

**Department Of Ecology and US EPA STATEMENT OF BASIS**  
**Draft Hazardous Waste Permit Modifications for**  
**BEI, a wholly owned subsidiary of Philip Services Corporation,**  
Georgetown facility  
734 South Lucile Street, Seattle, WA  
ID No. WAD 000821 2909

The United States Environmental Protection Agency (EPA) and the Washington State Department of Ecology ("Ecology") propose to modify the Hazardous Waste Management Facility Permit issued to Burlington Environmental Inc. (BEI), a wholly owned subsidiary of Philip Services Corporation (Philip), for its Georgetown facility. This site is located at 734 S. Lucile St., Seattle, WA and its ID number is WA 00081 2909. This permit was issued under the authority of the federal Resource Conservation and Recovery Act (RCRA) and the Washington State Hazardous Waste Management Act (HWMA). This Statement of Basis, developed by EPA and Ecology, explains the permit modifications that EPA and Ecology propose. EPA and Ecology propose to transfer administrative responsibility for RCRA corrective action through a coordinated action by which Ecology will add state corrective action permit conditions and EPA will remove the existing federal corrective action conditions for the permit.

The effect of this proposed modification is purely administrative. All other aspects of the cleanup, including schedules, will remain the same as the permit modification EPA recently issued.

Copies of material supporting this proposal are available for review at the locations listed on the last page of this document.

This proposed permit modification affects only the corrective action portion of the permit. EPA and Ecology are conducting joint public notice and comment on these modifications. EPA and Ecology will consider all written comments received during the public comment period and the hearing, if held, before making a final determination on the

modification.

When the final decision regarding the proposed modification is made, notice will be given to Philip and each person who has submitted written comments or requested notice of the final decision. The final decision will state the date the modification will become effective. If no comments are received on the proposed modification, the final decision may become effective as early as the final decision date. If the agencies receive comments on the proposed modification, the final decision will become effective no sooner than thirty (30) days after notice is provided. If a review is requested pursuant to 40 CFR § 124.19 (federal regulations) and WAC 173-303-840(8) (state regulations), then the effective date of the modification may be affected.

### **Background**

EPA and Ecology issued the existing Hazardous Waste Management Facility permit August 5, 1991, under the authority of RCRA and the HWMA and their respective implementing regulations. The permit allows Philip Services Corporation ("Philip") to store and treat designated hazardous wastes at its Georgetown facility and requires the company to conduct certain activities to address environmental contamination that has resulted from the historical handling of hazardous waste at the facility. The permit was issued jointly, with the EPA components of the permit outlining requirements for corrective action and waste

Comment period

August 4 through October 3, 2001

See page 3 for more details.

minimization, for which Washington State had not yet received final authorization at the time the permit was issued. EPA has responsibility for Section VII of the permit, which covers corrective action, the cleanup process for environmental contamination caused by past activities at the facility. The state portion of the permit outlines standard and general facility conditions, as well as unit-specific conditions for the operation, closure, and post closure of individual dangerous waste treatment and storage units at the facility.

In 2000, Philip asked EPA for a modification to the permit to change the corrective action portion of the permit. After receiving and considering public comment on the proposal, EPA issued the permit modification on August 1, 2001.

**Corrective Action**

After the initial Hazardous Waste permit was issued, in August 1991, Ecology received final EPA authorization for the Hazardous and Solid Waste Amendments (HSWA) corrective action program (See 59 Federal register [FR]55322, November 4, 1994). The state corrective action statutes and regulations authorized by EPA include Chapter 70.105 RCW (Hazardous Waste Management); Chapter 173-303 WAC (Dangerous Waste Regulations); Chapter 70.105D RCW (Model Toxics Control Act); and Chapter 173-340 WAC (The Model Toxics Control Act Cleanup Regulations). These statutes and regulations meet the requirements of Section 3004(u) of RCRA (Section 206 of HSWA), 42 USC Section 6924(u), and regulations codified at 40 CFR 264.101.

This final authorization action, however, did not result in automatic transfer of the EPA HSWA portion of the permit to Ecology, the authorized state authority. Today’s proposed action is intended to accomplish this transfer of authority. It will result in Ecology establishing corrective action permit conditions in the state portion of the Philip permit that correspond to those now in effect under EPA HSWA authority, and the removal of the existing EPA corrective action conditions.

The effect of this proposed modification is purely

administrative. All other aspects of the cleanup, including schedules, will remain the same as the permit modification EPA recently issued.

