



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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February 11, 2019

Mr. Alan P. Sidell
Seattle Iron & Metals Corp.
601 South Myrtle Street
Seattle, WA 98108

Notice of Penalty Docket No.	15572
Site Location	601 South Myrtle Street, Seattle, WA 98108
Penalty Amount	\$98,000
Due Date	Within 30 days after receiving this Notice of Penalty

Re: Notice of Penalty

Dear Mr. Sidell:

The Washington State Department of Ecology (Ecology) has issued the enclosed Notice of Penalty to Seattle Iron & Metals Corp. for violating provisions of:

- Chapter 90.48.080 Revised Code of Washington (RCW) – Water Pollution Control.
- National Pollutant Discharge Elimination System (NPDES) Permit No. WA0031968.

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 communications manager Larry Altose at larry.altose@ecy.wa.gov or (425) 649-7009 within one business day of when you first receive the draft news release.

If you have questions, please contact Gretchen Onstad at gretchen.onstad@ecy.wa.gov or (425) 649-7034.

Sincerely,

Heather R. Bartlett
Water Quality Program Manager

Enclosures: Notice of Penalty Docket No. 15572
Draft News Release

By Certified Mail No.: 9489 0090 0027 6066 5219 05

cc: Fiscal-Penalty Desk, Ecology
Phyllis Barney, Assistant Attorney General, WA Office of Attorney General
Central Files, Seattle Iron & Metals Corp., NPDES Permit No. WA0031968, WQ 6.4
Bo Li, Permit Manager, Ecology
Gretchen Onstad, Enforcement Coordinator, Ecology
Jerry Shervey, Industrial Unit Supervisor, Ecology
Rachel McCrea, Water Quality Section Manager, Ecology
Larry Altose, Communication Manager, Ecology



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF PENALTY)	NOTICE OF PENALTY
ASSESSMENT AGAINST)	INCURRED AND DUE
SEATTLE IRON & METALS CORP.)	PENALTY DOCKET NO. 15572
MR. ALAN P. SIDELL)	

To: Mr. Alan P. Sidell
Seattle Iron & Metals Corp.
601 South Myrtle Street
Seattle, WA 98108

Notice of Penalty Docket No.	15572
Site Location	601 South Myrtle Street, Seattle, WA 98108
Penalty Amount	\$98,000
Due Date	Within 30 days after receiving this Notice of Penalty

The Department of Ecology (Ecology) has assessed a penalty against Seattle Iron & Metals Corp. in the amount of \$98,000 for violating provisions of:

- Chapter 90.48.080 Revised Code of Washington (RCW) – Water Pollution Control.
- National Pollutant Discharge Elimination System (NPDES) Permit No. WA0031968.

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 violations have occurred is based on the violations listed in Tables 1 and 2.

Seattle Iron & Metals Corp. (SIM) is authorized to discharge process wastewater consisting of stormwater runoff, dust suppression/control water, and unconsumed injection water to the Duwamish River at the permitted location subject to complying with the discharge limits and prohibitions set forth in Special Condition S1.A of its permit and all other special and general requirements specified in the permit.

Monitoring requirements, listing parameters, sample points, sampling frequency, and sample type can be found in Special Condition S2 of the permit. Reporting requirements are found in Special Condition S3.

Violations:

This notice of penalty is being issued to SIM for NPDES permit violations of effluent limit exceedance (Table 1), untreated discharge and failure to implement best management practices (Table 2).

- A. Upon review of discharge monitoring reports (DMRs) for the period comprising February 2017 through December 2018, Ecology determined that SIM exceeded permit effluent limits 43 times (Table 1). Monitoring point (MP) #1 represents process wastewater (SP1 in Figure 1). MP#2 represents discharge from untreated roof runoff (701 in Figure 1). Limits for a separate outfall, the employee parking lot (AP2), became effective on 10/1/2018.

