

**Suncoast Waterkeeper**  
260 1<sup>st</sup> Ave. S., Box 226  
St. Petersburg, FL 33701  
tampabaywaterkeeper.org

October 3, 2025

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Christopher Williams, President  
U.S. Recycling Company  
1310 Industrial Court  
Sarasota, FL 34236

**CC VIA FIRST CLASS MAIL**

Christopher Williams  
Registered Agent for Service of Process for U.S. Recycling Company  
1834 Main Street  
Sarasota, FL 34236

**Re: Notice of Violations and Intent to File Suit under the Federal Water  
Pollution Control Act**

Dear Mr. Williams:

I am writing on behalf of Suncoast Waterkeeper in regard to violations of the Federal Water Pollution Control Act (“Clean Water Act” or the “CWA”) that Suncoast Waterkeeper believes are occurring at U.S. Recycling Company’s industrial facility located at 1310 Industrial Ct., Sarasota, FL 34326 (“Facility”). This letter is being sent to U.S. Recycling Company and Christopher Williams as the responsible owners or operators of the Facility (all recipients are hereinafter collectively referred to as “U.S. Recycling”).

This letter addresses U.S. Recycling’s unlawful discharge of pollutants from the Facility into waters of the United States and the ongoing and continuous violations of the substantive and procedural requirements of the State of Florida’s Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity. The Multi-Sector Generic Permit is a National Pollution Discharge Elimination System (“NPDES”) permit required under the Clean Water Act that is issued by Florida’s Department of Environmental Protection (“FDEP”) under the authority of Florida Statute Section 403.0885, which authorizes Florida to implement the NPDES program pursuant to authority delegated to the State of Florida by the United States Environmental Protection Agency. Pursuant to Florida Administrative Code (“F.A.C.”) Rule 62-621.300(5)(a), Florida adopted the Environmental Protection Agency’s original Multi-Sector General Permit issued on September 29, 1995 (60 Fed. Reg. 50804) and subsequent corrections and

modifications as amended on February 9, 1996 (61 Fed. Reg. 5248), February 20, 1996 (61 Fed. Reg. 6412), August 7, 1998 (63 Fed. Reg. 42534), September 30, 1998 (63 Fed. Reg. 52430), and January 19, 1999 (64 Fed. Reg. 2898) (hereinafter collectively referred to as the “MSGP”).<sup>1</sup>

To address U.S. Recycling’s violations of the Clean Water Act, Suncoast Waterkeeper intends to file suit against U.S. Recycling, as an organization and on behalf of its adversely affected members, in the United States District Court for the Middle District of Florida, seeking appropriate equitable relief, civil penalties, and other relief no earlier than 60 days from the postmark date of this letter, pursuant to Section 505(a) of the federal Clean Water Act.

## **I. Background**

### **A. Organization Providing Notice to U.S. Recycling**

#### **a. Suncoast Waterkeeper**

Suncoast Waterkeeper is a Sarasota-based non-profit public benefit corporation, organized under the laws of the State of Florida with members throughout Southwest Florida, including Pinellas, Hillsborough, Sarasota, Manatee, and Charlotte Counties. Suncoast Waterkeeper’s mission is to protect and restore the waters on Florida Suncoast for the benefit of all through community and stakeholder engagement, environmental monitoring, advocacy, and responsible legal action.

Suncoast Waterkeeper has been registered as a non-profit corporation in Florida since 2012 and is a licensed member of Waterkeeper Alliance, Inc., an international non-profit environmental organization, made up of over 360 separate Waterkeeper programs. Suncoast Waterkeeper’s members are deeply concerned about water quality throughout Southwest Florida and use area waters for fishing, boating, body contact water sports and other forms of recreation, wildlife observation, aesthetic enjoyment, educational study, and spiritual contemplation. Suncoast Waterkeeper members’ use and enjoyment of area waters is diminished by concern over the lack of enforcement of industrial storm water regulations and excessive pollutants being dischargers by area facilities. To further its mission, Suncoast Waterkeeper actively seeks federal and state implementation of the Clean Water Act. Where necessary, Suncoast Waterkeeper directly initiates enforcement actions on behalf of itself and its members.