**Purpose of the Permit Modification Process**

In general, the purpose of the permit modification process is to alter the specific administrative and/or operational requirements under which Philip must operate to comply with the hazardous waste management requirements promulgated under RCRA and the HWMA. Only those permit conditions that are being modified are reopened and subject to public comment. The permit conditions in the modification EPA adopted on August 1, 2001, will remain in effect until the agencies make final decisions on the current proposed modification and it becomes effective.

**Procedures for Reaching a final Decision**

EPA’s and Ecology’s proposed modification to the permit is considered an agency-initiated permit modification. EPA and Ecology may initiate an agency-initiated permit modification for a number of reasons. One circumstance is when the standards or regulations on which the permit was based have been changed by statute, through promulgation of new or amended standards or regulations, or by judicial decision after the permit was issued. See 40 CFR § 270.41(a)(3) and WAC 173-303-830(3). EPA interprets Ecology’s adoption of corrective action regulations and final authorization of Ecology for corrective action authority as sufficient grounds for an agency-initiated permit modification under this regulatory provision.

**Contents of the Permit Modification**

EPA is proposing to remove Section VII, the corrective action portion of the existing HSWA component of Philip’s Permit. Ecology is proposing to add corresponding state permit conditions.

The effect of this proposed modification is purely administrative. It shifts lead for corrective action from EPA to Ecology. All other aspects of the cleanup, including schedules, will remain the same as the permit modification EPA recently issued.

The modification changes language in the permit:

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- "EPA" becomes "Ecology"
- "Administrator" becomes "Director"
- Federal citations regarding corrective action and/or the permit process are changed to the corresponding state citations

### Statutory Authorities

This document is being issued in accordance with the requirements of 40 CFR § 124.8 and WAC 173-303-840(2) and (10). As stated earlier, the purpose of the permit modification process is to alter the specific administrative and operation requirements under which the Permittee must operate to comply with federal and state hazardous waste management requirements. Federal requirements are promulgated under RCRA as amended by the hazardous and Solid Waste Amendments of 1984 (HSWA), and regulations adopted thereunder by EPA in 40 CFR Parts 124 and 260 to 270. The regulatory requirements of an agency-initiated permit modification are provided under 40 CFR § 270.41 and 40 CFR Part 124. Section 700(b) of RCRA and 40 CFR § 124.5 require that EPA prepare draft permit conditions and provide for public comment. State requirements are under the HWMA and the Dangerous Waste Rules. The regulatory requirements for agency-initiated modifications are in WAC 173-303-830(3) and 840(10).

Interested persons and other governmental agencies are invited to submit written comments to EPA regarding the proposed permit modification. Comments for this draft Permit Modification will be accepted for sixty (60) days, from August 4, 2001, to October 3, 2001. Comments should include factual grounds and supporting material or references. A copy of the proposed permit modification is available on the EPA web page at: <http://yosemite.epa.gov/r10/owcm.nsf/permits> or for review at the following locations.

Beacon Hill Library, 2519 15<sup>th</sup> Ave. S., Seattle, WA 98144 (regular library hours)

U.S. EPA Region 10, 10th Floor Library, 1200 Sixth Avenue, Seattle, Washington 98101 (Monday - Friday only)

Northwest Regional Office, Washington  
Department of Ecology, 3190 160<sup>th</sup> Ave SE,  
Bellevue, WA 98008-5452

In addition, if significant interest is expressed in having a public hearing, EPA and Ecology will conduct a hearing to take formal comments on the proposed permit modification. If a hearing is held, EPA and Ecology will record oral comments from people who wish to make them. All comments received in writing during the public comment period and orally during the public hearing will be considered by EPA and Ecology in making final decisions regarding the proposed permit modification.

Please send written comments by Oct. 3, 2001, to:  
Howard Orlean, EPA Project Manager  
U.S. EPA Region 10, MS: WCM-121  
1200 Sixth Avenue  
Seattle, Washington 98101

or e-mail to: [orlean.howard@epa.gov](mailto:orlean.howard@epa.gov)  
E-mailed comments should include your name and mailing address.

Once the comment period has expired, EPA and Ecology will consider all the comments submitted during that period, and issue a Final Permit Modification. When the final decision regarding the proposed modification is made, notice will be given to Philip and to each person who has submitted written comments or requested notice of the final decision. The final decision will state the date the modification will become effective. If no comments are received on the proposed modification, the final decision may become effective as early as the final decision date. If the agencies receive comments on the proposed modification, the final decision will become effective no sooner than thirty (30) days after notice is provided. If a review is requested under to 40 CFR § 124.19 (federal regulations) and WAC 173-303-840(8) (state regulations), then the effective date of the modification may be affected.

### Questions?

If you have questions, please contact Howard Orlean, EPA, at 206-553-2851 or Galen Tritt, Ecology, at 425-649-7280.