Table 1. Effluent violations reported in SIM's DMRs (February 2017 - December 2018)

#	Date	MP ^a	Parameter ^b	Amount	Limit	Units	Limit Type
1	2/15/2017	1	TPH	7.34	5	mg/L	Maximum Daily
2	2/15/2017	1	TSS	19	10	mg/L	Maximum Daily
3	3/15/2017	2	Lead	125	81.6	µg/L	Maximum Daily
4	3/29/2017	2	Lead	99.9	81.6	µg/L	Maximum Daily
5	3/29/2017	1	TPH	11.7	5	mg/L	Maximum Daily
6	4/5/2017	2	Copper	18.7	14	µg/L	Maximum Daily
7	4/5/2017	2	Lead	100	81.6	µg/L	Maximum Daily
8	4/5/2017	2	Zinc	143	117	µg/L	Maximum Daily
9	4/29/2017	1	TPH	14.3	5	mg/L	Maximum Daily
10	5/16/2017	1	TPH	18.95	5	mg/L	Maximum Daily
11	9/28/2017	1	TPH	9.03	5	mg/L	Maximum Daily
12	10/18/2017	2	Zinc	168	117	µg/L	Maximum Daily
13	10/23/2017	1	TPH	6.65	5	mg/L	Maximum Daily
14	November 2017	1	Copper	15.55	13.2	µg/L	Average Monthly
15	11/21/2017	1	TPH	6.54	5	mg/L	Maximum Daily
16	11/28/2017	1	TPH	12.84	5	mg/L	Maximum Daily
17	12/15/2017	1	Copper	38.6	26.5	µg/L	Maximum Daily
18	12/15/2017	1	TPH	27.94	5	mg/L	Maximum Daily
19	12/15/2017	1	TSS	62	10	mg/L	Maximum Daily
20	12/15/2017	1	Zinc	681	492	µg/L	Maximum Daily
21	12/19/2017	1	TPH	18.6	5	mg/L	Maximum Daily
22	12/19/2017	1	TSS	17	10	mg/L	Maximum Daily
23	12/22/2017	1	TPH	16.39	5	mg/L	Maximum Daily
24	12/28/2017	1	TPH	14.48	5	mg/L	Maximum Daily
25	12/28/2017	1	TSS	14	10	mg/L	Maximum Daily
26	1/5/2018	1	TPH	11.81	5	mg/L	Maximum Daily
27	1/5/2018	1	TSS	16	10	mg/L	Maximum Daily
28	1/17/2018	1	TPH	13.17	5	mg/L	Maximum Daily
29	1/23/2018	2	Lead	145	81.6	µg/L	Maximum Daily
30	2/9/2018	1	TPH	15.22	5	mg/L	Maximum Daily
31	3/27/2018	1	TPH	9.43	5	mg/L	Maximum Daily
32	4/30/2018	1	TPH	10.49	5	mg/L	Maximum Daily
33	6/8/2018	2	Copper	17.5	14	µg/L	Maximum Daily
34	6/8/2018	2	Zinc	506	117	µg/L	Maximum Daily
35	October 2018	1	Copper	29.0567	13.2	µg/L	Average Monthly
36	10/22/2018	1	Copper	69.1	26.5	µg/L	Maximum Daily
37	November 2018	1	Copper	66.35	13.2	µg/L	Average Monthly
38	11/9/2018	1	Copper	119	26.5	µg/L	Maximum Daily
39	12/11/2018	1	TPH	7.27	5	mg/L	Maximum Daily
40	12/11/2018	2	Copper	18.9	14	µg/L	Maximum Daily
41	12/11/2018	2	Zinc	186	117	µg/L	Maximum Daily
42	12/11/2018	AP2	Copper	21.6	14	µg/L	Maximum Daily
43	12/11/2018	AP2	Zinc	287	117	µg/L	Maximum Daily

^a MP = Monitoring Point (#1 sampled monthly, #2 and #AP2 sampled quarterly). See Figure 2 for sampling locations.

^b TSS = Total Suspended Solids (Residue); TPH = Total Petroleum Hydrocarbons; All metals are Total.

B. On November 28, 2017, Ecology and the City of Seattle conducted an unannounced inspection of SIM during a storm event.

1. A noticeable dark plume was observed in the Duwamish River originating from Outfall 001 (see point 1 in Figure 2). This violates RCW 90.48.080 and NPDES permit condition S1.F. *Aesthetic impacts*, "...The presence of foam, off colors or other materials or their effects which offend the senses at Outfall 001 and the mixing zone are prohibited."

