will affect our health, especially regarding asthma and cancer. (Nos. 2, 17, 21, 52, and 53)

RESPONSE: The SERO provided DoH contact information during the September 27, 2010, Environmental Justice Public Informational Meeting. Approximately 70 people attended that meeting. EMR also hosted a meeting on May 24, 2010, and a medical professional was present to address these issues.

COMMENT 12: The site is too close to homes. (Nos. 31, 32, 33, and 47)

RESPONSE: The former FOAMEX site is zoned for heavy industry and the existing homes were there when FOAMEX was in operation. The project site is not in close proximity to houses. Although DEP does not have the authority to require a buffer zone or sound barrier, we do recommend discussions between the public, municipality, and EMR about these options. It is also our understanding that an alternative access road into the site has been approved by the Borough and will be constructed.

DRAFT PLAN APPROVAL AND PUBLIC HEARING

COMMENT 1: Health statistics for children and adults comparing Eddystone, Crum Lynne, and Ridley Park with Delaware County and the SE PA regions. Data from the Public Health Management Corporation's 2008 Household Survey indicates that Eddystone residents are at least one-third more likely to have asthma or some chronic condition if you are a child or adult, respectively. Having this facility move into an area where there is already a high incidence of health problems will only make them worse. (Nos. 9, 16, 18, 22, 23, and 24)

RESPONSE: PA DEP and PA Department of Health are aware of the public health and welfare concerns of the area's residents. Our focus is to protect the public health, welfare, and the environment from any hazardous emissions. Therefore, EMR's Air Quality permit requires the use of the current BAT pursuant 25 Pa. Code Section 127.12(a)(5) to minimize air contaminants from entering the atmosphere and has imposed more stringent requirements in EMR's Plan Approval.

COMMENT 2: The location is too close to homes (1,500') and the elementary school (less than a half-mile). If the Plan Approval is approved, it is requested that the health of the residents and the proximity to schools and playgrounds are taken into account. (No. 16)

RESPONSE: The facility is proposed for an area that is zoned for and historically has been used for heavy industry. The facility will be constructed behind fencing and other barriers to minimize the impact on the community.

COMMENT 3: Truck traffic. EMR claims that it will be receiving at least 175 trucks per day. ER4PC believes that to be a vast understatement. It is requested to delay issuance of the permit until the applicant and the Borough have resolved the issue of creating an access road from Route 291 directly to the facility. (Nos. 6, 7, 9, 16, 17, 18, and 20)

RESPONSE: The DEP does not have the authority to delay issuance of a Plan Approval based solely on issues between the municipality and the residents when the land use is consistent with the zoning. The DEP understands that the Borough has approved construction of the requested secondary entrance to the facility.

COMMENT 4: Noise, vibrations, and odors are well-known impacts from mega shredders. EMR has not offered any credible noise or vibration studies, nor has it identified how it will control odors, other than to assert that the shredding will take place indoors. (Nos. 11 and 16)

RESPONSE: The Borough has authority to regulate noise and vibration ordinances under Code of Eddystone, Chapter 196 – Noises.

The only odors that the DEP has experienced from the shredder located in Bucks County are caused by the heating of the automobiles as they pass through the hammermill. This source of odors can be controlled through the use of water or foam as a coolant. Title 25 Pa. Code Section 123.31(b) prohibits the emission into the outdoor atmosphere of any malodorous air contaminants from any source, in such a manner that the malodors are detectable outside the property of the person on whose land the source is being operated. Section C, Condition No. 011 of the Plan Approval requires a twice per operating day visual inspection of the site for visible, fugitive, or odorous emissions from the site. The DEP reviews this data during the permitting process and during routine compliance inspections and can require a change in the frequency of such site inspections, if needed.

COMMENT 5: The DEP received general comments concerning the company's relationships with its existing residential neighbors in Camden and Philadelphia and the lack of transparency in the local approval process. (No. 16)

RESPONSE: The DEP strongly encourages regular transparent discussions between the many stakeholders, including the local municipality, residents, and businesses. The DEP can only consider the applicable environmental regulations in rendering its decision.

Under the Environmental Justice (EJ) Enhanced Public Participation Policy, DEP grants communities timely access to information on the proposed project, an opportunity to participate in an informational public meeting and opportunities to submit public comments.

COMMENT 6: It is requested that the DEP makes its presence known on a regular basis. (No. 25)

RESPONSE: Our intention is to perform more frequent inspections at this facility to ensure early ongoing compliance. We will have to consider our resource limitations and use resources wisely. See also Item 1 of Attachment B.

COMMENT 7: Tarping should be required. It is requested that all trucks in and out of the facility be required to be tarped. (Nos. 7, 12, 14, and 25)

RESPONSE: The tarping of trucks is regulated under the PA Department of Transportation's rules and regulations. Please use the following link to obtain more information:

Also, please note that the responsibility to tarp falls on the driver, the hauling company, and the place where the truck left from. The DEP negotiated and added conditions to the Plan Approval that requires the facility to place signage at the facility reminding all drivers that outgoing laden trucks be tarped, Section C, Permit Condition No. 020. Section C, Permit Condition No. 021 requires that all company owned be tarped when loaded with material, that they notify, in writing, all trucks owners and operators that haul loads to their facility that it is their responsibility to tarp loaded trucks.

COMMENT 8: It is requested that PA's Anti-Idling Law be enforced by the DEP. (Nos. 6, 7, 9, 17, 18, 20, and 25)

RESPONSE: Under Act 124 of 2008, both local law enforcement and DEP have been authorized to enforce limits on diesel truck idling. However, Act 124 prohibits DEP from placing any language into an air permit pertaining to this law.

COMMENT 9: It is requested that the residents have the opportunity to tour the facility to gain a better understanding of its operations. It is also requested to create a community advisory board. (Nos. 16 and 25)

RESPONSE: Facility tours will need to be addressed directly with the permittee. We recognize the benefits of a community advisory board or an environmental advisory committee, but DEP cannot make this a requirement of the permit. The DEP's Office of Environmental Advocate can assist the local community in the creation of an advisory board.

COMMENT 10: Residents have spoken to many people and written letters to the Borough and others on a number of issues, including: EMR conforming to the local ordinances; dust, noise, and traffic concerns from residents near a Minneapolis facility; vibrations that shook homes at an Indianapolis facility up to 1.7 miles away as well as dust and odors; requests of Eddystone Council to enact ordinances to protect the community. (No. 21)

RESPONSE: This comment seems to be directed towards the Borough Council.

COMMENT 11: This commenter is looking to DEP to strictly regulate EMR. Even though the EMR site is zoned as heavy industry does not mean that the area has to be plagued like they were in the past. A compliance demonstration is requested before any permanent permits are issued and that all reports and test results be made available to the public. (Nos. 18, 24, and 25)

RESPONSE: The DEP, in accordance with 25 Pa. Code, Section 127.12b(a), has the authority to assure proper operation of the source and will conduct an inspection of the facility, while in operation, to determine compliance. The DEP will not issue an Operating Permit for this facility until they have demonstrated complete compliance with the conditions in the Plan Approval.