Members of Suncoast Waterkeeper reside near Hog Creek and Sarasota Bay (“Receiving Waters”). Suncoast Waterkeeper’s members are deeply concerned about water quality throughout Southwest Florida and use the Receiving Waters for fishing, boating, body contact water sports and other forms of recreation, wildlife observation, aesthetic enjoyment, educational study, and spiritual contemplation. The unlawful discharge of pollutants from the Facility into the Receiving Waters impairs Suncoast Waterkeeper members’ use and enjoyment of these waters. Thus, the interests of Suncoast Waterkeeper’s members have been, are being, and will

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<sup>1</sup> All references to specific parts of the MSGP in this letter shall be to 60 Fed. Reg. 50804 unless otherwise indicated.

continue to be adversely affected by U.S. Recycling's failure to comply with the Clean Water Act and the MSGP.

## **B. Description of Activities Alleged to Cause Violations**

Scrap and waste recycling facilities, especially those with outdoor stockpiling, processing and segregation of materials, have been identified as a major source of storm water contamination. Scrap metal in different stages of corrosion and decay may release a variety of harmful substances including but not limited to heavy metals, fuel, oil, lubricants, polychlorinated biphenyls, grease, lead acid, lead oxides, chlorinated solvents, asbestos, ethylene glycol, paint, and chemical residues. 60 Fed. Reg. 50804, 50953–63 (listing common pollutants associated with Sector N—scrap and waste recycling facilities—as of 1995); *see also id.* at 51189–97 (outlining special requirements for Sector N); EPA, *Industrial Stormwater Fact Sheet Series: Sector N*, EPA-833-F-06-029, at 2–4 (Dec. 2006), [https://www.epa.gov/sites/production/files/2015-10/documents/sector\\_n\\_scraprecycling.pdf](https://www.epa.gov/sites/production/files/2015-10/documents/sector_n_scraprecycling.pdf) [hereinafter *Sector N Fact Sheet*] (listing common pollutants associated with Sector N, as of 2006).

In addition to the storage and processing of various sources of scrap metal and waste materials, such facilities also conduct vehicle operation and maintenance and equipment operation and storage. Fork lifts, trucks, and other vehicles track debris, particulate matter, and other contaminants to areas on and off the premises. Vehicles also expose many other sources of pollution to the elements, including gasoline, diesel fuel, anti-freeze, battery fluids, and hydraulic fluids.

## **C. U.S. Recycling's Sarasota Facility**

The Facility ID for documents submitted to the Florida Department of Environmental Protection ("FDEP") is FLR05I739. On its Notice of Intent to Use Multi-Sector Generic Permit for Stormwater Discharge Associated With Industrial Activity ("NOI"), submitted by U.S. Recycling to FDEP on October 15, 2021, U.S. Recycling certifies that the Facility is classified under Standard Industrial Classification ("SIC") Code 5093. It collects and discharges storm water through at least one discharge location (outfall).<sup>2</sup> On information and belief, Suncoast Waterkeeper alleges that the outfalls contain storm water that is commingled with runoff from the Facility from areas where industrial processes occur. The Facility's current coverage under the MSGP is active from November 15, 2021, through November 14, 2026.

Industrial activities at the Facility include activities related to concrete and scrap metal recycling. The Facility is open from 7:00 am–4:00 pm. The majority of activity and storage at the Facility takes place outdoors, where pollutants are exposed to storm water. Suncoast Waterkeeper believes that the Facility releases pollutants of the kinds described above, in part I.B of this letter.

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<sup>2</sup> Although the Facility's NOI indicates there is only one outfall, Suncoast Waterkeeper alleges that there are two additional outfalls, each associated with each ingress/egress locations to the Facility.

Information available to Suncoast Waterkeeper indicates that U.S. Recycling has failed to develop and/or implement sufficient storm water management practices and/or structural controls (“best management practices” or “BMPs”) at the Facility to prevent storm water flows from coming into contact with the sources of contaminants to prevent the discharge of pollutants. Suncoast Waterkeeper alleges that the Facility lacks sufficiently well-maintained structural controls and practices to minimize exposure of pollutants to storm water; retain all storm water on site; or prevent contaminants from entering into storm water.

Suncoast Waterkeeper also alleges that U.S. Recycling does not sufficiently treat contaminated storm water prior to discharge from the Facility. In addition, trucks and other vehicles entering and leaving the Facility from the driveway track significant pollutants off-site onto public streets where rainfall washes these pollutants into storm drains that discharge into waters of the United States.

