
From: Harley, Keith <kharley@kentlaw.iit.edu>
Sent: Friday, January 29, 2021 3:56 PM
To: envcomments
Subject: Public Comments - General III, LLC Amended Large Recycling Facility Permit Application
Attachments: SETF PCR Comments General III Amended Permit Application.docx

[Warning: External email]

Please be advised that I represent the Southeast Environmental Task Force and People for Community Recovery.

Please accept the attachment as SETF-PCR comments on the Amended Large Recycling Facility Permit Application submitted by General III, LLC (d/b/a Southside Recycling), 11554 S. Avenue O, Chicago, Illinois.

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January 29, 2021

Chicago Department of Public Health
333 S. State, Room 200
Chicago, IL 60604

Submitted Via Email To: envcomments@cityofchicago.org

Re: Large Recycling Facility Permit Application, General III, LLC (d/b/a Southside Recycling),
11554 S. Avenue O – Chicago, Illinois

To The Chicago Department of Public Health:

Please be advised that I represent the Southeast Environmental Task Force (“SETF”) and People for Community Recovery (“PCR”). PCR and SETF are environmental education and advocacy organizations based on Chicago’s southeast side. Their members include individuals who live, work and recreate on the southeast side. These organizations and their members work to ensure a healthy and safe environment for local residents, to preserve regional ecological resources and to achieve a sustainable economy that enhances local communities.

People For Community Recovery was not a part of the original comments submitted by SETF on January 14th, and now endorses those comments. Like SETF, PCR is working in collaboration with the Chicago Southeast Side Coalition to Ban Petcoke and the Natural Resources Defense Council, and endorses the comments submitted by these allied organizations on January 14th and during this new round.

As an initial matter, SETF and PCR object to the bait-and-switch approach to public comments being used by CDPH. Hundreds of commentators responded in good faith to CDPH’s request for comments on the original application. Concurrent with the conclusion of that comment period, CDPH allowed the applicant to submit an amended, substantially longer application that requires entirely new review by members of the public. Even worse, CDPH limited the public comment period on this amended application to only 14 days, making participation by many members of the public burdensome and impracticable. If the applicant’s original application was deficient as CDPH concluded, it should have been denied, and any subsequent application should have triggered a new hearing-and-comment process based on the new application. Despite the deficiencies in the original application, hundreds of members of the public participated in good faith in the original public process. Now, because of CDPH’s bait-and-switch, these public participants are paying the price of an abbreviated comment period for a substitute application, which CDPH allowed to be filed concurrently with the conclusion of the original comment period.

With this limitation in mind, this letter addresses only one aspect General III’s amended Large Recycling Permit Application. Specifically, these additional comments add to SETF’s January 14th comment related to hazardous waste management at the applicant’s proposed facility:

“SETF Comment Six: The permit application acknowledges that the facility will manage hazardous waste streams, including PCBs and mercury, yet does not include information

about targeted safety and security measures related to these hazardous wastes. It is also unclear if these hazardous waste operations were fully vetted by city officials and city council members as part of local siting approval for the facility. In its Proposed Findings of Fact submitted to the ZBA, General III, LLC characterizes itself as "...a new Class IV-B recycling facility by Chicago Zoning Ordinance ("CZO") §16-6-0403-F, Row HH, 5." Hazardous waste storage facilities are a separate classification pursuant to the Chicago Zoning Ordinance.

General III, LLC will introduce a significant new hazardous waste operation into southeast Chicago. Section 3.9 of the Operating Plan describes PCB ballasts/capacitors, used oil, parts wash solvent and recovered refrigerants, but only in the context of their ultimate disposal facilities. More detail is provided in the Feedstock Management Plan in Appendix W, which also refers to propane and acetylene from gas cylinders, flammable and combustible materials like solvents and liquid fuels from containers, lithium-ion batteries and ignition devices, mercury containing-devices, paints and coatings and asbestos-containing materials. Page W-14 refers to accepting electronics "incidentally" despite not being an electronics recycler (the co-located Regency Technologies which engages in electronics recycling is not included in the permit application, so the process for safe movement of these wastes from one operation to another is unclear). Accepting these materials from suppliers may ensure they are not hidden in a load of scrap, but it also means on-site operations include managing a significant quantity of hazardous wastes, including flammable, combustible and ignitable materials, as well as PCBs, mercury and asbestos.

Given the diversity and volume of these hazardous materials, Appendix W provides very little information about how the materials are managed once they are segregated at the facility stating, for example, on page W-3: "If any materials that require special handling are observed, the scale operator notifies the team of inspectors and the suspect materials are closely examined to determine a proper course of action."

The permit application is incomplete because it does not include a comprehensive, detailed description of the nature and extent of hazardous waste streams that are being aggregated, stored at and directed from the facility, nor "the proper course of action" employed at the facility given the diversity of hazardous waste streams it routinely manages. From SETF's perspective, this aspect of facility operations has not been meaningfully described in any of its interactions about this facility in any venue. This begs a larger policy-oriented question about whether embedding this hazardous waste operation in the midst of a residential neighborhood and adjacent to a waterway is a good idea. This is why SETF questions if this aspect of facility operations was fully vetted as part of the local land use approval process."

The sheer quantity of hazardous and special wastes that will be generated by, managed at and transported from this facility on an annual basis is striking:

1. 150,000 tons of shredder fluff, a special waste;
2. 8,000 gallons used oil;

3. 15 tons PCB ballast and capacitors;
4. 300 gallons parts washer solvent;
5. mercury – quantity unknown;
6. asbestos – quantity unknown;
7. refrigerant-containing materials – estimated at 720 lbs/year (versus 3,600 lbs/year at the predecessor facility with comparable capacity);
8. propane and acetylene from gas cylinders – quantity unknown;
9. solvents from containers – quantity unknown;
10. lithium ion containing batteries and ignition switches – quantity unknown;
11. electronic wastes – quantities unknown.