The shredding operation will incorporate a closed source, meaning there is no flue where emissions exit into the atmosphere and which could be tested for compliance with emission limits. So while there may be no test reports that can be made available to the public, all inspection reports and any records we require the facility to submit for compliance determinations are considered public information. These records can be accessed through the Records Management Section of the DEP.

COMMENT 12: It is requested that the entire site be enclosed and testing for on-site vapors be performed. (Nos. 5, 6, 7, 12, 14, 15, 17, 21, 22, 23, 24, 26, 27, 28, 30, 38, 47, 48, and 50)

RESPONSE: The shredding part of the facility, which presents the greatest potential for air emissions, will be housed inside a three-sided building. The pollutant of concern from the shredding facility is particulate matter (PM), not vapors. PM will be controlled through the use of the suppression system and water sprays at the end of each conveyor. A well operated suppression system should control odors.

COMMENT 13: Why does it take six (6) months for the community to receive answers to their questions that were posed to both EMR and the DEP? (No. 14)

RESPONSE: EMR provided answers in writing to all the questions submitted by the Eddystone Residents for Positive Change during the September 27, 2010, meeting. Each attendee received a copy of the answers. Copies of the EMR questions and answers document are available upon request to the DEP's Regional Office. DEP's presentation at the September 27, 2010, meeting was developed with the community's original questions in mind. The DEP also considered many of the comments throughout the application review process. A document containing answers to all the questions submitted to the DEP by the ER4PC has been included as part of this document as Attachment B.

COMMENT 14: Community Benefits Agreement (CBA) and Community Advisory Board. It is requested that a CBA and an advisory board be drawn up between the community, the residents, and the company. (Nos. 2, 14, 15, 16, and 21)

RESPONSE: A CBA and an advisory board are agreements between the applicant, the municipality, and the residents. DEP does not have the regulatory authority for requiring these organizations. The DEP's Office of Environmental Advocate can assist with the creation of an advisory board.

COMMENT 15: There should be increased testing frequency for odors, visible emissions, vapors, and fugitive material, and the results should be made available to the public. (Nos. 11, 14, 22, 24, 28, 30, 38, 39, 47, 48, 49, and 50)

RESPONSE: The DEP agrees and revised Section C, Permit Condition Nos. 020 and 021 of the Plan Approval to require visual inspections of the site twice per operating day for visible, fugitive, or odorous emissions. The DEP requires that the facility maintain records of these inspections at the site for review by the DEP. Since we do not require that these records be submitted to the DEP, they are not available for review by the public. However, all inspection reports and any records we require the facility to submit for compliance determinations are considered public information. These records can be accessed through the Records Management Section of the DEP.

COMMENT 16: There are concerns with BAT for this proposal. According to a February 2010 presentation by Mr. Balzano, the technology at the Penrose Avenue site is over 50 years old. Since the Penrose site has not been updated, it is feared that they will not update the Eddystone site in a timely manner. In Oswego, NY, at a facility called Upstate Shredding, the shredder is housed indoors, along with the cranes and scrap piles in an effort to control the facility emissions. DEP should consider this BAT. Fugitive emissions from unloading vehicles, loading of trucks, conveyor belt transfer points have

not been accounted for. As an alternative, the conveyors should be equipped with high sides and be covered. (Nos. 16 and 50)

RESPONSE: DEP contacted Mr. Adam Weitsman, owner of Upstate Shredding in NY and was informed that his facility is not located indoors. Although the incoming cars, shredder, shredded metal, and fluff are each located under a roof, they are not in an enclosed building. They are in what are commonly termed “pole buildings,” which consist of poles supporting only a roof that is approximately 65' above the ground.

DEP determines BAT at the time of installation of an air pollution source. BAT for the Eddystone facility will be much more sophisticated technology than what is used at the Penrose Avenue facility. Water or foam suppression will be used to control dust particles. This technology has been proven to inhibit dust particles from becoming airborne. BAT cannot be updated or enhanced based on technology that comes along in the future, unless a change takes place at the facility and then it would only affect the part of the process that was changed.

Regarding the accounting of fugitive emissions during DEP’s review, we accounted for emissions between the transfer points of the conveyors in their application in the amount of 1.37 tons of particulate matter. There are no emissions factors available for the loading and unloading of trucks carrying scrap metal. While we may or may not account for different sources of fugitive emissions, the facility is required to comply with our fugitive emissions regulation. This requirement is also listed in Section C of the Plan Approval.

Covered conveyors have caused problems. DEP believes the use of high-sided conveyors and wetting the material will suffice for reducing fugitive emissions caused by cross winds.

COMMENT 17: On behalf of the Chester-Ridley-Crum Watershed Association. The comments concerned items with the Borough and the different functions that EMR has assisted with and made donations to, as well as personal assaults against this commentator. (No. 2)

RESPONSE: This comment did not address the draft Plan Approval or any environmental issues.

COMMENT 18: How will the residents of Eddystone be protected? (No. 41)

RESPONSE: The facility is required to install BAT on their emission source and implement best management practices for stormwater control. The facility will be subject to periodic inspections by DEP staff. EMR must also comply with any Borough requirements.

COMMENT 19: Noise pollution caused by increased truck traffic, mechanized noise, and other equipment. There simply are no noise barriers that EMR or the Borough has proposed to protect the Eddystone residents. EMR has provided only average sound levels and has not provided any peak noise levels as requested. How are residents to sleep when the shredder is operating? EMR’s history shows that their other facilities have done very little in this regard. There is a history of complaints of noise against this company (as well as noise and dust complaints from sites in Minnesota and Indiana), which have not been addressed. (Nos. 2, 6, 9, 11, 12, 16, 18, 21, 22, 23, 24, 26, 30, 38, 39, 48, and 49)

RESPONSE: The DEP is aware of some of the problems concerning the referenced facilities. BAT for EMR will minimize dust problems. Noise levels are regulated under the Borough’s noise ordinance and have been discussed in the municipality’s preliminary land use agreement with EMR.

COMMENT 20: A resident of Chester stated that the air quality and noise pollution in Chester is deplorable. DEP must continue to set tough standards and hold companies accountable. (No. 53)

RESPONSE: Since 1995, DEP has been working with EPA - Region III, measuring the concentrations of certain pollutants in the ambient air of southern Delaware County. Currently, there are three air monitoring sites located in Chester, Marcus Hook, and Swarthmore to assess ambient air quality. These monitoring sites allow the DEP to assess current concentrations of certain air contaminants and to estimate the health risks of the ambient air. Seeing that this operation is a source of particulate emissions, we looked at the metals and particulate sampling levels for the last twelve years and found that there was either no trend or a downward trend in the amounts found in the ambient air. Through the Air Quality Plan Approval, DEP has included more restrictive requirements for EMR and will enforce these requirements throughout the operations of the facility.

As stated above, the Borough has the authority to regulate noise but DEP does not.

COMMENT 21: Air Pollution. There is already an epidemic in Delaware County, specifically along the Delaware River. Eighty (80) percent of the varsity football players are suffering from asthma in some way, shape, or form. Asthma rates also increase during the summer months when the Borough is operating its youth programs. Will there be a way to curb traffic flow when the ozone levels are high? (No. 26)

RESPONSE: The DEP has made great strides in reducing the pollutants that contribute to ground-level ozone. The DEP, through its participation in the Air Quality Partnership (AQP), is dedicated to improving air quality in the Greater Philadelphia Region by providing air quality advisories and educating the public about air quality issues. The AQP is administered by the Delaware Valley Regional Planning Commission.