Further, information available to Suncoast Waterkeeper indicates that U.S. Recycling has discharged prohibited non-storm water from the Facility, has failed to develop and/or implement an adequate Storm Water Pollution Prevention Plan (“SWPPP”) and failed to conduct required monitoring and reporting program at the Facility. As a result, the discharges of storm water associated with industrial activity from the Facility are not in accordance with the effluent limitations contained in U.S. Recycling’s NPDES permit. Therefore, U.S. Recycling is violating Sections 301 and 402 of the Clean Water Act at the Facility.

#### **D. Waters Receiving the Facility’s Discharges**

With every significant rainfall event, millions of gallons of polluted storm water originating from industrial operations such as the Facility pour into storm drains and local waterways. In most of the Sarasota Bay area, storm water flows untreated either directly or through municipal storm drain systems into Sarasota Bay and other receiving waters. Stormwater pollution accounts for the majority of the pollution entering the Sarasota Bay environment each year. Storm water pollution poses a health risk to humans, harms marine life, closes beaches, contaminates the ocean, and harms the environment. These contaminated storm water discharges can and must be controlled for the Sarasota Bay ecosystem to regain its health. On information and belief, Suncoast Waterkeeper alleges that storm water discharges from the Facility flow to the Sarasota municipal separate storm sewer system and then discharge to Hog Creek and Sarasota Bay.

The State of Florida has identified beneficial uses and designated all surface waters of the State of Florida as Class III – Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife, except for certain waters which are described in subsection 62-302.400(16), F.A.C. Rule 62-302.400(15), F.A.C. “Class I, II, and III surface waters share water quality criteria established to protect fish consumption, recreation and the propagation and maintenance of a healthy, well-balanced population of fish and wildlife.” Rule 62-302.400(4), F.A.C. Pollution from industrial areas impairs the Receiving Waters for these uses.

In Sarasota County, the State of Florida provides the following exception to the Class III,

designating the following waters as Class II – Shellfish Propagation or Harvesting: “Sarasota Bay – West of the Intracoastal Waterway Channel centerline.” See 62-302.400(17)(b)(58).

Hog Creek is listed on the State of Florida’s Clean Water Act Section 303(d) list of impaired water bodies, impaired by Mercury. A water body that is listed as impaired cannot support its designated beneficial uses. The beneficial uses of the Hog Creek include aquatic life (estuarine and freshwater habitat, fish migration, fish spawning, preservation of rare and endangered aquatic species, shellfish propagation,) primary contact and recreation, navigation, and fish consumption.

Sarasota Bay and the tidal portions of Hog Creek that receive polluted stormwater from the Facility have exceptional recreational and ecological significance. Pollution from the Facility damages habitat for commercial fishing and sport fishing, estuarine habitat and wildlife habitat that supports fish migration, fish spawning, preservation of rare and endangered species, shellfish propagation, contact and non-contact water recreation and navigation.

The Sarasota Bay Estuarine System is designated as a “Special Water” having been found to have exceptional recreational or ecological significance and that the environmental, social, and economic benefits of the designation outweigh the environmental, social, and economic costs (Rule 62- 302.700(5), F.A.C.). The Sarasota Bay Estuarine System is also afforded special significance and protection as an “Outstanding Florida Water,” pursuant to 62-302.400 F.A.C.

Hog Creek passes through two popular parks in the City of Sarasota, Pioneer Park and Centennial Park. Centennial Park offers many opportunities for direct water contact recreation with a beach, boat ramps and docks on Sarasota Bay.

## **II. Alleged Violations of the Clean Water Act and the MSGP**

The Clean Water Act provides that “the discharge of any pollutant by any person shall be unlawful” unless the discharger is in compliance with the terms of a NPDES permit. CWA § 301(a), 33 U.S.C. § 1311(a); *see also* CWA § 402(p), 33 U.S.C. § 1342(p) (requiring NPDES permit issuance for the discharge of storm water associated with industrial activities). The Facility discharges storm water pursuant to the MSGP, which authorizes storm water discharges conditioned on the Facility’s compliance with the terms of the MSGP. Each of these permit terms constitutes an “effluent limitation” within the meaning of CWA section 505(f), 33 U.S.C. § 1365(f). Information available to Suncoast Waterkeeper indicates that the Facility’s storm water discharges and storm water management practices have violated several of these permit terms, thereby violating CWA effluent limitations and CWA § 301(a), 33 U.S.C. § 1311(a); *see also* CWA § 402(p), 33 U.S.C. § 1342(p).

