



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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November 12, 2019

Jim Rard  
Marine Servicer  
2417 T Avenue  
Anacortes, WA 98221

Notice of Penalty Docket #	16800
Site Location	2417 T Avenue, Anacortes, WA 98221
Penalty Amount	\$30,000
Due Date	Within 30 days after receiving this Notice of Penalty.

Re: Notice of Penalty

Dear Jim Rard:

The Department of Ecology (Ecology) has issued the enclosed Notice of Penalty to Marine Servicer for violating provisions of:

- Chapter 90.48 Revised Code of Washington (RCW) – Water Pollution Control
- Chapter 173-226-070 Washington Administrative Code (WAC) – Water Discharge General Permit Program
- Provisions of its NPDES Boatyard General Permit No. WAG030095

Please read the enclosed Notice of Penalty describing the violation(s) and options for responding to the penalty.

Ecology issues news releases for all major penalties and enforcement actions, including this one. A courtesy copy of the draft news release is enclosed. If you have a comment or question, contact Ecology communication manager Jeff Zenk at [jeff.zenk@ecy.wa.gov](mailto:jeff.zenk@ecy.wa.gov) or (360) 407-6239 within one business day of when you first receive the draft news release.



Marine Servicer  
November 12, 2019  
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If you have questions please contact Stephanie Barney at [stephanie.barney@ecy.wa.gov](mailto:stephanie.barney@ecy.wa.gov) or (360) 255-4390.

Sincerely,



Heather R. Bartlett  
Water Quality Program Manager

Enclosures: Notice of Penalty Docket #16800  
Draft News Release

By certified mail 9489 0090 0027 6066 2468 84

cc: Fiscal-Penalty Desk, Ecology

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

IN THE MATTER OF PENALTY	)	NOTICE OF PENALTY
ASSESSMENT AGAINST	)	INCURRED AND DUE
MARINE SERVICENTER	)	PENALTY DOCKET #16800
JIM RARD	)	

To: Jim Rard  
Marine Servicer  
2417 T Avenue  
Anacortes, WA 98221

Notice of Penalty Docket #	16800
Site Location	2417 T Avenue, Anacortes WA 98221
Penalty Amount	\$30,000
Due Date	Within 30 days after receiving this Notice of Penalty.

The Department of Ecology (Ecology) has assessed a penalty against Marine Servicer in the amount of \$30,000 for violating provisions of:

- Chapter 90.48 Revised Code of Washington (RCW) – Water Pollution Control
- Chapter 173-226-070 Washington Administrative Code (WAC) – Water Discharge General Permit Program
- Provisions of its NPDES Boatyard General Permit No. WAG003095

Ecology has authority to issue this penalty under RCW 90.48.144 and is basing the penalties on the violations listed in this notice.

**DETERMINATION OF VIOLATION(S)**

Ecology's determination that a violation has occurred is based on the violations listed below.

National Pollutant Discharge Elimination System (NPDES) Boatyard General Permit (BYGP), No. WAG003095 authorizes Marine Servicer's discharge of process water from pressure washing to the City of Anacortes Publicly Owned Treatment Works (POTW). The permit also allows stormwater discharges from boat building and repairing activities to marine waters. Discharges are subject to complying with all special and general requirements specified in BYGP.

The BYGP contains benchmarks and action levels for selected pollutant parameters likely to be present in stormwater discharges. Benchmarks are not water quality criteria nor numeric effluent limitations; benchmarks are numeric indicator values used to assess compliance with a water



quality-based narrative effluent limitation. Benchmarks are intended to identify discharges that are at low risk of violating water quality standards. Discharges that exceed one or more benchmarks represent a higher risk of violating water quality standards. After six exceedances, the boatyard must begin its Level 3 Response. Within 3 months of reporting the sixth benchmark exceedance, the Permittee must install additional treatment unless that treatment is either not feasible or not necessary.

Marine Servicenter triggered Level Two Response for copper and zinc benchmark exceedances on October 25, 2017 (see Tables 2 and 3). The fourth and fifth exceedances are shaded light gray. Marine Servicenter failed to meet the Level Two action level response of Condition S7 (S7.A.2) to monitoring results that exceed benchmarks. Ecology never received the Level Two Source Control Report, due on or before January 28, 2018.

Marine Servicenter triggered Level Three Response for copper and zinc exceedances on January 30, 2018 (see Tables 2 and 3). The sixth exceedance is shaded medium gray. Marine Servicenter failed to meet the Level Three action level response of Condition S7 (S7.A.3) to monitoring results that exceed benchmarks. An engineering report describing stormwater treatment was due April 28, 2018. Ecology never received an engineering report for this Level Three response. Nor did Ecology receive a request for Modification of Permit Coverage, demonstrating that additional treatment Best Management Practices (BMPs) are not feasible or not necessary.

Due to lack of treatment, the facility continues to discharge stormwater levels in excess of the copper and zinc benchmarks to the City of Anacortes's Municipal Separate Storm Sewer Systems Permit (MS4), ultimately entering Fidalgo Bay.

The prior violation for failure to install stormwater treatment under the previous permit cycle shows Marine Servicenter clearly knew the requirements of Condition S7.A.3, Level Three Response. Failure to submit an engineering report is demonstration Marine Servicenter did not obtain all necessary approvals to operate at the time of the violation.

Marine Servicenter failed to submit the Level Two Source Control Report, an engineering report, or demonstration that treatment is not feasible or not necessary by the applicable due dates. Nor did the Permittee submit the necessary paperwork since Ecology's initial inspection on February 25, 2019, and subsequent technical assistance in person, by email, or phone. These deficiencies confirm Marine Servicenter is unresponsive in correcting the violation.