The AQP provides air quality forecasts for ground level ozone and fine particulate matter (PM 2.5). You can learn more about the partnership and their efforts at their website:

<http://www.airqualitypartnership.org>

COMMENT 22: Can the hours of operation be limited? EMR has not disclosed anything concerning delivery times from its own employees, only commercial haulers (see Item 12, of the preliminary land use agreement). (Nos. 2, 14, 15, 16, 21, and 26)

RESPONSE: The DEP does not unilaterally limit the operating hours of a facility without having a sound environmental reason for such a limitation. If a facility agrees to a limitation, we can include that as a condition of their Operating Permit.

COMMENT 23: Can a third party be established to ensure annual compliance, something similar to the International Organization of Standardization (ISO)? Isn't there an ISO 14,000 certification? (No. 26)

RESPONSE: The DEP cannot require the involvement of a third party group to monitor compliance. EMR can seek ISO 14000 certification, but DEP cannot make it a requirement of its permits.

COMMENT 24: Past examples from this company have indicated that they are more willing to pay the fine than comply with environmental regulations. (No. 26)

RESPONSE: The proposed facility will be equipped to comply with the current environmental requirements, many of which did not exist when EMR's related facilities were placed in operation. DEP expects EMR to comply with all of its permit requirements and will use its enforcement powers to ensure compliance.

COMMENT 25: Why has the DEP authorized 9.24 tpy of PM when the GIF (General Information Form) identified only 1.36 tons? (No. 16)

RESPONSE: The 9.24 tons in the application represents the potential emissions from all sources, including the air classifier, should it fail for an entire 365 consecutive days. 1.36 tons from the GIF represents the anticipated actual emissions from the stock piles, given assumed moisture content and an average wind speed.

COMMENT 26: Fires pose a high risk, given the history at other shredder sites, and due to the sometimes enormous stockpiles awaiting processing. It is noted that the Land Development Agreement with the Borough allows stockpiles up 75' in height. There was a fire incident at EMR's Penrose site in 2007 and another in Jersey City, NJ, in October 2010. It is requested to incorporate the conditions from the "Conditions to Grant Preliminary Land Development Approval" into each permit that the DEP issues. (No. 16)

RESPONSE: The DEP does not have the authority to incorporate third-party agreements into any of its documents, without the written consent of the applicant. The Borough has jurisdiction for this matter. While fires have occurred at other facilities, DEP's BAT requirements minimize that possibility at the EMR Eddystone facility.

COMMENT 27: Since the school and playground are relatively close to the roads where the trucks will travel, it is requested that all trucks and heavy equipment be retrofitted with diesel engines. (No. 16)

RESPONSE: The DEP encourages but cannot require EMR and/or its haulers to voluntarily enter into the retrofit program. All engines model year 2007 or newer are constructed to meet the lower emission standards.

COMMENT 28: Regarding Section B, Condition No. 003, suggest adding a condition requiring a compliance demonstration prior to DEP's issuance of temporary operation, and please confirm whether 25 Pa. Code, Chapter 127, Subchapters F and G apply to EMR's application. (No. 16)

RESPONSE: The DEP does not have the authority to request a compliance demonstration be performed in a controlled environment. However, in accordance with 25 Pa. Code, Section 127.12b(a), the DEP has the authority to assure proper operation of the source, including the requirement for a compliance demonstration prior to issuance of an Operating Permit. Also, Subchapter F is applicable.

COMMENT 29: Please confirm that the phrase "no person" under both 35 P.S. Section 4008 and proposed Plan Approval Section B, Condition No. 008 is intended to include any person, including without limitation, the proposed permittee, its employees and representatives, as well as the Borough and its employees, officials, and representatives. (No. 16)

RESPONSE: In both cases, the phrase "no person" is intended to cover every single person, including, but not limited to, employees of the permittee and the residents of the Borough.

COMMENT 30: Regarding proposed Section B, Condition No. 012. Is EMR required to develop and implement an accidental release program consistent with this condition? Has EMR prepared, and submitted a Risk Management Plan (RMP) consistent with this condition and will this be a public record? Is EMR aware of the threshold quantities of chemicals required for the accidental release program? ER4PC requests that EMR be required to perform testing and analysis of its process to identify and measure the quantities of regulated substances listed in 40 CFR Section 68.130. This testing and analysis should be included in Section C or the Plan Approval under testing, recordkeeping, and reporting requirements. Temporary operation should not commence before EMR has fulfilled its obligations for this condition. (No. 16)

RESPONSE: EMR is not required to develop and submit a Risk Management Plan as they do not store any chemicals listed in 40 CFR Section 68.130 that are above the applicable thresholds. Since the facility is not subject to this requirement, the remainder of these questions are not applicable.

COMMENT 31: Regarding Section C, Part I (Restrictions), DEP is requested to include several omitted regulations here. (25 Pa. Code Sections 121.7 and 123.31) (No. 16)

REPSONSE: The DEP added the two referenced regulations to the Plan Approval, along with several others that were not mentioned in the comments.

COMMENT 32: In Section C, Part II (Testing Requirements), DEP is requested to add a general testing requirement. (No. 16)

RESPONSE: A general testing condition has been added to the Plan Approval. This condition allows the DEP to require testing at the facility, if necessary.

COMMENT 33: Regarding Section C, Condition No. 003, monitoring for odors, visible emissions, and fugitive PM should be done more than once per operating day, including inspections during night hours when the shredder is in operation. It is feared that this permit condition could be rendered meaningless unless a condition using the language of 25 Pa. Code Section 123.43 is used. Please confirm that the "permanent written log" is to be a public record. If not, how will the surrounding community have timely access to all relevant facts pertaining to occurrences of the monitoring for this condition? (No. 16)

RESPONSE: The DEP has clarified the condition to require night-time monitoring during the actual shredding operation, along with day-time monitoring when deliveries are being made. The requested regulation (25 Pa. Code Section 127.43) has been added to the Plan Approval. All DEP requested, and subsequently submitted records, are considered public information and can be accessed through the Record's Management Section of the DEP. The "Permanent Written Log" that is kept and maintained by the company is not considered a public record.

COMMENT 34: Section C, Condition No. 004. Please confirm that this record will be public information and how the surrounding community will have timely access to all relevant facts pertaining to occurrences of the monitoring for this condition. (No. 16)

RESPONSE: All required records that are submitted to DEP are considered public information and can be accessed by request at DEP's Southeast Regional Office's (SERO) Records

Management Section. The “Permanent Written Log” that is kept and maintained by the company is not required to be submitted to DEP and therefore is not considered public information.

COMMENT 35: Regarding Section C, Condition No. 005, please confirm that the 5-year records retained on-site will be available to the public? After the 5-year period has expired, it is requested to have these records archived for the public’s access. Suggestions are: local library or other publicly accessible local facility including the DEP’s Southeast Regional Office. (Nos. 16 and 50)

RESPONSE: Please see the response to Comment 34. All DEP records are kept in DEP’s SERO in accordance with the applicable record retention schedules. These records are available for public review. DEP cannot require the company to store their records at a public library or other local site.

