



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

November 12, 2019

Jim Rard
Marine Servicerter
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 Servicerter 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 or (360) 407-6239 within one business day of when you first receive the draft news release.



Marine Servicenter
November 12, 2019
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If you have questions please contact Stephanie Barney at 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)
ASSESSMENT AGAINST)
MARINE SERVICENTER)
JIM RARD)

NOTICE OF PENALTY
INCURRED AND DUE
PENALTY DOCKET #16800

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

| | |
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| 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 Servicenter 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 Servicenter'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

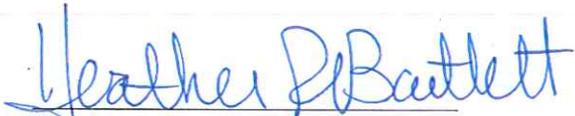
Please direct all questions about this Notice of Penalty to:

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

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

