

Auto Recyclers of Washington

16541 Redmond Way #324C

Redmond, WA 98052

March 10, 2012

Jeff Killelea, Department of Ecology

PO Box 47600

Olympia, WA 98504-7600

Dear Mr. Killelea:

On behalf of the small business owners participating in the Auto Recyclers of Washington I am making the following comments regarding the draft revisions to the state's Industrial Stormwater General Permit as proposed on January 17, 2012.

We oppose many of the proposed changes for the following reasons:

1. WAC 173-226-120 requires an economic analysis of any proposed water-quality general permit to serve the following purposes. The analysis must provide:
 - A brief description of the compliance requirements of the general permit.
 - The estimated costs for complying with the permit, based upon existing data for facilities intended to be covered under the general permit.
 - A comparison, to the greatest extent possible, of the cost of compliance for small businesses with the cost of compliance for the largest ten percent of the facilities intended to be covered under the general permit.
 - A summary of how the permit provides mitigation to reduce the effect on small businesses (if a disproportionate impact is expected), without compromising the mandated intent of the permit.

A small business is defined as any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, and that has 50 or fewer employees.

As we point out below, several of the proposed revisions to the ISWSGP will have a significantly disproportionate impact on small businesses. The failure of the Department to issue the Economic Analysis as required by WAC 173-226-120 is a gross failure of this proposal and is reason enough for the Department to not adopt these proposed revisions and for the Department to engage in a stakeholder process to eliminate or minimize any disproportionate impacts on small businesses from these proposed revisions.

2. The proposed requirement that a permittee take a corrective action and modify its SWPPP within 14-days of exceeding a benchmark clearly has a disproportionate economic impact on small businesses. Small business operators have over 100,000 requirements imposed on them every day by a large number of federal, state and local government agencies and small businesses do not have a legion of staff with extensive technical expertise available to determine a corrective action, assess its costs and how it will be paid for, locate items to implement it, and how accomplish it and modify its SWPPP within 14 days. This provision is totally unworkable for the hundreds of small businesses covered by the ISWGP and must not be adopted as proposed. At a minimum, small businesses must have more than 14 days to accomplish all of these corrective action tasks, no less than 45-days. The Department must recognize that the two major parties representing the business community in the appeal of the ISWGP were two of the largest corporations in Washington State with relatively infinite resources as compared to an average small business and they were not in a position to understand and represent the needs and concerns of small businesses subject to the ISWGP. In its decision, the Board did not issue any analysis or consider any impact of its decision on small businesses covered by the permit. The new permit provisions cannot make small businesses the innocent collateral casualties of this appeal and these changes.
3. Ecology proposes that the corrective action plan be completed two months sooner than under the current permit. This will be totally unworkable for many small businesses. Many corrective actions may require a permit to install, the purchase of new items, and will result in unexpected costs to small business covered by the ISWGP.

4. Those new costs may require that the business to go find and arrange financing to pay for the corrective action. This requirement will prove unworkable for many small businesses covered by the ISWGP and will have a huge disproportionate economic impact on small businesses and should not be adopted as currently proposed. The timeframe for small businesses cannot realistically be reduced by two months to be fair to small business operators. The proposed reduction of two months must not apply to small businesses.
5. Ecology proposes to shorten the deadline to request a Level 2 or 3 Corrective Action waiver or extension by two months. This proposal will impose disproportionate economic impacts on small businesses. It will impose unreasonable deadlines on small business permittees and jeopardize the very survival of their businesses and the jobs of their workers. This draft revision is incredibly ill-conceived as it appears that the Department believes that small business operators have nothing more to do but to manage their ISWGP. That clearly is not the case and for that reason alone, this proposed revised provision should not be adopted.
6. Before adopting the provision identified above, the WA Department of Ecology must provide appropriate mechanisms and assistance to mitigate the small business economic impacts of these proposed permit revisions in accordance with RCW 34.05.

Thank you for carefully considering our comments and making the revisions to the ISWGP accordingly.

A handwritten signature in black ink, appearing to read 'GS', with a long horizontal line extending to the left.

Gary Smith
Executive Director
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