COMMENT 36: Regarding Section C, Condition No. 006, replace “Operating Permit” with “Plan Approval.” Please confirm that all phone records will be considered public records and accessible to the public and that written reports will be considered public records and accessible to the public. (No. 16)

RESPONSE: “Operating Permit” has been replaced with “Plan Approval.” All telephone records of incidents pertaining to Plan Approval conditions are available for public review at the DEP SERO. See also response to Comment 34.

COMMENT 37: Section C, Condition No. 007. Three comments listed below:

- (a) Provide guidance as to what the DEP considers “reasonable” with respect to this condition. Is cost a factor? If so, at what threshold?
- (b) Please confirm that 7(b) applies to in-feed stockpiles as well as shredded stockpiles.
- (c) Please confirm that the conditions of 7(d) are applicable to any and all public roads and public paved streets, whether on-site or off-site. (Nos. 16 and 50)

RESPONSE:

- (a) **There is no definition of “reasonable” as it is used in 25 Pa. Code Section 123.1(c). That term is used in regulations to give the DEP inspectors flexibility to make a case by case determination. There are four examples of “reasonable actions” listed in the condition and underlying regulation which gives some idea of what will be considered to be reasonable.**
- (b) **The term, “material stockpiles,” applies to all stockpiles at the facility (pre and post-shredded).**
- (c) **The DEP has historically interpreted 25 Pa. Code Section 123.1(c)(4) to be roads that are owned and maintained by the company. The Borough has jurisdiction of its own public roads.**

COMMENT 38: Section C, Condition No. 008. Three comments listed below:

- (a) Confirm that stockpiles (in-feed and shredded material) are to be placed on sealed surfaces. If not, it is recommended that the DEP require this. It is also requested that roofed building(s) be utilized for all stockpiles to reduce fugitive emissions, as is done at Upstate Shredding, in Oswego, NY.

- (b) Correct the typographical error.
- (c) Visual inspections should be performed more than once per day, as expressed in an earlier comment. (No. 16)

RESPONSE:

- (a) **The in-feed and shredded piles are on paved locations and the stormwater is collected and directed to oil/water separators (Clara units) and then rain gardens prior to discharge to the river.**
- (b) **The typographical error has been corrected.**
- (c) **The DEP has the authority to require more frequent monitoring as long as the reason for the increase can be justified. The Plan Approval condition has been rewritten to require monitoring twice daily and specifies when that will occur. This is more stringent than the standard condition for perimeter monitoring, which only requires daily inspections and can be reduced to weekly and quarterly monitoring if the facility requests and receives approval from the DEP.**

COMMENT 39: Section C, Condition No. 009. It is recommended that a sign be posted for the proper tarping of all incoming loads. (No. 1)

RESPONSE: The DEP does not have the regulatory authority to require tarping on in-coming trucks as the Plan Approval pertains only to EMR. Tarping is covered under PennDOT regulations. The DEP, however, negotiated and added conditions to the Plan Approval that requires the facility to display signage reminding all drivers that outgoing laden trucks be tarped, Section C, Condition No. 020. Section C, Permit Condition No. 021 requires that all company owned vehicles be tarped when loaded with material. They must also notify, in writing, all trucks owners and operators that haul loads to their facility that it is their responsibility to tarp loaded trucks.

COMMENT 40: Section C, Condition No. 012. Please confirm that this condition requires EMR to comply with all of the requirements and subsections of 25 Pa. Code, IX. (No. 16)

RESPONSE: We removed this condition from the Air Quality Plan Approval since it relates to Waste Management requirements. Regardless, the facility is subject to regulations applicable to residual waste generators.

COMMENT 41: Section D, Source 101, Condition No. 002. Three comments listed below:

- (a) It is requested to remove the term “etc.,” and replace it with a clarifying term, such as “including, but not limited to.”
- (b) It is requested that DEP identify procedures for any on-site removal and storage of such free flowing liquids.
- (c) It is requested that (k) be modified to remove the following words, “or a few in large roll-off dumpsters.” (Nos. 12 and 50)

RESPONSE:

- (a) **The DEP has clarified the condition as requested.**
- (b) **All free-flowing fluids are required to be drained prior to delivery to EMR.**
- (c) **The language in Sub-condition K has been rewritten to match the Land Use Agreement, Item 10.**

COMMENT 42: Section C, Source 101, Condition No. 003. It is requested to clarify that night deliveries be performed under appropriate lighting. (No. 16)

RESPONSE: The DEP concurs and has clarified the condition.

COMMENT 43: Section D, Source 101, Condition No. 005 (Section D, Source 103, Condition Nos. 002 of the current Plan Approval). Please clarify how “an acceptable range of operation” will be determined and whether or not the public will have the opportunity to comment on it. Additionally, please clarify what the acceptable range applies to. (No. 16)

RESPONSE: The DEP will consider manufacturer’s design data, operations during the permitted start-up and shake-down period, as well as actual monitoring data from operating conditions in its decision. The public will not be given the opportunity to comment on the established range of operation. The acceptable range refers to the pressure differential across the air classification system. The pressure drop range is used to determine if the system is operating properly to prevent fugitive emissions.

COMMENT 44: Section D, Source 101, Condition No. 011. Five comments, as listed below:

- (a) It is requested that only properly trained personnel perform the inspections on incoming loads and that the crane operator be properly trained on inspection procedures.
- (b) Records of the above training should be maintained.
- (c) ER4PC requests that proper training be defined as one who received training on inspection procedures from a credentialed environmental health and safety instructor experienced in: solid waste management; and best management practices for inspection procedures and emergency procedures in any and metal recycling and shredding operations.
- (d) Load inspectors and crane operators should be subject to the same semi-annual refresher training.
- (e) Minimum training standards should be defined by the DEP. These should include without limitation, inspections procedures for incoming loads and scrap classification, and emergency procedures. (No. 16)

RESPONSE:

- (a) **The DEP concurs and has made the requested change.**
- (b) **The DEP concurs and has made the requested change.**
- (c) **This request is beyond the DEP’s authority.**

- (d) **The DEP concurs and has made the requested change.**
- (e) **The safety and operational standards for plant personnel and equipment are best handled by the company. The DEP, through the permitting process and routine compliance inspections, can review training material and recommend changes, if necessary.**

COMMENT 45: Section C, Source 101, Condition No. 012. ER4PC has submitted recommended changes to this condition, as well as including a reference to appropriate lighting for night-time deliveries. (No. 16)

RESPONSE: **The DEP concurs and has made the appropriate changes.**

COMMENT 46: Section D, Source 102, Condition No. 001. Has the DEP verified the applicant's calculations of 9.24 tons of fugitive PM? If so, why is that number different from the facility in Bucks County given the same capacity and throughput for each facility? (No. 16)

RESPONSE: **Yes, the DEP has verified the formula, variables, and calculation. The difference between the two numbers has to do with the different variables in the equation, average wind speed for a local geographical area and assumed moisture content of the materials.**

COMMENT 47: Section D, Source 102, Part IV (Recordkeeping). It is requested to add a condition for the monthly calculation of fugitive emissions. (No. 16)

RESPONSE: **The DEP concurs and has made the recommended change.**

COMMENT 48: What are the positive (municipal and personal) and negative (environmental) impacts? (Nos. 7, 26, 28, 30, 38, and 47)

