

Violations of Environmental Permits and Regulations for State Highway Projects

Roger Millar
Secretary of Transportation

Megan White
Director, Environmental Services Office

February 2018



RE: RCW 47.85.040 (5) – 2017 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 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; 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 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 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.

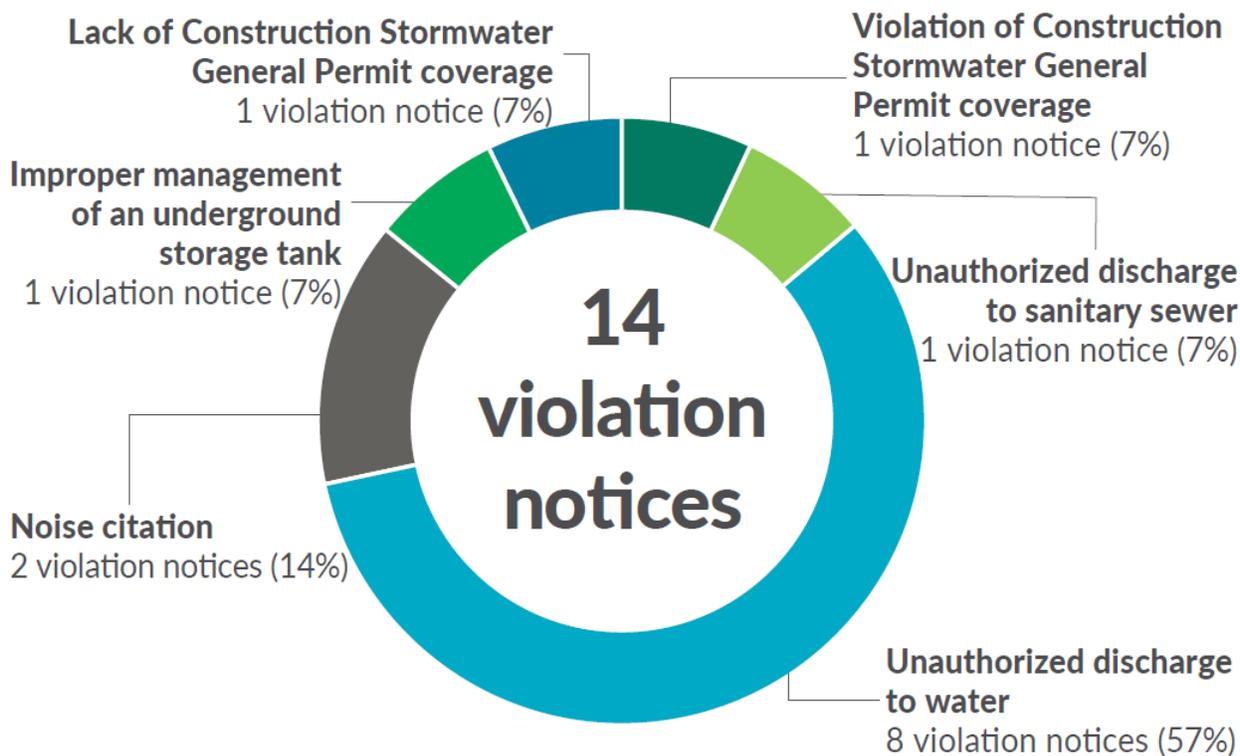
2017 Environmental Violations

In 2017, WSDOT performed 2.6 million hours of statewide highway maintenance work, had over 161,000 ferry sailings, and also oversaw 847 active construction projects. During this time maintenance work received no violations, a ferry terminal construction project generated one violation, and highway construction projects generated 13 violations. These violation notices stemmed from five non-compliance events in 2017, four in 2016, and five in 2015 because the length of time between violation event and issued violation may be delayed several years. Overall, the total issued violations in 2017 are two less than what the agency received in 2016,

and 11 less than 2015. The downward trend is attributed to WSDOT's and its contractors' continued efforts to improve compliance throughout the project development process.

WSDOT activities received 14 violation notices in 2017

Number of notices by environmental violation category



Data source: WSDOT Environmental Services Office

Notes: Percentages may not add to 100 due to rounding.

For all violations received in 2017, the most common were unauthorized discharges to water (57%), though most of these events occurred in 2015 and 2016. The most common non-compliance events that took place in 2017 included noise citations, which accounted for two of the 14 notices (14%). Contractors must follow WSDOT's Standard Specifications, which instruct them to follow local regulations including noise ordinances. Additionally, WSDOT's contractors prepare and implement Spill Prevention, Control and Countermeasures Plans which minimize the risk of spills, and identify necessary actions after a spill occurs.

Of the 14 statewide violation notices, regulatory agencies issued 11 to WSDOT, two directly to WSDOT's contractors, and one to both WSDOT and the contractor. Violations were issued directly to the contractor if the regulatory agency determined the contractor was solely responsible or was the permit-holder. Violations were also issued jointly to WSDOT and the contractor if both were found responsible.

WSDOT's violations – 11 of the 12 violation notices issued to WSDOT came from the Department of Ecology for unauthorized discharges to water, mismanagement of an underground storage tank, lack of Construction Stormwater General Permit coverage, or

violation of a Construction Stormwater General Permit condition. One of these violations was jointly issued to WSDOT and its contractor for unauthorized discharge of high pH water into Lake Washington while separating pontoons.

King County also issued a violation for unpermitted discharge of fire suppression foam into the sanitary sewer that occurred in 2016.

Contractor's violations – The two violations issued directly to WSDOT's contractors were noise citations from the City of Seattle.

WSDOT's penalties – WSDOT's violation notices included two monetary penalties totaling \$17,120 in 2017, a decrease of \$7,880 from 2016. One monetary penalty was issued by King County in the amount of \$11,120 for an event that occurred in December of 2016 when fire suppression foam entered the sanitary sewer on the Interstate 90 Mount Baker Tunnel after testing a newly installed system (a penalty of \$2,000 was also previously issued in 2016 by the City of Seattle for this event). Another monetary penalty totaling \$6,000 was issued by the Department of Ecology for events spanning years 2015 and 2016 for unauthorized discharges on the SR 520 West Approach Bridge North Project.

Contractor's penalties – WSDOT's contractors received two monetary penalties of \$600 each from the City of Seattle for repeat noise violations during the SR 520 West Approach Bridge North Project.

WSDOT maintains strong practices that improve compliance for our projects. In 2018, we will continue to improve our performance by:

- Sharing lessons learned from 2017 with WSDOT regions and modes.
- Discussing high-risk activities and environmental requirements with the contractor during pre-construction meetings.
- Assessing construction sites to detect and address any potential issues for stormwater, 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 WhiteM@wsdot.wa.gov.