The on-site treatment system was inspected and dark turbid water was observed both prior to and following each step of treatment. This treatment upset violates permit condition S4.A. *Operation and maintenance – yard wastewater treatment system, dissolved air flotation*: "The Permittee must, at all times, properly operate and maintain all...systems of treatment and control...which are installed to achieve compliance with the terms and conditions of this permit..."

Ecology directed SIM to immediately collect an effluent sample at Outfall 001 and submit it for laboratory analysis. SIM did not take the sample as directed. SIM first optimized the treatment system and then collected a sample. Failure to collect representative samples of the unusual discharge condition (upset) violates permit condition S2.B *Sampling and analytical procedures*: "Samples and measurements taken to meet the requirements of this permit must represent the volume and nature of the monitored parameters, including representative sampling of any unusual discharge or discharge condition, including bypasses, upsets, and maintenance-related conditions affecting effluent quality."

2. At the South Dock (Figure 2, point 2), the scrap pile was spilling over the ecology blocks onto the South Dock. This violates permit condition S1.D. *Prohibition against discharges from processing area and docks* "The Permittee shall properly maintain...diversion structures to ensure that process wastewater and stormwater from its processing area are directed into the treatment system..."
3. The existing road-edge berm was moved by SIM equipment beyond the edge of the pavement that defines the northwest catchment basin (see point 3 in Figure 2) enabling untreated stormwater from the site to sheet flow directly into the Duwamish River. This violates permit condition S1.D. *Prohibition against discharges from processing area and docks* "...Discharge of untreated storm or process water via sheet flow or point source directly to the Duwamish Waterway is prohibited..."
4. The North Dock (Figure 2, point 4) was used to store scrap metal and heavy machinery. The North Dock had several preexisting holes that allow direct discharge to the Duwamish River. SIM had laid metal sheets over the holes to enable material storage, but they were not effective in preventing discharge from the North Dock to the river. This violates permit condition S1.D. *Prohibition against discharges from processing area and docks* "...The Permittee must not use the docks for storing and processing scrap materials. SIM shall implement temporary measures to stop or collect discharge of untreated stormwater...during dock activities. The permittee must maintain and repair as necessary the North and South Timber Docks to prevent discharge of...raw materials and machinery associated fluids to the Duwamish Waterway. Holes...must be repaired promptly."

5. An oil sheen was observed in the Duwamish River surrounding the North Dock (Figure 2, point 4. The oil sheen was observed to originate from a muddy pool of stormwater in front of the Equipment Maintenance Building (Figure 2, point 5) and drained to the North Dock, visibly polluting the near shore river water. The failure of the interceptor trench at the North Dock to capture this untreated discharge violates S4. and RCW 90.48.080 *Discharge of polluting matter in waters prohibited*.

Table 2. Permit violations cited during inspection of SIM on November 28, 2017

Violation	Description of Violation	RCW or Permit Section
1. Dark turbid water discharged from Outfall 001	<ul style="list-style-type: none"> • Dark plume observed in Duwamish River at Outfall 001 • Treatment system upset • Failed to sample discharge 	RCW 90.48.080 <i>Discharge of polluting matter in waters prohibited</i> S1.F. <i>Aesthetic impacts at the outfall and in Duwamish Waterway</i> S4 <i>Operation & maintenance</i> S2.B. <i>Monitoring Schedule</i>
2. Scrap overflow to South Dock resulting in stormwater and process wastewater not being directed into treatment system	Ecology blocks not maintained between scrap pile and South Dock resulting in discharges of untreated stormwater and process wastewater	S1.D. <i>Prohibition against discharges from processing area and docks</i>
3. Berm moved off pavement	Allowing sheet flow of stormwater from processing area pavement to river	S1.D. <i>Prohibition against discharges from processing area and docks</i>
4. North Dock used for storage of scrap metal and heavy machinery resulting in direct discharges into Duwamish River	North Dock in bad repair, with holes allowing discharges	S1.D. <i>Prohibition against discharges from processing area and docks</i>
5. Oil sheen surrounding broken North Dock	Failure of interceptor trench to capture untreated discharge	S4. <i>Operation & maintenance</i> RCW 90.48.080 <i>Discharge of polluting matter in waters prohibited</i>