### **A. Failure to Implement BAT/BCT**

The MSGP requires the use of BMPs that reflect, and prohibits the discharge of pollutants above the level commensurate with, application of the best available technology economically achievable (“BAT”), which applies to toxic and non-conventional pollutants, and

best conventional pollutant control technology (“BCT”) for conventional pollutants.<sup>3</sup> *See* 60 Fed. Reg. at 50812 (“The conditions of this permit have been designed to comply with the technology-based standards of the CWA (BAT/BCT) . . . The pollution prevention or BMP requirements in this permit operate as limitations on effluent discharges that reflect the application of BAT/BCT.”); *see also* MSGP § XI.N.3.a.3, 60 Fed. Reg. at 51190 (requiring Sector N facilities to implement appropriate storm water management controls).

Part XI.N of the MSGP pertains to Sector N facilities<sup>4</sup>—entities that discharge storm water associated with industrial activity from scrap recycling and waste recycling facilities. Part XI.N is divided into three separate classes of recycling facilities. The Facility falls under the first category: “scrap recycling and waste recycling facilities (non-liquid recyclable waste).” All regulations contained in this Notice of Violations and Intent to File Suit with respect to Part XI.N of the MSGP pertain to this classification of recycling facilities. *See* MSGP § XI.N.3.a., 60 Fed. Reg. at 51189–90 (outlining general and specific requirements for Sector N); MSGP § XI.N.3.a(3)(a), 60 Fed. Reg. at 51190–93 (detailing specific requirements for facilities processing non-liquid recyclable waste).

As described in more detail below, in Section II.B, the MSGP requires dischargers to develop and implement a storm water pollution prevention plan (“SWPPP”). MSGP § IV. Sector N facilities such as U.S. Recycling’s Facility must develop and implement a SWPPP that comports with several requirements of Parts XI.N of the MSGP. Through the SWPPP, requirements in Part XI.N implement the MSGP’s BAT/BCT requirements for Sector N facilities by requiring that the pollution prevention plan minimize pollution and requiring specific BMPs to effectuate such minimization. *See* MSGP Fact Sheet § VI.B, 60 Fed. Reg. at 50812 (“The pollution prevention or BMP requirements in this permit operate as limitations on effluent discharges that reflect the application of BAT/BCT.”)

For facilities in Sector N, the MSGP establishes the following cut-off concentrations for pollutants of concern: chemical oxygen demand (“COD”) – 120 mg/L, total suspended solids (“TSS”) – 100 mg/L, total recoverable aluminum – 0.75 mg/L, total recoverable copper – 0.0636 mg/L, total recoverable iron – 1.0 mg/L, total recoverable lead – 0.0816 mg/L, total recoverable zinc – 0.117 mg/L. MSGP, § XI.N.5.a; 61 Fed. Reg. 5248 (February 9, 1996) (amending cut-off concentration for zinc). The cut-off concentrations in the MSGP are used “to assess the effectiveness of the pollution prevention plan and to help ensure that a reduction of pollutants is realized.” 60 Fed. Reg. at 50843 (Monitoring and Reporting Requirements). They “provide a reasonable target for controlling storm water contamination by pollution prevention plans.” *Id.* at 51076. Thus, the cut-off concentrations are guidelines for determining whether a facility has implemented the requisite BAT/BCT level of control measures. Further, exceedances of cut-off concentrations are reason for concern that pollution may have reached a level “at which a storm water discharge could potentially impair, or contribute to impairing water quality or affect human health from ingestion of water or fish.” 60 Fed. Reg. at 50824–25.

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<sup>3</sup> *See* CWA section 304(b)(2), (b)(4), 33 U.S.C. § 1314. Conventional pollutants are TSS, O&G, pH, biochemical oxygen demand, and fecal coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. *Id.*; 40 C.F.R. § 401.15.

<sup>4</sup> Sector N pertains to facilities with SIC Code 5093. MSGP, Table 4.

Despite frequent rainfall in the area, U.S. Recycling has failed to collect and analyzed a single storm water sample from a single storm outfall during its current permit term. However, Suncoast Waterkeeper alleges that storm water frequently sheet flows off of the two ingress/egress locations at the Facility during storm events, entraining pollutants from the Facility in storm water flows and depositing them in the channel that runs in front of the Facility along Industrial Court.