RESPONSE: **Any evaluation of the environmental impacts must consider not only the very limited potential for air and water emissions from this facility but also the significant benefits of metals recycling. Metals are extremely energy-intensive to manufacture from raw ores and the extraction and manufacturing process creates significant quantities of pollutants to be managed. Recycling metals avoids the energy and pollution costs and also avoids the unnecessary use of landfill space.**

COMMENT 49: What are EMR's "Green" initiatives? The company was going to look into solar panels, what about wind energy? (Nos. 7 and 21)

RESPONSE: **The DEP encourages companies to adopt green initiatives, but it cannot require them to implement these initiatives. In this case, nothing was submitted with the application and the DEP is not aware of such plans.**

COMMENT 50: There should be no welding or metal cutting allowed on the property. This includes, gas, plasma, or heating of metal. (Nos. 22, 23, 28, 47, 48, and 51)

RESPONSE: **Cutting and welding operations are allowed by the DEP, under its Air Quality Permit Exemption list, provided that this activity is not part of the company's major business. For example, EMR does not cut, weld, and assemble pieces. However, they may need to cut open large items that will not fit into the shredder, or open closed containers, trunks, or hoods, while spot checking for batteries, mercury switches, free flowing fluids, etc.**

COMMENT 51: Has the DEP permitted any similar projects? If so, where, and what have you found? (No. 27)

RESPONSE: Yes. There is a similar source in Fairless Hills, Falls Township, Bucks County. We conducted several inspections at this facility and found no emission violations. Because the unit operates at night, we conducted an after-hours inspection in October 2010. We did document a minor violation. A pressure drop monitor was not properly connected, which they easily corrected.

There is another smaller operation (approximately 40–60 tons/hr) in Coatesville, Chester County that the DEP has inspected over the years. This site is not required to be permitted under air quality regulations. We have not had any recent complaints or compliance issues at this site.

COMMENT 52: Job Cuts at the DEP. How does this affect things? (No. 27)

RESPONSE: Although the regional office lost a total of 13 positions in the 2009 furloughs, the department anticipates that it will be able to meet its statutory obligations. No additional furloughs are anticipated at this time.

COMMENT 53: Initial testing. Can this be written into the air permit? (No. 27)

RESPONSE: There is no air quality related testing as all emission limits and data have been derived based on formulas in EPA documents.

COMMENT 54: What will be the frequency of inspections, changing filters on the air purifiers and is there annual “fluff” testing, and what happens if the “fluff testing” does not pass? (No. 6)

RESPONSE: For Air Quality purposes, based upon the potential emissions from this source, the facility is classified as a “natural minor” source, meaning the proposed emissions of criteria and air toxic pollutants are below major source thresholds. The DEP, under our grant commitment to EPA, is required to conduct inspections at Synthetic Minor facilities once every five years. Even though this facility is smaller than a synthetic minor, we are committed to conduct inspections at the site at a minimum of once every five years. Realize that this is a minimum inspection frequency; our office routinely conducts inspections on a more frequent basis.

Air quality inspections usually fall under the heading of a full compliance inspection. This means that the inspector(s) visit the site, unannounced, and view the facility and the sources of air pollution for compliance with all requirements in the air quality permit. We do not inspect sources for compliance with local ordinances. Another type of inspection routinely conducted is the drive-by inspection. This is an inspection to see if there are any fugitive, visible, or malodorous emissions that are occurring at a site when an inspector is in the field. These inspections are routine and usually do not result in any written reports, unless we actually discover a problem.

Testing of air pollution sources is not routinely conducted during full compliance inspections. We do have the right to request testing at any time if there is a valid reason for the testing.

COMMENT 55: Samples of air, water and soil, to establish a baseline. (No. 50)

RESPONSE: As this facility is considered a “natural minor” under the Air Quality regulations, no Air Quality testing or baseline requirements are required.

Watershed Management Program

COMMENT 1: How will the Delaware River, nearby surface waters and groundwater be protected from contaminants contained in stormwater runoff from the construction activities and post construction site operation? (Nos. 2, 16, 34, and 37)

RESPONSE: Impacts from stormwater will be addressed through dual permitting under the National Pollutant Discharge Elimination System (NPDES) as described below:

Individual NPDES Permit for Discharge of Stormwater from Construction Activities: During construction, this permit will focus on Erosion and Sedimentation (E&S) Control as required under the Chapter 102 Regulations. E&S practices are designed to meet the technical criteria identified in the PA Erosion and Sediment Pollution Control Program Manual (issued April 2000). The approved E&S practices for this project include sediment basins, silt fence, rock construction entrances, inlet protection, riprap outlet protection, and temporary and permanent seeding to stabilize unpaved areas. After construction is completed, the permit will focus on Post-Construction Stormwater Management (PCSM) using Best Management Practices (BMPs). Post-construction BMPs are designed to manage the volume, rate, and water quality of runoff in accordance with the established NPDES permitting requirements and the technical criteria identified in the PA Stormwater BMPs Manual (12/2006). PCSM BMPs for this project include various bio-retention facilities, structural water quality treatment devices, and street sweeping.

Individual NPDES Permit for the Discharge of Stormwater Associated Industrial Activities: During operation, this permit will focus on the requirements for minimizing the contact of stormwater runoff with the industrial activity, and ensuring that potential pollution impacts are reduced through the use of a Preparedness, Prevention and Contingency Plan (PPC), monitoring and BMPs such as oil/water separators, rain gardens and emergency sluice gates for spill capture.

In addition, physical impacts to the Delaware River will be addressed through a Water Obstruction and Encroachment Permit associated with the proposed outfall structures, which will focus on the health, safety, and environmental impacts of the four proposed stormwater outfalls including: potential threat to life, property and navigation; effects on ecology, water quality and riparian rights; and, consistency with other state program requirements for cultural and environmental impacts.

Based on our review of these permit applications, which were supplemented with revisions made in response to our technical review comments, we have determined that the applicable regulations and permitting requirements have been met. The proposed stormwater management plan will be protective of applicable water quality standards including protection of fish and aquatic life.

COMMENT 2: Have impervious surfaces been adequately considered in the evaluation of the proposed stormwater management techniques proposed under the relevant permit applications and are the proposed techniques adequate? (Nos. 16 and 34)

RESPONSE: The Post Construction Stormwater Management (PCSM) Plan has been reviewed for adequacy based on the proposed impervious surface design and is a key component to our

review. The existing site is zoned “Heavy Industrial” and is covered by large amounts of impervious cover, including several buildings that will remain in place. The project also includes new impervious cover to facilitate operations at this site. The application includes several BMPs to deal with the rate, volume, and quality of anticipated runoff from the entire site, including impervious areas. The proposed site layout will include several pervious areas, which will be fully utilized as green spaces for stormwater management purposes. The riverward side of the project design includes a riparian buffer and two very large rain gardens – which will also be utilized as sediment basins during construction. There are also eight rain gardens on the perimeter and interior to the project that will manage stormwater runoff.