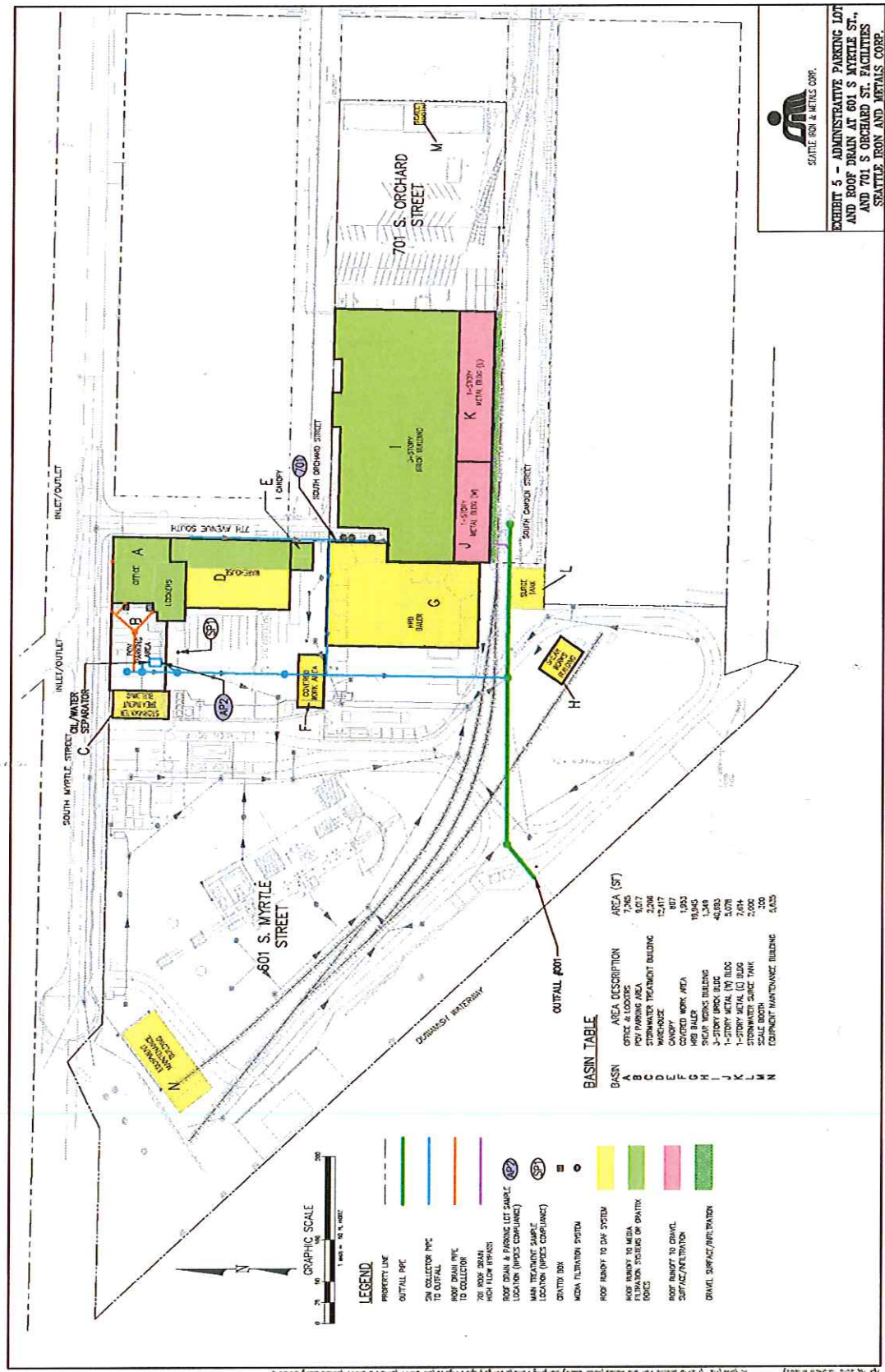


Figure 1. Monitoring points circled (MP#1 = SP1, MP#2 = 701, AP2 = employee parking lot) for effluent limit violations listed in Table 1. Map was taken from the SIM SWPPP Rev 4/9/2018.