Suncoast Waterkeeper has collected and analyzed discharges from this channel and from storm water flows near the driveways during storm events in recent months. These samples have demonstrated levels of aluminum, iron, TSS, and COD well in excess of the aforementioned cut-off concentrations. Thus, on information and belief, Suncoast Waterkeeper alleges that discharges from the Facility have exceeded and continue to exceed the cut-off concentrations for aluminum, iron, TSS and COD, and potentially other required parameters. These discharges of pollutants from the Facility are evidence of past and ongoing violations of the aforementioned sections of Parts XI.N of the MSGP.

Suncoast Waterkeeper's investigation indicates that U.S. Recycling has not developed and/or implemented sufficient BMPs to minimize storm water flows from coming into contact with the sources of contaminants or otherwise to control the discharge of pollutants from the Facility. Accordingly, U.S. Recycling has not developed and/or implemented adequate pollution controls to meet BAT/BCT at the Facility in violation of the MSGP, and has violated and will continue to violate the Clean Water Act each and every day it has failed to develop and/or implement adequate pollution controls to meet BAT/BCT. Each discharge of storm water from the Facility constitutes a separate violation of the MSGP and the CWA.

These violations are ongoing. Each day that the Facility operates without implementing BAT/BCT is a violation of the MSGP. U.S. Recycling is subject to penalties for violations of the MSGP and the CWA since November 15, 2021.

## **B. Prohibited Non-Storm Water Discharges**

Based on a review of photos attached to an August 20, 2025 Sarasota County air quality inspection report at the Facility address, U.S. Recycling discharged non-storm water from one of the entrances to the Facility. This water was associated with the use of a water truck associated with dust suppression. The discharges flowed to the channel in front of the Facility, which ultimately flows to the Sarasota municipal separate storm sewer system, which discharges water into Hog Creek, and then flows into Sarasota Bay.

This is a violation of Part XI.N(2)(a)(1)(a) of the MSGP, which prohibits discharges of material other than storm water ("non-storm water discharges") to waters of the United States, or through municipal separate storm sewer systems.<sup>5</sup> Each time that the Facility discharges unauthorized non-storm water discharges is a violation of the MSGP. On information and belief, Suncoast Waterkeeper alleges that these discharges are ongoing, and occur each time U.S.

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<sup>5</sup> Water sprayed for dust suppression is not of the enumerated permitted non-storm water discharges list in Part XI.N(2)(a)(1)(b) of the MSGP.

Recycling sprays water on the Facility for dust suppression. U.S. Recycling is subject to penalties for violations of the MSGP and the CWA each time such discharges have occurred since November 15, 2021.

### **C. Failure to Develop, Implement, and/or Revise Adequate Monitoring and Reporting Requirements**

The MSGP requires facility operators to implement monitoring and reporting requirements that will allow facility operators to determine whether they have adequately reduced the level of pollutants in storm water runoff through the development and proper implementation of a facility's SWPPP. For Sector N facilities, the monitoring and reporting requirements are set forth in MSGP Part XI.N.5. U.S. Recycling has repeatedly violated these monitoring requirements at the Facility. In the absence of adequate monitoring and documentation (such as the preparation of a proper SWPPP) required by the MSGP, members of Suncoast Waterkeeper are deprived of their right to information and therefore suffer informational injuries that directly impact their aesthetic, recreational, journalistic, and/or academic interests in the affected Receiving Waters.

#### **1. Failure to Conduct Required Analytical Monitoring**

Permittees must monitor their storm water discharges at least quarterly during the second and fourth year of the permit term. They must collect samples during sampling periods of January to March, April to June, July to September, and October to December.<sup>6</sup> MSGP § XI.N.5.a(1). Samples must be "collected from the discharge resulting from a storm event that is greater than 0.1" in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1" rainfall) storm event." *Id.* at XI.N.5.a(2).

Suncoast Waterkeeper alleges that U.S. Recycling failed to comply with MSGP Part XI.N.5.a(1) and (2) by failing to collect and analyze storm water samples at the Facility during the following periods:

- Failure to collect storm water samples from both ingress/egress outfalls at the Facility during all four quarters of 2022.
- Failure to collect storm water samples from both ingress/egress outfalls at the Facility during all four quarters of 2024.