Based on input during pre-application meetings and our review comments, the PCSM Plan has been significantly improved by adding additional oil/water separators, increasing the area’s tributary to the rain gardens for additional treatment, and an improved Pollution Prevention and Contingency Plan to address pollution from site operations, including any accidental releases. The final design meets the DEP’s regulations and guidance for protecting water quality standards. A “treatment train” approach using multiple management methods has been utilized on most of the impervious surfaces on the site to maximize water quality treatment, including: source control through street sweeping; gravity separation and oil absorption through BMP Snouts with Oil Boom Pillows; and settling, filtration and biological/chemical reduction through Rain Gardens (a.k.a. Bioretention). Impervious areas that are subject to operations and potential oil in the runoff also incorporate a treatment train approach including: gravity separation through structural oil/grit separators; settling through detention structures; and settling, filtration and biological/chemical reduction through Rain Gardens (a.k.a. Bioretention). Through input by the DEP, EMR arrived at this multiple treatment train approach, which is considered state-of-the-art and meets the design objectives in Pennsylvania’s Stormwater BMP Manual.

As previously noted, the existing site has significant impervious areas that have never had stormwater management control facilities to improve the quality of the runoff or to reduce the rate and volume that contribute to erosion and deposition of sediment. The proposed site will have site-wide advanced stormwater management facilities that will likely improve and reduce the stormwater impact to receiving waters.

COMMENT 3: It appears that the Applicant has reduced the number of “BMP Snouts” it proposes to install from ten to eight. What is the rationale for this reduction in the total number of BMP snouts? (No. 16)

RESPONSE: The applicant did not reduce the number of BMP snouts. The original application had a typographical error in the first submission. The applicant always had eight BMP snouts proposed at strategic locations.

COMMENT 4: The activities proposed should not negatively impact the Delaware River water life, including the recently discovered uncommon fresh water mussel beds. (Nos. 2 and 16)

RESPONSE: With respect to protection of aquatic resources, including mussels, the DEP’s water quality standards have been developed to ensure protection of fish and aquatic life as well as human health. As discussed in No. 2, stormwater runoff is managed through the application of BMPs to meet these standards. Considering the treatment train proposed for stormwater runoff and the minor temporary river bank disturbance expected from construction of the outfalls, no adverse impact to the water life is expected. The design as revised meets the DEP’s criteria and should protect the aquatic resources, including freshwater mussels. The recently discovered mussel beds were located well upstream of the site and will not be impacted.

COMMENT 5: Groundwater recharge concerns with the proposed rain gardens. (Nos. 2 and 16)

RESPONSE: From a functional standpoint, the rain gardens are primarily designed to provide filtration and biological/chemical reduction of any pollutants contained in the runoff that were not removed by a preceding BMP in the treatment train. Groundwater recharge is not a major function of these rain gardens, which have been equipped with perforated underdrains to capture and convey treated runoff after filtering through 24 inches of engineered soil. Operation and Maintenance Plans have also been developed to sequester and properly dispose of any captured pollutants from the rain gardens.

COMMENT 6: It also seems notable that the four identified Clara units (C25-1, C25-2, C40-1, and C40-2) that are designed to handle the area, including the in-feed stockpiles are, as of the March 2011 revision, now apparently going to be pumping first flush to Rain Garden No. 2E with the ability to divert to Rain Garden No. 2, rather than the reverse, as was stated in the November 2010 revision. What was the rationale for this change? (No. 16)

RESPONSE: Rain Garden 2E was originally over-designed with extra treatment capacity and was identified during DEP review to be a better option for initial pumping of flow from the Clara units treating the in-feed areas. Furthermore, subsequent design changes resulted in additional Clara units to treat runoff from the finish pile areas, which then drain to Rain Gardens 1 and 2. Hence, selection of Rain Garden 2E as a primary destination has proven to be a better overall option for water quality treatment.

COMMENT 7: Will DEP require that pads, liners or berms be installed under or around the piles to control wastewater and stormwater runoff? (No. 2)

RESPONSE: Refer to No. 2. Stormwater is contained and controlled prior to discharge. The in-feed and shred piles are situated on paved locations and the stormwater runoff is collected and directed to oil/water separators (Clara units) and then rain gardens for treatment prior to discharge to the river.

COMMENT 8: What effect will rainfall have on piles of Zorba 10 and ASR material? (No. 2)

RESPONSE: Both the storage pile and the working pile near the shredder will be under roof to avoid contact with rainfall. Any rainfall contacting incidental ASR materials that is not absorbed or evaporated and results in runoff will be treated by the proposed stormwater BMPs as noted in No. 2.

COMMENT 9: All appropriate baseline and impact studies should be conducted for any long term health and aquatic life impacts. The final plan should include state-of-the-art environmental controls. (No. 34)

RESPONSE: See Nos. 1, 2, and 4 regarding health and aquatic life impacts and the proposed treatment BMPs. Baseline studies are not required by the stormwater regulations or the permit application process.

COMMENT 10: The applicant proposes to use the existing storm sewer system, which is outdated and untested. (No. 37)

RESPONSE: The proposed design includes new stormwater piping and management facilities. See No. 2.

COMMENT 11: Is the stormwater discharges permit application dated August 20, 2010, accurate with respect to compliance history review? (No. 16)

RESPONSE: Yes, a review of our compliance tracking databases with respect to stormwater management (erosion and sedimentation control) and Chapter 105 water obstruction encroachments revealed no violations.

Water Management Program

Comments received for Draft National Pollutant Discharge Elimination System (NPDES) Permit No. PA0244562

Comments regarding the draft NPDES permit for the discharge of stormwater associated with industrial activities were received from the following commentators numbered 2, 14, 15, 16, 21, 41, 42, 47, 48, 49, and 50. Responses to comments related to the NPDES permit follow the permit summary.

Permit Summary

The NPDES water quality permit is written to protect the Delaware River from contaminated discharges. The impact from industrial activity-related stormwater will be addressed as described below:

The applicant has proposed that EMR will accept scrap metal only from suppliers who remove LCD displays, electronics e-waste, air bags, refrigerants, engine, and other fluids before shipping scrap to the facility. The Department of Environmental Protection (DEP) recognizes that no process can eliminate 100 percent of all such materials and is requiring that all received scrap metal be handled in a manner that protects the environment from any hazards associated with these materials. Compliance with this requirement must be performed through visual inspections, using cameras, radiation detectors, and quality assurance personnel. A Preparedness, Prevention and Contingency (PPC) Plan was developed to describe how fluids will be removed to the maximum extent possible. Any incidental oil and gas spills from cars and trucks in the facility area should be handled in accordance with the PPC Plan.

Should there be any oil, grease, and grit picked up by stormwater in the industrial processing area, nine Clara units are proposed to provide treatment. Stormwater from the first inch of rainfall will get treated through these Clara units before being directed to rain gardens. The rain gardens are designed to treat up to the amount of rainfall from a 2-year design storm. In the case of more severe storms, the “first flush” would be treated by the Clara units and additional flows would bypass these units and enter the rain gardens directly. The stormwater will be infiltrated through the rain gardens’ 24-inch amended topsoil before being directed to the storm sewer outfall pipes via perforated underdrain pipes. Manual sluice gates are designed to shut off the discharge pipe to the Delaware River in the event of a large spill.