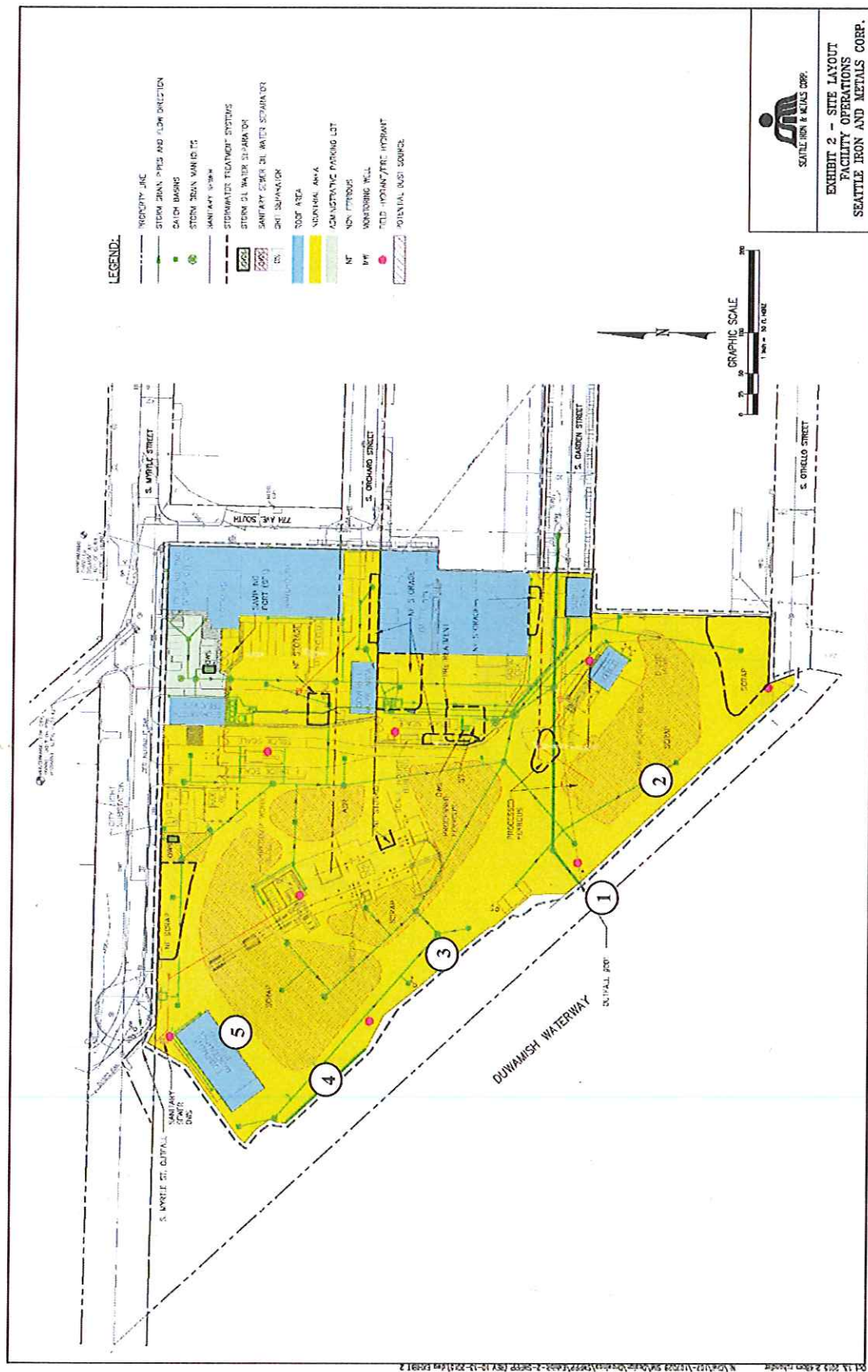


Figure 2. Site Map for Seattle Iron & Metals Corp. (adapted from SIM Phase II Engineering Report Addendum 7/21/2016) with large circled violations numbered as listed in Table 2.

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 Addresses	Mailing Addresses
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
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:

Gretchen Onstad, Ph.D.
Department of Ecology
Northwest Regional Office
3190 – 160th Avenue SE
Bellevue, WA 98008-5452
Phone: 425-649-7034
Email: gons461@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

 DATED 2/1/19, at Olympia, Washington.
Heather R. Bartlett
Water Quality Program Manager
Washington State Department of Ecology