Marine Servicenter exceeded the copper and/or zinc benchmark 7 times since triggering Level Three Response (within statute of limitations). See Tables 2 and 3. Additional occurrences are shaded dark gray. Each benchmark exceedance demonstrates the duration of the violation.

Table 2: Copper benchmark exceedances for stormwater discharge to marine water (Outfall # M001)

Violation Date	Monitoring Period Begin Date	Outfall	Parameter	Measured Value	Limit	Limit Type
10/28/2016	10/1/2016	M001	Copper	2736 µg/L	147	Monthly Max
11/18/2016	11/1/2016	M001	Copper	1060 µg/L	147	Monthly Max
1/31/2017	1/1/2017	M001	Copper	227 µg/L	147	Monthly Max
10/25/2017	10/1/2017	M001	Copper	252 µg/L	147	Monthly Max
11/28/2017	11/1/2017	M001	Copper	182 µg/L	147	Monthly Max
1/30/2018	1/1/2018	M001	Copper	191 µg/L	147	Monthly Max
4/30/2018	4/1/2018	M001	Copper	468 µg/L	147	Monthly Max
5/1/2019	5/1/2019	M001	Copper	81* µg/L	50	Seasonal Avg

\*Ecology calculated the seasonal average because the facility did not correctly calculate it on the May 2019 DMR.

Table 3: Zinc benchmark exceedances for stormwater discharges to marine water (Outfall # M001)

Violation Date	Monitoring Period Begin Date	Outfall	Parameter	Measured Value	Limit	Limit Type
10/28/2016	10/1/2016	M001	Zinc	371 µg/L	90	Monthly Max
11/18/2016	11/1/2016	M001	Zinc	590 µg/L	90	Monthly Max
1/31/2017	1/1/2017	M001	Zinc	424 µg/L	90	Monthly Max
10/25/2017	10/1/2017	M001	Zinc	411 µg/L	90	Monthly Max
11/28/2017	11/1/2017	M001	Zinc	259 µg/L	90	Monthly Max
1/30/2018	1/1/2018	M001	Zinc	353 µg/L	90	Monthly Max
4/30/2018	4/1/2018	M001	Zinc	297 µg/L	90	Monthly Max
10/31/2018	10/1/2018	M001	Zinc	200 µg/L	90	Monthly Max
1/31/2019	1/1/2019	M001	Zinc	131 µg/L	90	Monthly Max
5/1/2019	5/1/2019	M001	Zinc	111* µg/L	85	Seasonal Avg
5/31/2019	5/1/2019	M001	Zinc	96 µg/L	90	Monthly Max

\*Ecology calculated the seasonal average because the facility did not correctly calculate it on the May 2019 DMR.

#### ELIGIBILITY FOR PAPERWORK VIOLATION WAIVER AND OPPORTUNITY TO CORRECT

Under RCW 34.05.110, small businesses are eligible for a waiver of a first-time paperwork violation and an opportunity to correct other violations. We have made no determination as to whether you meet the definition of a “small business” under this section. However, we have determined that the requirements of RCW 34.05.110 do not apply to the violation(s) due to a conflict with federal law or program requirements, including federal requirements that are a prescribed condition to the allocation of federal funds to the state.



**FAILURE TO COMPLY WITH THIS NOTICE OF PENALTY**

Continued failure to correct the violations listed in this Notice of Penalty may result in additional, escalated penalties.

**OPTIONS FOR RESPONDING TO A NOTICE OF PENALTY**

**Option 1: Pay the penalty within 30 days after receiving the Notice of Penalty.**

Make your payment payable to the *Department of Ecology*. Please include the penalty docket number on your payment.

**Mail payment to:**

Department of Ecology  
Cashiering Unit  
PO Box 47611  
Olympia, WA 98504-7611

Note: Ecology may take legal action to collect the penalty if you have not paid 30 days after receiving the Notice of Penalty, and have not appealed.

**Option 2: Appeal to the PCHB and serve Ecology within 30 days after the date of receipt of the Notice of Penalty.**

The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do both of the following within 30 days after the date of receipt of this Notice of Penalty:

- File your appeal and a copy of this Notice of Penalty with the Pollution Control Hearings Board (PCHB) during regular business hours.
- Serve a copy of your appeal and this Notice of Penalty on Ecology in paper form, by mail or in person. E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

**ADDRESS AND LOCATION INFORMATION**

Street Address	Mailing Address
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608

Street Address	Mailing Address
Pollution Control Hearings Board 1111 Israel Road SW STE 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

#### CONTACT INFORMATION


Please direct all questions about this Notice of Penalty to:

Stephanie Barney  
Department of Ecology  
Bellingham Field Office  
913 Squalicum Way #101  
Bellingham, WA 98225  
(360) 255-4390  
[stephanie.barney@ecy.wa.gov](mailto:stephanie.barney@ecy.wa.gov)

#### MORE INFORMATION

- **Pollution Control Hearings Board**  
<http://www.eluho.wa.gov/Board/PCHB>
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board**  
<http://app.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- **Chapter 371-08 WAC – Practice and Procedure**  
<http://app.leg.wa.gov/WAC/default.aspx?cite=371-08>
- **Chapter 34.05 RCW – Administrative Procedure Act**  
<http://app.leg.wa.gov/RCW/default.aspx?cite=34.05>
- **Ecology's Laws, rules, & rulemaking website**  
<https://ecology.wa.gov/About-us/How-we-operate/Laws-rules-rulemaking>

#### SIGNATURE



Heather R. Bartlett  
Water Quality Program Manager



Date

