

Violations of Environmental Permits and Regulations for State Transportation Projects

Roger Millar
Secretary of Transportation

Megan White
Director, Environmental Services Office

February 2021



Washington State
Department of Transportation

RE: RCW 47.85.040 (5) – 2019 Report summarizing violations of environmental permits and regulations for state transportation projects

The 2015 Legislature directed the Washington State Department of Transportation (WSDOT) to summarize environmental violations annually. RCW 47.85.040 (5) states:

“Provide an annual report summarizing violations of environmental permits and regulations to 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 comply with applicable laws and regulations.
- Incorporating environmental commitments (such as permit conditions) into project-level contracts and tracking them throughout project delivery.
- Training staff to spot risks and minimize the potential for harm by implementing best management practices.

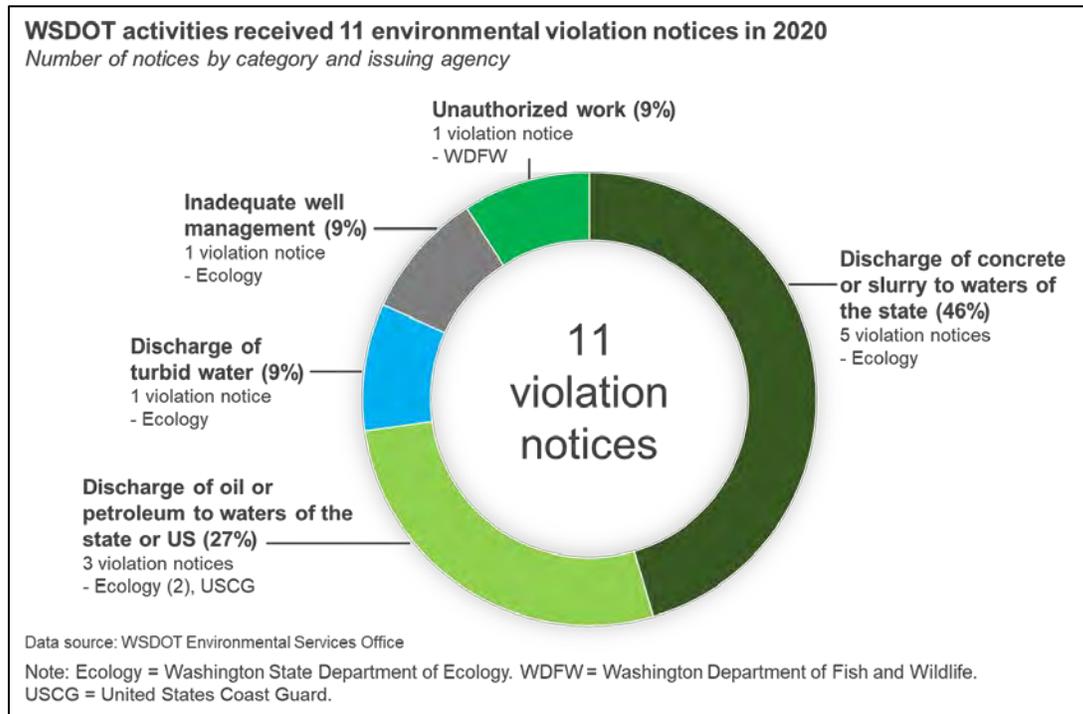
WSDOT and its contractors regularly conduct site inspections and monitor water quality to ensure compliance with environmental permits and approvals. When non-compliance events are detected, we follow the Environmental Compliance Assurance Procedures that WSDOT has established. Non-compliance events 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 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 received in 2020, including: warning letters, inspection reports (citing violations and requiring corrective action), notices of violation, orders, and monetary penalties.

2020 Environmental Violations

In 2020, regulatory agencies issued five violations to highway construction projects, one violation to a standalone fish barrier correction project, and five violations to two ferry terminal construction projects. These 11 violations stemmed from nine non-compliance events in 2020 and one event in 2019 (note: one non-compliance event resulted in two separate violation notices from two different agencies). The total number of violations issued in 2020 increased slightly by two from the nine violations received in

2019. WSDOT and its contractors will continuously work to improve compliance as challenges are addressed.

Of the 11 statewide violation notices, regulatory agencies issued five to WSDOT only, four to both WSDOT and contractor (or Design-Builder) and two directly to a WSDOT contractor. Violations were issued directly to a contractor when the regulatory agency determined that the contractor was solely responsible or was the permit-holder.



WSDOT-only violations – Regulatory agencies issued a total of five violations directly to WSDOT in 2020: two for discharge of concrete or slurry to waters of the state, one for discharge of oil or petroleum to waters of the state, one for inadequate well management, and one for unauthorized work. One of the unauthorized concrete slurry discharges occurred in late 2019, and Washington State Department of Ecology (Ecology) issued the violation to WSDOT in 2020.

WSDOT and Contractor violations – Regulatory agencies issued a total of four violations to both WSDOT and the contractor/Design-Builder, some in separate letters in 2020. Three of the violations were for discharges of concrete or slurry to waters of the state, and one was for discharge of oil and petroleum substances to waters of the state.

Contractor-only violations – Regulatory agencies issued a total of two violations directly to the contractor. The United States Coast Guard issued one violation directly to a WSDOT subcontractor for unauthorized release of hazardous substance or material (petroleum) to waters of the US. Ecology issued one violation to the contractor for a discharging turbid water.

WSDOT penalties – None of the violation notices received by WSDOT resulted in monetary penalties.

Contractor penalties – None of the violation notices received by contractors resulted in monetary penalties.

WSDOT maintains strong practices that improve compliance for our projects. In 2021, we will continue to improve our performance by:

- Sharing lessons learned from 2020 with WSDOT regions, ferries and megaprograms.
- Discussing high-risk activities, environmental requirements, and work expectations with the contractor during pre-construction meetings.
- Assessing construction sites and working with contractors to prevent, detect, and address any potential issues for stormwater, containment, erosion, or hazardous materials.
- 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 megan.white@wsdot.wa.gov.