Suncoast Waterkeepers alleges that sufficient storm events that would have produced discharges at the Facility occurred during these aforementioned periods. Specifically, on information and belief, Suncoast Waterkeeper alleges that a number of storm events greater than 0.1" that were preceded by 72 hours with storm events less than 0.1" (or that produced a

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<sup>6</sup> Suncoast Waterkeeper refers to these periods as the first, second, third and fourth quarters of a given permit year.



Notice of Violations & Intent to File Suit  
October 3, 2025

discharge) occurred on many dates when the Facility was operating. The following table contains a list of such alleged dates along with the associated total rainfall from that day.<sup>7</sup>

<b>Date</b>	<b>Rainfall (inches)</b>
1/26/22	0.25
2/9/22	0.45
3/11/22	0.19
3/16/22	0.3
3/24/22	0.1
4/8/22	0.76
5/24/22	0.58
6/1/22	2.3
6/10/22	0.21
6/16/22	1.35
6/21/22	1.1
6/27/22	1.41
8/18/22	0.2
9/7/22	0.96
9/16/22	0.61
9/27/22	0.4
10/11/22	0.45
11/3/22	1.01
11/21/22	0.5
12/15/22	1.09
12/21/22	0.6
2/5/24	0.27
2/13/24	0.19
3/6/24	0.94
4/4/24	0.3
4/12/24	0.55
6/10/24	1.13
7/1/24	0.86
8/12/24	0.1
8/22/24	0.74
9/26/24	0.42
10/7/24	0.78
10/14/24	0.1
11/21/24	0.2
12/30/24	0.17

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<sup>7</sup> The rain dates and associated rainfall were obtained from the nearest weather station to the Facility. Rain data was accessed from the National Oceanic and Atmospheric Administration at <https://www.ncdc.noaa.gov/cdo-web/>. (Last accessed on October 1, 2025).

These violations of the MSGP from failures to monitor storm water samples from the requisite storm at the Facility are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, U.S. Recycling is subject to penalties for violations of the MSGP and the CWA's monitoring and sampling requirements since at least March 31, 2022.

## **2. Failure to Conduct Quarterly Visual Examination of Storm Water Quality**

In addition to analytical monitoring, dischargers must also take quarterly samples and make visual observations of representative discharges. MSGP § XI.E.5.c, XI.P.4.a(1). Dischargers must document their observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution at each discharge location. *Id.* These observations are to be recorded and kept onsite with the SWPPP. *Id.* Based on the results of the analytic and observational monitoring, dischargers are required to evaluate the need for additional BMPs and modifications to the facility's SWPPP. 60 Fed. Reg. at 50820–27, 50829–30.

On information and belief, Suncoast Waterkeeper alleges that U.S. Recycling has routinely failed to make required visual observations of representative discharges from the two aforementioned unmonitored outfalls during the past five years. The failure to make these required visual observations results in at least 60 violations of the MSGP. These violations of the MSGP are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, U.S. Recycling is subject to penalties for violations of the MSGP and the CWA's monitoring and sampling requirements since November 15, 2021.

## **D. Failure to Prepare, Implement, Review and Update Adequate Storm Water Pollution Prevention Plan for the U.S. Recycling Facility**

The MSGP requires dischargers to develop and implement a SWPPP that includes potential sources of pollution that may be reasonably expected to affect the quality of storm water discharges associated with industrial activity from a facility as well as BMPs use to reduce the pollutants in storm water discharges associated with industrial activity at a facility. MSGP § IV, 60 Fed. Reg. at 51115–18. The MSGP provides that:

[T]he plan shall describe and ensure the implementation of practices that are to be used to reduce the pollutants in storm water discharges associated with industrial activity at the facility and to assure compliance with the terms and conditions of this permit. Facilities must implement the provisions of the storm water pollution prevention plan required under this part as a condition of this permit.

*Id.*, 60 Fed. Reg. at 51115.

