

Violations of Environmental Permits and Regulations For State Highway Projects

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Washington State
Department of Transportation

RE: 2ESSB 5996, Section 5(5) – 2016 Report on violations of environmental permits and regulations for state highway projects

The 2015 Legislature directed the Washington State Department of Transportation (WSDOT) to summarize environmental violations annually. The proviso states:

“Provide an annual report summarizing violations of environmental permits and regulations to the department of ecology and the legislature on March 1st of each year for violations occurring during the preceding year.”

WSDOT’s Commitment to Environmental Protection

Washington State’s transportation system policy goals include environmental protection: “To enhance Washington’s quality of life through transportation investments that promote energy conservation, enhance healthy communities, and protect the environment” (RCW 47.04.280). WSDOT is committed to protecting the quality of our air, water, cultural and natural resources. In addition, WSDOT directs its employees to follow sound environmental practices in the planning, design, construction, operation, and maintenance of the state’s transportation system and facilities. WSDOT’s efforts to ensure our activities meet this commitment include:

- Integrating environmental protection features in the design of projects and maintenance activities;
- Working with federal, state, local, and tribal agencies to ensure our projects and maintenance work complies with applicable laws and regulations;
- Incorporating environmental commitments (such as permit conditions) into project-level contracts, and tracking them throughout project delivery; and,
- Training staff to spot risks and minimize the potential for harm by implementing best management practices.

WSDOT and its contractors regularly conduct site inspections and monitor water quality to ensure compliance with environmental permits and approvals. When non-compliance events are detected, we follow the Environmental Compliance Assurance Procedure (ECAP) that was established by WSDOT in 2004. Non-compliance events are actions that are not in compliance with environmental standards, permits, agreements, or laws. Not all non-compliance events result in a violation. We place a high emphasis on self-reporting so that we can address the problems before harm is done. Self-reporting also helps us reduce the potential for violations. For the purposes of this report, violations are defined as written notices from regulatory agencies including: warning letters, inspection reports (citing violations and requiring corrective action), notices of violation, orders, and monetary penalties.