The NPDES Industrial Stormwater permit requires the following:

- a. Implementation of Best Management Practices (BMPs) to reduce the volume of stormwater discharged to the Delaware River, and also to segregate stormwater from industrial activity areas from stormwater in the nonindustrial areas.
- b. Monitoring the treatment efficiency of each Clara unit at three internal monitoring points. These locations are specified in the final NPDES permit. The treated discharge from these units will be sampled. The discharge from these units will be monitored on a quarterly basis for the following pollutants:
 1. Total Suspended Solids (TSS)
 2. Oil and Grease
 3. Aluminum
 4. Chromium
 5. Copper
 6. Iron
 7. Dissolved Iron
 8. Lead
 9. Zinc
 10. Cadmium
 11. PCBs
- c. The stormwater discharge through four outfalls to the Delaware River will be monitored on a quarterly basis for the following pollutants:
 1. TSS
 2. pH
 3. Oil and Grease
 4. Aluminum
 5. Chromium
 6. Copper
 7. Iron
 8. Dissolved Iron
 9. Lead
 10. Zinc
 11. Cadmium
 12. PCBs
- d. The permit also includes a special monitoring requirement during the first year of operations to evaluate the level of additional pollutants in the wastewater. These additional pollutants are:
 1. Nickel
 2. Arsenic
 3. Mercury
 4. Benzene
 5. Naphthalene
- e. EMR has recently proposed to cover the ASR pile with either a three-sided roof cover or to install a roof cover with a jersey barrier along the highpoint to keep stormwater from coming into contact with the ASR.

- f. The permit includes a condition stating that the discharger shall not discharge floating materials, scum, sheen, or substances that result in deposits in the receiving water shall not discharge foam, oil, grease, or substances that produces an observable change in color, taste, odor, or turbidity of the Delaware River.
- g. The combination of the permit requirements and the procedures identified in the PPC Plan is designed to be protective of the water quality standards of the Delaware River.

Specific Comments and Responses

COMMENT 1: There is nothing in the draft permit that establishes any action level for the DEP in the face of Discharge Monitoring Reports (DMRs) that show discharges in increased concentrations in the other listed parameters, or in parameters of concern for the metal shredding industry that the DEP has failed to include in the draft permit. (No. 16)

RESPONSE: The Delaware River provides an enormous assimilative capacity for discharges from this site. Calculated “action levels” or water quality limits are very high, and in fact, if used solely to determine whether the DEP takes further action, might never be exceeded, even with improper implementation of pollution prevention and BMPs. Requiring pollution prevention and best management practices minimizes pollutant discharges that might otherwise be allowed with numerical water quality-based limits. The permit requires pollution prevention through the PPC Plan, as well as BMPs to treat the stormwater. These requirements are expected to be more restrictive than numerical water quality limits.

COMMENT 2: How will the DEP know about discharges prohibited by Sections C.1.A and C.1.C of the draft permit if there is no requirement to monitor for a host of pollutants that are obviously and inextricably associated with the materials that will be stored, uncovered, and outdoors at this facility? (No. 16)

RESPONSE: The DEP can conduct its own monitoring of the discharge from this facility. In addition, the DEP added monitoring of additional pollutants and EMR has agreed to the additional monitoring.

COMMENT 3: As Module 13 of the application makes clear, EMR knows or believes that pollutants present in its discharge could include nickel, arsenic, cadmium, mercury, silver, and selenium. It is therefore unreasonable and dangerous for the DEP to issue a permit that assumes that these pollutants need not be specifically monitored. (No. 16)

RESPONSE: The DEP has reviewed the data from Module 13. The DEP has included, and EMR has agreed to, additional monitoring.

COMMENT 4: It is also unclear from the draft permit whether the DEP or the applicant has considered the Delaware River Basin Commission (DRBC) numeric effluent limitations. (No. 16)

RESPONSE: Please see the permit summary above and the response to Comment 1.

COMMENT 5: Please explain why the DEP has failed to require in this draft NPDES permit monitoring parameters that are at least substantially similar to NJ DEP’s requirements for similar facilities that discharge to the same river, or to the numerous other states that have developed sets of

parameters applicable to NPDES permits for facilities under Source Identification Code (SIC) Code 5093. (No. 16)

RESPONSE: The state of Pennsylvania has developed its own stormwater permitting program which relies heavily on pollution prevention and BMPs.

COMMENT 6: Please explain why the DEP has failed even to require monitoring for all of the parameters that EMR identifies in its own application materials as known or suspected pollutants (specifically, the following: COD, nickel, arsenic, cadmium, mercury, silver, and selenium). Please also explain, for each included parameter in the draft NPDES permit without a numerical limitation, what benchmarks the DEP intends to use to determine when and whether (a) to notify the applicant of concentrations at the outfalls or monitoring points that exceed the DEP's action level, or (b) to take enforcement action against the applicant. (No. 16)

RESPONSE: Permit compliance involves not only sampling results submitted as required by the permit, but also includes compliance with the PPC Plan and maintenance of the BMPs. In addition to sampling results, when the DEP conducts an inspection, it will assess compliance with pollution prevention requirements as well as maintenance of the BMPs. The DEP can take action when any of these requirements is out of compliance.

COMMENT 7: The draft permit does not specify locations for the three additional monitoring points (101, 102, and 104) that the DEP proposes to require in Parts A.1.B, A.1.D, A.1.G, and C.1.E. (No. 16)

RESPONSE: Samples will be collected at the outlet chambers of the Clara units C90-1 and C90-2 and combined for internal monitoring point 101. Similarly, for monitoring point 102, samples will be collected at the common outlet structure near Clara units C25-1, C25-2, C40-1, and C40-2; and for monitoring point 104, the samples will be collected at the outlet chambers of the Clara units C90-3, C90-4, and C90-5. The locations are specified in the final permit.

COMMENT 8: At the very least, ER4PC calls on the DEP to make public its "fact sheet," as prepared pursuant to 25 Pa. Code Section 92a.53, in any Comment and Response Document that the DEP prepares in connection with this proposed NPDES permit so that the DEP's derivation of the effluent limitations and other conditions and the reasons for the conditions in the draft and/or final permit are part of the public record. (No. 16)

RESPONSE: Details related to the DEP's review and findings are incorporated into the Internal Review and Recommendations document. Copies of this document are available for review in our office, and a copy will be made available to the public at the Ridley Township Public Library, 100 MacDade Boulevard in Folsom, PA.

COMMENT 9: With respect to records pertaining to monitoring activity and results, reports required by the draft permit, and records of all data used to complete the application for the permit that are required to be retained by the permittee for a minimum of three years under Condition III.A.2. of Part A of the draft permit, please confirm that such records will be considered public records, available and accessible to members of the public upon request. (No. 16)

RESPONSE: The records maintained by the DEP are public records and available for review. The records retained by the permittee as a result of the referenced condition are available to the DEP for inspection but are not public records.

COMMENT 10: ER4PC suggests that the DEP further require in this Condition No. III.A.2. of Part A that after the expiration of the minimum three-year retention requirement for each of the records to which the condition applies, if the permittee no longer wishes to retain such records, that such records be delivered, in readable format, to the local public library or to another publicly accessible local facility, including without limitation, the DEP's Southeast Regional Office, to be archived for public access. (No. 16)

RESPONSE: This request is beyond the scope of the DEP's authority.