Part XI.N.3 of the MSGP describes the minimum standard Storm Water Pollution Prevention Plan Requirements for Sector N facilities. Facilities must include, *inter alia*, the

following in their SWPPPs: (1) identification of all the members of a storm water pollution prevention team responsible for developing and implementing the SWPPP; (2) a description of potential pollutant sources; (3) a site map including, *inter alia*, outfall locations, types of discharges in the drainage areas, location where significant materials are exposed to precipitation, monitoring locations, and flow directions; (4) an inventory of the types of materials at the site that may be exposed to precipitation; (5) a list of significant spills and leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation; (6) a summary of existing discharge sampling data; (7) a narrative description of potential pollutant sources from various activities; (8) a description and implementation of appropriate storm water management controls (including many specific requirements, detailed below); (9) spill prevention and response measures; (10) a quarterly inspection program; and (11) an employee training program. MSGP §§ XI.N.3.a.1, XI.N.3.a.2.a-XI.N.3.a.2.e, XI.N.3.a.3(a)(i)-XI.N.3.a.3(a)(xii) (requirements for scrap and waste recycling facilities (nonsource-separated, nonliquid recyclable wastes)).

Part XI.N.3.a(3)(a) of the MSGP requires that Section N facilities develop and implement appropriate storm water management controls including the following:

- measures to minimize contact of storm water runoff with stockpiled materials, process materials, and nonrecyclable wastes, as well as measures to minimize the extent of storm water contamination from those areas. The facility operator must consider using the following BMPs or their equivalents: diversion of runoff, media filtration, silt fencing, and oil/water separators, sumps, and dry adsorbents. Part XI.N.3.a(3)(a)(ii).
- “measures necessary to minimize contact of surface runoff with residual cutting fluids.” This includes a requirement to consider implementing one of two (or a combination) types of measures – either storage of turnings under cover or a dedicated containment area for turnings. Part XI.N.3.a(3)(a)(iii).
- “measures and controls to minimize residual liquids and accumulated particulate matter, originating from scrap and recyclable waste materials stored indoors or under cover, from coming in contact with surface runoff.” This part requires that dischargers consider including various housekeeping measures. Part XI.N.3.a(3)(a)(iv).
- address “areas where scrap and waste processing equipment are sited” by adopting “measures and controls to minimize surface runoff from coming in contact with scrap processing equipment.” Part XI.N.3.a(3)(a)(v).
- provide appropriate source control, stabilization measures, nonstructural, structural controls or equivalent for areas at the facilities that are associated with industrial activity that have a high potential for soil erosion and suspended solids loadings. This requires consideration of a variety of erosion and sediment control BMPs. Part XI.N.3.a(3)(a)(vii).
- provide for a detention or retention basin or equivalent when BMPs installed pursuant to Part XI.N.3.a(3)(a)(vii) do not prove sufficient. Part XI.N.3.a(3)(a)(viii).

60 Fed. Reg. at 51190–93 (detailing specific requirements for facilities processing non-liquid recyclable waste).

The MSGP requires that Sector N facilities conduct, at a minimum once per year, comprehensive site compliance evaluations, include those evaluations in the SWPPP, and revised storm water pollution prevention measures and controls accordingly based on the results of those evaluations. MSGP § XI.N.3(a)(4).

The Facility's SWPPP<sup>8</sup> violates a number of the MSGP's SWPPP requirements. To the extent that U.S. Recycling has since revised that document, on information and belief, Suncoast Waterkeeper alleges that the SWPPP still violates these requirements,

The SWPPP for the Facility fails to comply with the MSGP as follows:

- Failure to indicate the holding pond near the NW corner of the site on the site map. Part XI.N.2(a)(i).
- Failure to include inventory of exposed materials. Part XI.N.2(b).
- Failure to include sampling data. Part XI.N.2(d).
- Failure to consider use of BMPs to promote diversion of runoff. Part XI.N.3(a)(3)(a)(ii)(a).
- Failure to consider use of media filtration. Part XI.N.3(a)(3)(a)(ii)(b).
- Failure to describe good housekeeping and preventive maintenance measures to minimize contract of runoff with accumulated particulate matter from processing equipment. Part XI.N.3(a)(3)(a)(v).

On information and belief, Suncoast Waterkeeper alleges that U.S. Recycling's SWPPP for the Facility does not include, and that U.S. Recycling has not implemented, the required minimum and industry specific BMPs necessary to reduce pollutant levels in discharges to BAT and BCT levels. This is evidenced by sources of storm water contamination at the U.S. Recycling Facility, contaminant tracking around and off the Facility, and the failure to monitor all storm water outfalls. U.S. Recycling's failure to prepare and/or implement an adequate SWPPP in all the above respects constitute violations of the MSGP. *See* 60 Fed. Reg. at 50812, 50872 (SWPPP must specify BMPs necessary to attain BAT/BCT levels that are tailored to industry group).