The applicant's facility is being characterized as a scrap metal recycling facility. In fact, it is also a hazardous and special waste operation generating, managing and arranging transport for large quantities of highly specialized toxic waste streams. Based on this SETF and PCR assert the following.

1. The Large Recycling Facility Regulations are not designed to address the public health, public safety and complex management issues posed by this volume and diversity of toxic waste streams. A separate, targeted city review process is necessary related to these toxic waste streams, which should not be allowed to be located at the facility until this additional review process is complete.
2. It is not clear that the volume and diversity of toxic waste streams that will be managed at the facility were disclosed and fully reviewed as part of the local land use approval process. A facility that was characterized as a metal shredder is, in fact, also generating, managing and transporting large quantities of hazardous, toxic and special waste streams.
3. There are significant omissions in the application about the volumes, hazardous characteristics and targeted management techniques for many of these waste streams. For example, Addendum 1, Attachment O does not delineate the specific refrigerants that will be managed at the facility and whether any of these specific substances are ozone-depleting substances subject to Clean Air Act requirements. The volume of refrigerants is characterized as 20% of a predecessor facility even though the proposed facility will have a comparable or larger annual capacity. The mere inclusion of a vendor pamphlet is not equivalent to an enforceable, comprehensive management plan tailored to this aspect of facility operations. These kinds of omissions in the application characterize every hazardous, special and toxic waste stream the facility proposes to manage.
4. The applicant's characterization of auto shredder residue in Attachment CC appears to be based on a single analysis from August 2020. A single snapshot is not adequate to support the

applicant's conclusions about the concentrations of toxic constituents in this special waste stream. The application does not appear to provide complete data related to the classification of this waste stream as a special waste in Illinois or how it will manage this waste stream in accordance with Illinois regulatory requirements.

Auto-fluff is considered a pollution control waste and therefore is categorized as a special waste governed by 35 Ill. Adm. Code Subtitle G: Waste Disposal. Special wastes are potentially infectious medical wastes, hazardous waste, pollution control waste, or industrial process waste.¹ Pollution control waste is "generated directly or indirectly when businesses remove contaminants from air, soil, or water."² Because of the possibility for material contamination from lead, cadmium, and PCBs, auto fluff is a pollution control waste.³ Special wastes are subject to regulations in 35 Ill. Adm. Code Subtitle G: Waste Disposal as well as the Illinois Environmental Protection Act.⁴ Some wastes that fall into these categories may be certified as a nonspecial waste through a request to IEPA, however, auto-fluff is not eligible for nonspecial waste certification in any circumstance.⁵ Any special waste that cannot be certified as a non-special waste must continue to be manifested and transported by special waste haulers to properly permitted.⁶

Special wastes can be hazardous or non-hazardous. There are two classes of special wastes: "Class A" and "Class B."⁷ Class B wastes are those that the IL EPA determines to pose "a low or moderate degree of hazard to the environment or public health in the course of their transportation, storage, treatment, or disposal" while Class A special wastes are all those not designated as such. 35 Ill. Admin. Code Subtitle G §808.240. Special wastes are given a toxic score. The generator of a special waste has the burden of characterizing their waste according to ASTM test methods. A toxic score of 1 or 2 is characterized as a Class B special waste while a score of 3 will result in a Class A classification. *See* 35 Ill. Admin. Code 808.245.

Generators must also prepare and provide a special waste manifest prior to shipment. *See* 35 Ill. Admin. Code 808.122. The special waste manifest must include information including the generator ID number, the location of generation, identification of who delivery is accepted, and the classification and quantity of the special waste. Transporters of special waste must have valid special waste hauling permits issued in accordance with 35 Ill. Admin. Code 809.201. To obtain such permit, the transporter must apply to IEPA and provide information including the number and type of waste it will be hauling. They also must agree to abide by local regulations including the vehicles used will be in good repair, steps will be taken to prevent leakage or spillage of the waste, and that the waste will not be mixed with any other waste in the same tank. *See* Ill. Admin. Code 809.202. In granting the permit, IEPA may impose additional conditions.

¹ <https://www2.illinois.gov/epa/topics/waste-management/waste-disposal/special-waste/Pages/default.aspx#:~:text=Special%20wastes%20can%20be%20any,Code%20Subtitle%20G%3A%20Waste%20Disposal>

² <https://www2.illinois.gov/epa/topics/waste-management/waste-disposal/special-waste/Pages/do-i-have.aspx>

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

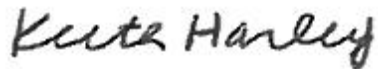
⁷ <https://www.ilga.gov/commission/jcar/admincode/035/035008080B02400R.html>

See Ill. Admin Code 809.205. Violation of any conditions or failure to comply are punishable by revocation of the permit and fines. *See* Ill. Adm. Code 809.208.

As with other hazardous and toxic waste streams that will be generated by, managed at and transported from the applicant's facility, the application is fatally deficient because it fails to provide detailed information about this dangerous waste stream and its management. Any subsequent or supplemental application should trigger a new, complete opportunity for public participation. In the absence of complete information about these toxic waste streams and how each one will be managed— which is directly relevant to the public health, safety and welfare – CDPH cannot allow these dangerous wastes to be present at the applicant's facility. If information about this aspect of facility operations was not fully vetted as part of the local land use approval process, land use approvals should be revoked and a new review should be undertaken.

Please contact me if you have any questions or comments or if I can provide additional information regarding these comments.

Sincerely,

A handwritten signature in black ink that reads "Keith Harley". The signature is written in a cursive, slightly slanted style.

Keith Harley
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