

## **Frequently Asked Questions Regarding Monitoring Values that Exceed Benchmarks for Boatyard General Permit Permittees**

**Q1: What is a Level One Response?**

**A1:** A Level One Response is the first step in adaptively managing your facility. Adaptive management is required by all general permits in Washington State. Each time a monitoring result for any parameter is above a benchmark value, you must take all of the actions specified in your permit for Level One Responses.

**Q2: What must I do to complete a Level One Response?**

**A2:** A Level One Response consists of all the following four steps:

- (1) Conduct an inspection of the permitted facility as promptly as possible after the monitoring results become available.
- (2) In addition to the elements identified in Permit Condition S6.D (Visual Inspection Requirements), the inspection must:
  - Identify and evaluate possible sources of the exceeding parameter in the discharge;
  - Identify source and operational control methods by which the contamination can be reduced; and
  - Evaluate which improvements or changes to the Stormwater Pollution Prevention Plan (SWPPP) are necessary to control the exceeding parameter. The requirements for a SWPPP are provided in Permit Condition S8 (Stormwater Pollution Prevention Plan).
- (3) Summarize the inspection results in a Level One Response Form, including remedial actions taken or planned, and place it in the SWPPP.
- (4) Submit a copy of the completed Level One Response Form to Ecology at the same time as submitting the corresponding Discharge Monitoring Report (DMR).

**Q3: Do I conduct a Level One Response every time a monitoring parameter result exceeds its permitted benchmark?**

**A3:** Yes, you must complete a Level One Response every time a monitoring parameter benchmark is exceeded, except as noted in the next Answer (A4).

**Q4: Do I need to send a separate Level One Response Form for each monitoring parameter that exceeds its benchmark within a given month?**

**A4:** Yes. Each time a monitoring result for any parameter is above a benchmark value, you must take all of the actions identified in Answer A2 above. For example, if a single sample for a monitoring period yields analytical results exceeding benchmarks for total copper and total zinc, then a Level One Response is required for each parameter, and the two results represent two exceedances. A Level One Response is not required after four, five, or six exceedances.

**Q5: When must I send a Level One Response Form to Ecology?**

**A5:** You should send your completed Level One Response Form(s) to Ecology with the DMR for the month when the result(s) exceeded its benchmark(s). The DMR is due by the 28th of the month following the completed monitoring month.

**Q6: What is a Level Two Response?**

**A6:** If the Level One Response is not fully effective, you may find subsequent monitoring results still exceeding benchmarks. When four monitoring results (potentially including the seasonal average) have accumulated for any one parameter at any stormwater monitoring location and exceed the benchmark for that parameter (e.g., three copper values from one monitoring location and one copper value from another monitoring location), you must take all of the actions specified in your permit for Level Two Responses.

**Q7: What must I do to complete a Level Two Response?**

**A7:** A Level Two Response consists of all the following three steps:

- (1) Investigate all available and applicable stormwater treatment best management practices (BMPs) to reduce contaminant levels below the permit benchmark values. At a minimum, these must include examination of the options for covering the hull preparation area, treating the stormwater runoff, land infiltration of stormwater runoff, and sending the stormwater runoff to the municipal sewage treatment plant.
- (2) Prepare a Level Two Source Control Report outlining potential stormwater treatment practices or structures that may be appropriate at that location. These treatment practices or structures must be prioritized in the report according to expected cost and ease of installation. Ecology recommends the Permittee review Ecology Publication Number 15-10-041 at <http://www.ecy.wa.gov/pubs/1510041.pdf> for some options and the approximate cost of the options.
- (3) Submit the Level Two Source Control Report to Ecology within 3 months of reporting the fourth value above a benchmark.

**Q8: When must I send the Level Two Source Control Report to Ecology?**

**A8:** The Level Two Source Control Report should be sent within 3 months of reporting the fourth exceedance of a benchmark.

**Q9: What if the benchmark for one monitoring parameter is exceeded three times and the benchmark for another is exceeded four times? What Responses must I perform?**

**A9:** A Level One Response is required for the monitoring parameter that exceeded its benchmark three times, and a Level Two Response is required for the monitoring parameter that exceeded its benchmark four times.