COMMENT 11: What are all of the potential wastewater contaminants associated with the auto recycling process, including, but not limited to: loading and unloading of trucks, shredding, dust suppression, fire suppression, and ASR management? (No. 2)

RESPONSE: Potential sources of stormwater contaminants are identified in the permit application. EMR is required to monitor for pollutants at the four outfalls and also at internal locations to evaluate the treatment efficiency of the nine Clara units.

COMMENT 12: Will the DEP require that pads, liners, or berms be installed under or around the piles to control wastewater and stormwater runoff? (No. 2)

RESPONSE: EMR has proposed to cover the ASR pile with either a three-sided roof cover or just a roof cover with a jersey barrier along the high point side to keep ASR out of the drainage area. The in-feed and shred piles are on paved locations and the stormwater is collected and directed to nine Clara units and then to rain gardens prior to discharge to the Delaware River.

COMMENT 13: What effect will rainfall have on piles of ASR? (No. 2)

RESPONSE: The ASR pile is proposed to be under roof.

COMMENT 14: Taking into account the magnitude and size of this operation, how often will CIM/EMR's facility be inspected to assure it is in compliance with all local, state, and federal regulations? What tests or inspections will be conducted? Will the visits be announced? (No. 2)

RESPONSE: There is no set schedule for inspections of facilities with discharges associated with industrial stormwater. Generally, an inspection will include a site inspection to determine compliance with applicable portions of the PPC Plan, and an inspection of the BMPs and associated stormwater collection, conveyance, and discharge locations. Water samples may or may not be taken. Inspections can be announced or unannounced.

COMMENT 15: How will recent state budget cuts affect the DEP's ability to oversee CIM/EMR's operations and enforce applicable state regulations? How many DEP employees were laid off as a result of the recent budgetary cuts? (No. 2)

RESPONSE: Although the region lost a total of 13 positions in the 2009 furloughs, the Department anticipates that it will be able to meet its statutory obligations.

COMMENT 16: How, and how promptly, will the DEP communicate to the Eddystone community and violations by CIM/EMR? (No. 2)

RESPONSE: We enter all inspections and violations into the eFACTS database which is accessible by the public. We will also copy the Borough on Notices of Violation. The region's

environmental advocate will also keep the community apprised of violations. The region would only discuss enforcement actions after the action is considered closed.

COMMENT 17: With respect to the Stormwater Discharge Application, is it accurate for the facility to report that it has no violation of any DEP permit in the past five (5) years. (No. 16)

RESPONSE: The DEP has determined that there were no outstanding violations.

Waste Management Program

COMMENT 1: Please explain why EMR is not required to contain the residual wastes (automotive fluids) created by the shredding operation and why CIM's basic DEP permit states that their operation does not deal with any sort of waste whatsoever. (Nos. 27, 29, 52, and 53)

RESPONSE: In accordance with 25 Pa. Code 287.101(b)(7), a solid waste permit is not required for processing that results in the beneficial use of scrap metal. EMR does not require a solid waste processing permit for its shredding operation, but any waste residue generated and handled on-site as a result of its shredding operation will be managed under the applicable waste generator requirements.

COMMENT 2: Mercury switches cause air and surface and groundwater contamination. According to an October 2003 study, there is an average of 3.62 mg of mercury per kilogram of ASR. (No. 50)

RESPONSE: Data was collected nationally, and it was found that to minimize mercury contamination, the mercury switches should be removed from the vehicles. Mercury-containing switches from hood, trunk, and other convenience lighting systems should be removed and stored in an appropriate container for off-site reclamation. Anti-lock braking systems may also contain mercury switches. The National Vehicle Mercury Switch Recovery Program (NVMSRP) is a voluntary program in which many Pennsylvania automobile recyclers participate. New Federal regulations require that steel manufacturing facilities and iron and steel foundries that melt automobile scrap must ensure that the mercury-containing switches have been removed from the purchased scrap.

COMMENT 3: Chemical analysis of the waste/ASR should be required. (Nos. 6, 18, 26, and 49)

RESPONSE: EMR will need to conduct a hazardous waste determination for wastes generated at the Eddystone facility. In accordance with USEPA requirements, such a determination does not require actual chemical analysis. It may rely upon generator knowledge. However, if determined to be nonhazardous, then the waste handling falls under DEP's residual waste generator requirements. This requires an initial chemical analysis of the waste and additional chemical analysis at least once every five years thereafter. During intervening years, the generator may recertify that the physical and chemical characteristics of the waste did not change from the preceding year. Copies of the analyses and/or recertifications are submitted to DEP on an annual basis, using Form 26R, which are reviewed and then filed in the regional office. Analytical methods used are those in the most recent edition of EPA's "Test Methods for Evaluating Solid Waste" (SW-846).

COMMENT 4: What happens if the "fluff testing" does not pass? (Commentator 6)

RESPONSE: Wastes generated at the facility will be subject to minimum testing requirements as described in Comment 73, above. Wastes will also be subject to the testing and/or screening procedures required at the processing or disposal facility to which those wastes are sent.

Environmental Cleanup Program

COMMENT 1: What is the status of EMR's soil and groundwater remediation activities at the site? What assurances are there that EMR will clean up its site contamination? Samples of groundwater and soils should be required to establish a baseline. (Nos. 16, 26, and 50)

RESPONSE: The Land Recycling and Environmental Remediation Standards Act, known as Act 2, was passed in 1995, with regulations promulgated in 1997. Act 2 provides a release of liability to any remediator that can demonstrate attainment of one or more of the standards established by Act 2 (Statewide Health Standard, Background, and Site-Specific). Under Act 2, the Land Recycling Program provides procedures and cleanup standards for addressing contaminated sites within the Commonwealth. There are a variety of tracks a remediator may take to achieve DEP approval of a cleanup under Act 2. Common actions taken by remediators under the act include excavating soils and/or treating groundwater that exceed standards or managing it in place with engineering controls to eliminate exposure pathways. Under Act 2, a remediator must demonstrate to the Department's satisfaction that future human and nonhuman occupiers and users of a property will not be harmed by contamination. A number of previous investigations were conducted at the former Foamex site from 1991 through 2010. Contaminants of concern (COCs) found during those investigations were lead in soil and vinyl chloride, naphthalene, arsenic, and other compounds in groundwater.

Phase I and Phase II investigations were conducted in 2007–2008 by Malcolm Pirnie. Conclusions were discussed in the answer to question No. 62, above. EMR has chosen to excavate the three areas of Lead impacted soils.

CIM submitted an Act 2 Notice of Intent to Remediate (NIR) in August 2010. An Act 2 Final Report for soils only was submitted on December 17, 2010. The DEP approved the Act 2 Final Report for soils on February 25, 2011. The Act 2 Final Report contained data sufficient to attain a non-residential Statewide Health Standards for 27 different regulated substances in soils.

Additional groundwater monitoring will not be required unless EMR chooses to request a Release of Liability for groundwater under the provisions of the Land Recycling Program (Act 2). Groundwater has not been completely characterized at the site.

Since Act 2 is a voluntary program, it does not require soil and groundwater to be sampled and analyzed unless the property owner desires a release of liability for soils and/or groundwater. In this case, EMR has only requested a liability release from DEP for soils contamination on the property.