

General Recycling Of Washington, LLC

July 15, 2009

Jeff Killelea  
Department of Ecology  
PO Box 47600  
Olympia, WA 98504-7600

**Re:** Draft Washington State Industrial Stormwater General Permit

Dear Mr. Killelea:

In response to the Department of Ecology's June 3, 2009 Public Notice of the Draft Industrial Stormwater General Permit ("Draft Permit"), General Recycling of Washington LLC (General Recycling) submits the following comments:

- S1.C. The current Industrial Stormwater General Permit (ISGP) is explicit in stating in section S1.B that facilities that discharge all of their stormwater to the ground are not required to obtain ISGP coverage. The language explaining this exclusion from coverage is lacking in the Draft ISGP section S1.C, "Facilities Not Required to Obtain Coverage". Please clarify that this exclusion from coverage will remain in the new ISGP. Section S1.E in the Draft ISGP, "Discharges to Ground", does not further clarify the exclusion from coverage for facilities that infiltrate all stormwater via swales or infiltration basins or other means that would not fall under the Underground Injection Control (UIC) regulations (Chapter 173-218 WAC).
- S4.B.6. The Draft ISGP does not provide for an extension to the suspension of sampling for parameters for which we have achieved consistent attainment under the current permit. This, in essence, negates past improvements we have made to our stormwater system and past changes to our operational and structural source control best management practices (BMPs) to achieve consistent attainment for certain parameters. We recommend that Ecology provide a mechanism in the new ISGP to continue the suspension of sampling for parameters in consistent attainment under the current permit for facilities that have not undergone a significant process change since achieving consistent attainment.
- S5 Table 3. Ecology has revised the benchmark values for copper, lead, and zinc in the Draft ISGP. As these new benchmarks will have major implications on many permittees, we

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request that Ecology further explain how these benchmarks were arrived at. Ecology states that the revised numbers are based on the 2009 Herrera Evaluation<sup>1</sup> in which a dilution model was used to “evaluate the risk of exceeding acute water quality standards given the proposed benchmarks and action levels for copper, lead, and zinc, and different levels of dilution within the receiving water”. In the dilution calculations presented in the Herrera Evaluation hardness dependent water quality standards were used. This would indicate that the calculated benchmarks would be more applicable to permittees that discharge to fresh water. Please clarify how this benchmark level is applicable to industrial stormwater discharges to marine waters or tidally influenced rivers. It is also not clear to us what Ecology’s justification is for the use of a dilution factor of 5 to determine the benchmark. Per the Public Notice Fact Sheet which accompanies the Draft ISGP, Ecology states on page 83 “that a modest dilution factor of (sic) 5 is consistent with WAC 173-201A-400”. Please clarify what is meant by this statement and the basis of the dilution factor of 5.

- S5 Table 3. From the 2009 Herrera Evaluation, Ecology used the receiving water concentrations at the facility point of discharge calculated from the dilution model to obtain benchmark values for copper, lead, and zinc that “correspond to a 90% probability of meeting water quality standards in the receiving water, with an assumed dilution factor of 5”<sup>2</sup>. Please elaborate what the regulatory basis is for the use of a 10% exceedance threshold risk level used in determining the benchmarks for copper, lead, and zinc.
- S5 Table 3. The new benchmark for copper in the Draft ISGP is set at 14 µg/L. On page 83 of the Public Notice Fact Sheet Ecology “has determined that in order to meet the proposed copper benchmarks, permittees will be required to meet AKART, and many will be required to install active stormwater treatment systems”. We would concur with the determination that many facilities will likely require further engineering studies and the installation of expensive treatment systems in order to meet this stormwater effluent limit. Reliable treatment technologies are not, in our opinion, fully developed or vetted enough to provide a cost effective solution for copper removal and may result in an endless “do-loop” of engineering studies and technology evaluations for facilities trying to attain this benchmark. This seems to be placing an undue burden on industrial permit holders to treat copper in stormwater while municipalities or runoff from highways do not appear to be equally

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<sup>1</sup> Herrera 2009. Water Quality Risk Evaluation for Proposed Benchmarks/Action Levels in the Industrial Stormwater General Permit, February 9, 2009.

<sup>2</sup> Ecology 2009. Industrial Stormwater General Permit Fact Sheet, June 3, 2009.

burdened. We additionally note that the current Boatyard General Permit sets the benchmark for copper at 384 µg/L for boatyards that discharge to rivers with tidal fluctuations (such as General Recycling does). Please clarify this stark contrast in regulating copper discharges from ISGP holders as compared to other regulated and non-regulated entities.

- S8 overall comment. The Draft ISGP does not appear to contain any off ramps for a permittee once a Corrective Action is triggered. Furthermore, as we are listed in Appendix 6 of the Draft ISGP as being at Level 2 under the current permit, we can never be below a Level 2 response throughout the life of the Draft permit if enacted. This will present a burden to permit holders who may wish to transfer the land along with the permit in a real estate transaction. We also have concerns that this may represent a liability for our company from the standpoint of citizen lawsuits. Please consider revising S8, Corrective Actions, to include a mechanism for permittees to go to a lower level after they demonstrate compliance with the permit benchmarks following corrective actions.
- S8.C. Level 3 Corrective Actions. Under the draft provisions in S8.C, permittees that were not listed in Appendix 6 will trigger a Level 3 Response after 8 separate quarterly monitoring periods result in one or more parameters above permit benchmarks. Those facilities that are listed in Appendix 6 only have 4 quarters of monitoring after which Level 3 is triggered if any benchmark is exceeded. As we are listed in Appendix 6 of the Draft ISGP, we will enter this permit in a Level 2 Response mode and will therefore trigger a Level 3 Response after 4 separate quarterly monitoring period results in **any** parameter being above the permit benchmarks. Considering the lowering of some benchmark levels in the Draft ISGP, this will place an undue burden on the facilities listed in Appendix 6 to trigger the installation of treatment BMPs after 4 benchmark exceedances for parameters that they were not in exceedance of under the current permit. We ask you to consider revising the second bullet in S8.C to language similar to the following bullet, which will trigger an expedited Level 3 Response (after 4 quarters of monitoring) for facilities listed in Appendix 6 for **only** those parameters which triggered corrective actions under the current permit:
  - Facilities listed in Appendix 6 (Level 2) that exceed the benchmark(s) for the parameters for which they are in Level 2 during any 4 separate quarterly monitoring periods after January 1, 2010;
- S8 Table 6. The corrective action deadlines set in this table for Levels 3 and 4 seem wholly unreasonable. The timeframe for completing Level 3 corrective actions, installation of treatment BMPs, was reduced from 12 months under the current permit to 6 months in the Draft ISGP. It is not feasible for an industry to contract with an engineering firm, potentially

complete treatability studies, design documents, procure, construct, and install treatment system components within this timeframe. Also with the case by case approach taken under the proposed Level 4 corrective actions, it seems even more unreasonable that a facility can complete the required corrective actions (whatever they may be) within the 3 months specified in Table 6. In our opinion this will lead to numerous permit modifications, each requiring the requisite public notice requirements, for facilities that cannot meet these tight schedules. We are concerned that this will also increase our liability with regards to citizen lawsuits. We request that you amend Table 6 to provide at least 12 months for completing both Level 3 and Level 4 corrective actions.

Thank you for to opportunity to comment on the Draft Permit. If you have any questions regarding these comments, please contact Bart Kale of General Recycling at (206) 933-2238.

Sincerely,

A handwritten signature in black ink, appearing to read "Barton D. Kale". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Barton D. Kale  
Environmental Manager  
General Recycling of Washington LLC