Despite the clear BMP requirements in the MSGP, on information and belief, Suncoast Waterkeeper alleges that U.S. Recycling has been conducting and continues to conduct industrial operations at the Facility with an inadequately developed, implemented, and/or revised SWPPP.

Each day that the Facility operates without implementing an adequate SWPPP is a violation of the MSGP. These violations are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water

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<sup>8</sup> The version of the Facility's SWPPP referred to in this Notice Letter was prepared on September 19, 2022.

Act, U.S. Recycling is subject to penalties for violations of the MSGP and the CWA since November 15, 2021.

### **III. Persons Responsible for the Violations**

Suncoast Waterkeeper puts U.S. Recycling Company and Christopher Williams on notice that they are the persons responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, Suncoast Waterkeeper puts U.S. Recycling Company and Christopher Williams on notice that it intends to include those subsequently identified persons in this action.

### **IV. Name and Address of Noticing Party**

The name, address and telephone number of Suncoast Waterkeeper is as follows:

Suncoast Waterkeeper  
1760 Mound Street  
2nd Floor  
Sarasota, FL 34236  
(239) 222-2443  
info@suncoastwaterkeeper.org

### **V. Counsel**

Suncoast Waterkeeper has retained legal counsel to represent it in this matter. Please direct all communications to:

Justin Bloom  
P.O. Box 1028  
Sarasota, FL 34230  
(941) 275-2922  
bloomesql@gmail.com

Douglas J. Chermak  
Super Law Group, LLC  
180 Maiden Ln, #603  
New York, NY 10038  
Tel. (212) 242-2355  
doug@superlawgroup.com

### **VI. Penalties**

Pursuant to Section 309(d) of the Clean Water Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation (40 C.F.R. § 19.4) each separate violation of the Clean Water Act subjects U.S. Recycling to a penalty of up to \$68,445 per day per violation. In addition to civil penalties, Suncoast Waterkeeper will seek injunctive relief

Notice of Violations & Intent to File Suit  
October 3, 2025

preventing further violations of the Clean Water Act pursuant to Sections 505(a) and (d) (33 U.S.C. § 1365(a) and (d)) and such other relief as permitted by law. Lastly, Section 505(d) of the Clean Water Act (33 U.S.C. § 1365(d)), permits prevailing parties to recover costs and fees, including attorneys' fees.

## VII. Conclusion

Suncoast Waterkeeper believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. Section 505(b) of the Clean Water Act requires a citizen to give notice of intent to file suit sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Clean Water Act (33 U.S.C. § 1365(a)). Suncoast Waterkeeper intends to file a citizen suit under Section 505(a) of the Clean Water Act against U.S. Recycling and its agents for the above-referenced violations upon the expiration of the 60-day notice period. In addition to the violations set forth above, this Notice covers all violations of the CWA evidenced by information that becomes available after the date of this Notice of Intent to File Suit.<sup>9</sup> However, during the 60-day notice period, Suncoast Waterkeeper would be willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, Suncoast Waterkeeper suggests that you initiate those discussions within the next 20 days. Suncoast Waterkeeper does not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,



Douglas J. Chermak  
Super Law Group, LLC  
Attorneys for Suncoast Waterkeeper

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<sup>9</sup> See, e.g. *Public Interest Research Grp. v. Hercules, Inc.*, 50 F.3d 1239, 1248-49 (3d Cir.1995) (a notice that adequately identifies specific violations to a potential defendant also covers repeated and related violations that the plaintiff learns of later. "For example, if a permit holder has discharged pollutant 'x' in excess of the permitted effluent limit five times in a month but the citizen has learned only of four violations, the citizen will give notice of the four violations of which the citizen then has knowledge but should be able to include the fifth violation in the suit when it is discovered.").

**SERVICE LIST – via certified mail**

Lee M. Zeldin  
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U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460-6540

Kevin J. McOmber  
Regional Administrator  
U.S. EPA – Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
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Alexis A. Lambert  
Secretary  
Florida Department of Environmental Protection  
3900 Commonwealth Boulevard M.S. 49  
Tallahassee, FL 32399-6575

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Director, Southwest District (TP)  
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