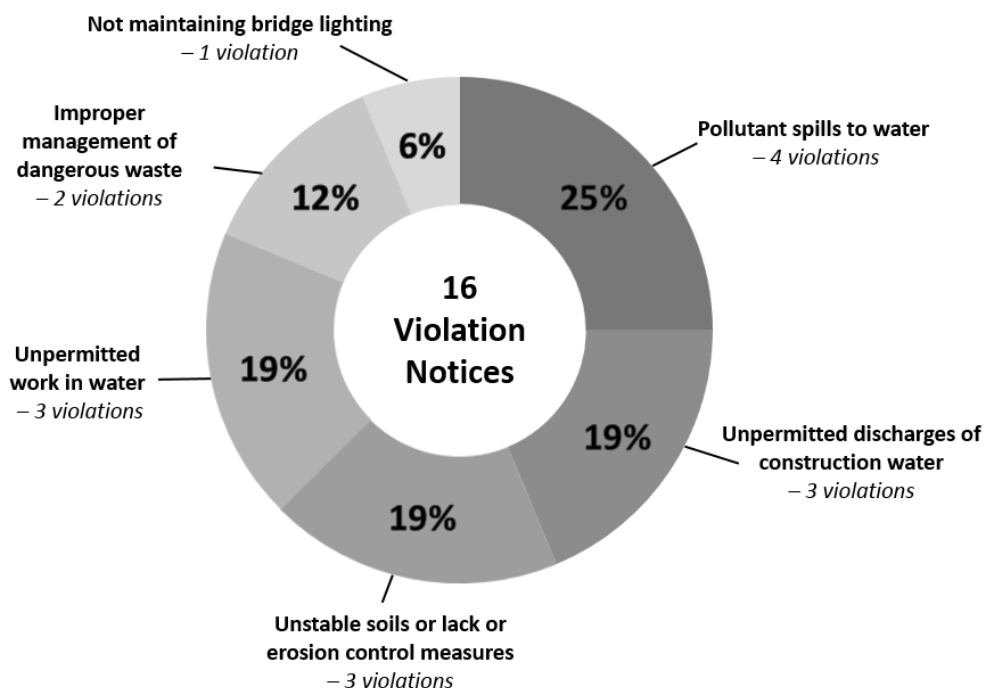
2016 Environmental Violations

In 2016, WSDOT performed 2.6 million hours of statewide highway maintenance work and received one violation notice. WSDOT made 162,000 ferry sailings, with only one violation. WSDOT oversaw 675 active construction projects in 2016 and of those, 98% did not receive any violation notices.

WSDOT and its contractors received 16 violation notices for project-related construction work in 2016 (see graphic on next page). This is nine less than the agency received in 2015. The

decrease is attributed to WSDOT's and its contractors' continued efforts to improve compliance throughout the project development process.

WSDOT activities receive 16 violation notices in 2016
Number of notices by environmental violation category



The most common activities that resulted in a violation notice in 2016 were pollutant spills to water, which accounted for four of the 16 notices (25%). WSDOT's contractors prepare and implement Spill, Prevention, Control, and Countermeasure Plans to minimize the risk of spills to water.

Of the 16 statewide violation notices, regulatory agencies issued 11 to WSDOT and 5 to WSDOT's contractors. Violations were issued directly to the contractor if the regulatory agency determined the contractor was solely responsible or was the permit-holder. Two of WSDOT's violation notices were also issued to the contractor.

WSDOT's violations – Six of the 11 violation notices issued to WSDOT came from the department of Ecology (Ecology) and the City of Seattle for unpermitted discharges of construction water and pollutants or unstable soils. The Army Corps issued three notices for unpermitted work in water. The remaining two notices were from the US Coast Guard for not maintaining bridge lights and a hydraulic oil spill from a ferry terminal.

Contractor's violations – Three of the five violation notices issued by Ecology to WSDOT's contractors were associated with the Construction Stormwater General Permit. The remaining two violations were from improper management of dangerous waste.

WSDOT's penalties – WSDOT's violation notices included three monetary penalties totaling \$25,000 in 2016, an increase of \$24,250 from 2015. Two monetary penalties were issued by the City of Seattle to WSDOT for discharging prohibited substances into their stormwater system.

One consisted of a \$1,000 penalty for the discharge of turbid construction water to Lake Union from the State Route (SR) 99 Tunnel Alternative, North Access Construction Project. The second was a \$2,000 penalty for the discharge of fire suppression foam that occurred when WSDOT was testing a new system installed within the I-90, Mount Baker Tunnel.

A third penalty in the amount of \$22,000 was jointly issued to WSDOT and the contractor by the Department of Ecology for several unpermitted discharges of shaft drilling slurry and one discharge of hydraulic fluid to Lake Washington in 2015 and 2016 during construction of the SR 520, West Approach Bridge North Project. The contractor is currently appealing this penalty.

Contractor's penalties – WSDOT's contractors received two monetary penalties. One of these was jointly issued to both WSDOT and the contractor and is described above. The other penalty was issued to Seattle Tunnel Partners (\$4,000) from the Department of Ecology for spilling spoils from the SR 99 Tunnel Boring Project into Elliott Bay from a barge.

WSDOT maintains strong practices that improve compliance for our projects. In 2017, we will continue to improve our performance by:

- Sharing lessons learned from 2016 with WSDOT regions and modes.
- Discussing high-risk activities and environmental requirements with the contractor during pre-construction meetings.
- Assessing construction sites during the fall to detect and address potential erosion and stormwater issues before the rainy season.
- Updating our manuals, guidance, contract language, and training to reflect the most up to date information.

Should you have any questions, or need further information, please contact Megan White, Environmental Director, at 360-705-7480, or WHITEM@wsdot.wa.gov.