**Q10: What if the benchmark for a monitoring parameter is exceeded five times? What Responses must I perform?**

**A10:** No particular response is required following that fifth exceedance. However, you should already be preparing or have prepared a Level Two Source Control Report for that

parameter. Also you should start to think about a possible future Level Three Response if the cause(s) of the exceedances have not yet been clearly identified and corrected.

**Q11: What happens when the benchmark for a monitoring parameter is exceeded six times?**

**A11:** When any six monitoring results (potentially including the seasonal average) have accumulated for any one parameter at any stormwater monitoring location and exceed the benchmark for that parameter (e.g., four zinc values from one monitoring location and two zinc values from another monitoring location); or when the monitoring results for any two samples exceed a parameter benchmark value during the coverage under this permit if a Level Two Response requirement had been triggered for that same parameter under the previous Boatyard General Permit (issued June 1, 2011), the Permittee must conduct a Level Three Response.

**Q12: What must I do to complete a Level Three Response?**

**A12:** A Level Three Response can follow two possible pathways. If you choose to install a stormwater treatment system or improve your existing treatment system, you would complete the steps described under the “Treatment” option in your general permit. Otherwise, you must demonstrate that additional treatment BMPs are not feasible or not necessary, as described under the “Demonstration that Treatment is Not Feasible or Not Necessary” option in your general permit.

The steps of the Treatment option are:

- (1) Prepare an Engineering Report that includes the following items, at a minimum:
  - a. Brief summary of the treatment alternatives considered and the reasons the proposed option was selected. The report must include cost estimates of ongoing operation and maintenance, including disposal of any spent media.
  - b. The basic design and construction data for all treatment devices and structures that are to be installed, including a characterization of the stormwater runoff influent and the sizing calculations of the treatment units.
  - c. A description of the treatment process and operation, including a flow diagram.
  - d. The types and amounts of chemicals used in the treatment process, if any.
  - e. A proposed schedule for implementation of the preferred option. Implementation must be completed within 12 months of the time when Ecology accepts the Engineering Report.
  - f. Results expected from the treatment process, including the predicted characteristics of the stormwater runoff discharge.
  - g. A statement expressing sound engineering justification (through the use of pilot plant data, results from similar installations, and/or scientific evidence) that the proposed treatment is reasonably expected to meet the permit benchmarks and limits.
  - h. The Engineering Report must be prepared and certified by a licensed professional engineer unless the Permittee can demonstrate engineering competence and receives an exemption from Ecology.

- (2) You must submit the Engineering Report to Ecology within 3 months of reporting the six monitoring results above a benchmark. Ecology typically completes review of a well-done Engineering Report within 60 days. Failure to submit an acceptable Engineering Report may result in an order, penalty, or both. You must notify Ecology at the time the new or modified treatment BMP is in place and operational. Level One and Level Two Reports are not required for benchmark exceedances for the same parameter(s) that may occur during the period the preferred option is being put into place and started up.

Alternately, the process to demonstrate that treatment is not feasible or not necessary is:

Within 3 months of reporting the six monitoring results above a benchmark, you must submit to Ecology a demonstration that additional treatment BMPs are not feasible or not necessary. Ecology may subsequently approve modification of the permit in accordance with Condition S1.C (Modification of Permit Coverage) if you:

- (1) Request such a modification;
- (2) Fulfill all the requirements specified in Condition S1.C; and
- (3) Demonstrate to Ecology's satisfaction that one or more of the following conditions apply:
  - a. Installation of necessary treatment BMPs is not feasible by the Level Three deadline, up to a maximum of 15 months following reporting the six monitoring results above a benchmark.
  - b. Installation of treatment BMPs is not feasible or not necessary to prevent discharges that may cause or contribute to violation of a water quality standard.

In this context, "not necessary" means that even without the installation of additional treatment BMP(s), the permitted discharges would not cause or contribute to a violation of water quality standards. Likewise, "not feasible" means that specific local conditions would prevent you from installing the BMP(s), such as your landlord or the local fire marshal refusing to allow the installation. "Not feasible" does not include your financial limitations. RCW 90.48.520 states, "In no event shall the discharge of toxicants be allowed that would violate any water quality standard, including toxicant standards, sediment criteria, and dilution zone criteria."