

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) – 2015 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 from the previous year. 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 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.

2015 Environmental Violations

In 2015, WSDOT performed 2.6 million hours of statewide highway maintenance work without receiving a single violation notice. WSDOT made 160,000 ferry sailings, with only three violations. WSDOT oversaw 663 active construction projects in 2015 and of those, 98% did not receive any violation notices.

WSDOT and its contractors received 25 violation notices for project-related construction work. The graphic below provides an overview of the violations.

WSDOT activities receive 25 violation notices in 2015 *Number of notices by environmental violation category*



The most common activities that resulted in a violation notice in 2015 were unstabilized soils or lack of erosion control measures and unpermitted discharges of construction water, which accounted for 14 of the 25 notices (56%).

Of the 25 statewide violation notices, regulatory agencies issued 13 to WSDOT and 12 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.

WSDOT's violations – Seven of the 13 violation notices issued to WSDOT came from the Department of Ecology for unpermitted discharges of construction water and pollutants or unstabilized soils. Three of the remaining six came from the U.S. Coast Guard for minor spills to marine waters associated with ferry sailings. One came from the Army Corps of Engineers as a result of over-dredging the launch channel (1-foot beyond the permitted depth) for the SR520 Pontoon Construction Project in Aberdeen. One came from King County for the unpermitted discharge of construction water to sanitary sewers with an expired Waste Discharge Authorization. The remaining notice was from the Spokane Regional Air Agency and is described below.

Contractor's violations – Seven of the 12 violation notices issued by the department of Ecology to WSDOT's contractors were associated with the Construction Stormwater General Permit. In February 2015, WSDOT began transferring the Construction Stormwater General Permit to its contractors as a standard practice. As a condition of the general permit, Ecology requires notification when turbid discharges are above the benchmark limit. After Ecology is notified, staff may follow up by conducting a site visit and issuing an inspection report. If violations are noted, then WSDOT or its contractors have 10 days to implement corrective measures. The remaining five violations were from local agencies or Ecology for a variety of events or issues (see pie chart).

2015 Environmental Penalties

Some of the violations above resulted in monetary penalties.

WSDOT's penalties - WSDOT received two monetary penalties totaling \$750 in 2015:

- The U.S. Coast Guard issued a \$250 penalty to WSDOT Ferries after a hydraulic hose leaked at a ferry terminal, resulting in a small release (less than one gallon) of hydraulic fluid to the water.
- The Spokane Regional Clean Air Agency issued a \$500 penalty to WSDOT for the improper management of asbestos during demolition.

To prevent a reoccurrence of asbestos related violations, WSDOT is modifying future demolition contracts so that a licensed abatement representative is available to monitor demolition activities for signs of asbestos.

Contractor's penalties - WSDOT's contractors received seven monetary penalties in 2015 totaling \$149,150. The most notable was when a contractor on the SR520 Pontoon Construction Project discovered they had not properly decommissioned monitoring wells at the Aberdeen project site. They self-notified Ecology and were assessed a \$90,000 fine. The contractor has appealed the fine to the Pollution Control Hearings Board.

The remaining penalties were for a variety of issues:

- The City of Vancouver issued a penalty to the contractor for repetitive discharges of turbid water to a creek at the I-205 Mill Creek Interchange to NE 18th Street project (\$1,750 fine).
- The City of Seattle issued two penalties:
 - Using prohibited equipment at an unauthorized time on the SR 520 West Approach Bridge North project over Lake Washington (\$1,900);
 - Discharging sewage to Elliot Bay as a result of a failed temporary pump station at the SR 99 Alaskan Way Viaduct Bored Tunnel project in Seattle (\$1,500).
- Ecology issued three penalties on two projects:
 - Discharging pollutants to waters of the state at the I-90 Keechelus Dam Vicinity Wildlife Bridge and Add Lanes project (east of Snoqualmie Pass), resulting in an \$18,000 civil penalty.

- Violating the NPDES Construction Stormwater General Permit at the I-205 Mill Creek Interchange to NE 18th Street project in Vancouver (\$3,000 field citation and a \$33,000 civil penalty).

WSDOT maintains strong practices that improve compliance for our projects. In 2016 we will continue to improve our performance by:

- Meeting with the contractor before construction begins to discuss high-risk activities.
- Conducting assessments of construction sites in the fall to detect and address potential erosion and stormwater issues before the rainy season.
- Revising our manuals, guidance, contract language, and training to include lessons learned from non-compliance issues.

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