

Violations of Environmental Permits and Regulations for State Transportation Projects

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Secretary of Transportation

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Director, Environmental Services Office

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Washington State
Department of Transportation

RE: RCW 47.85.040 (5) – 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 by 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:

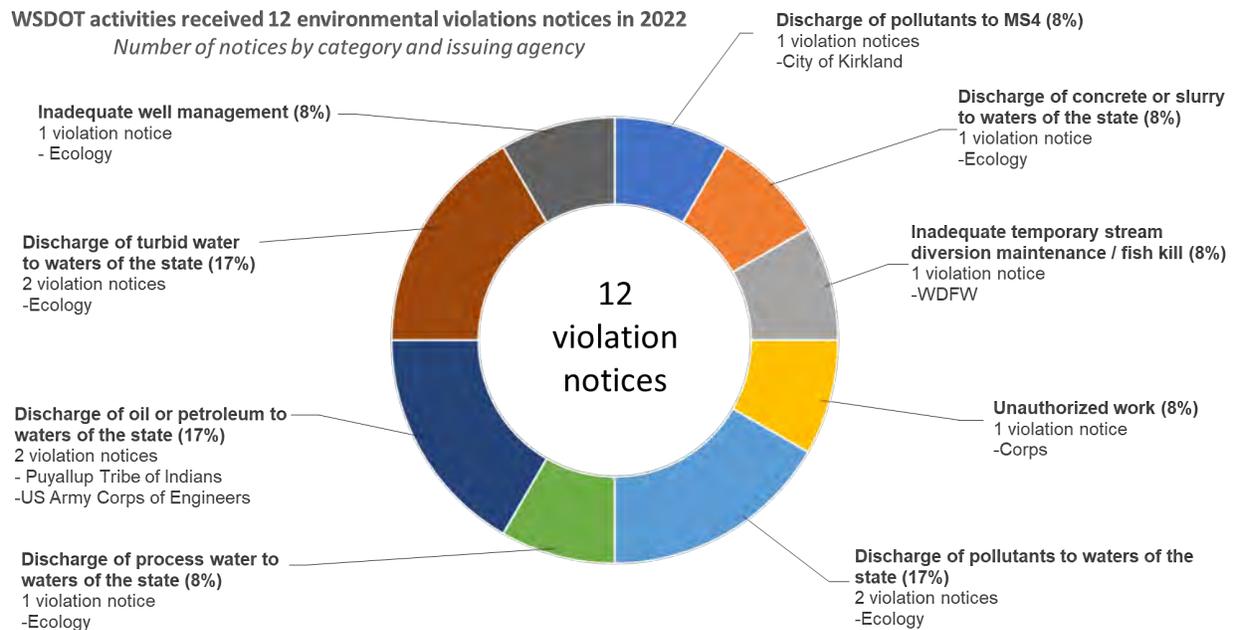
- Integrating environmental protection features in the design of projects and maintenance activities;
- Working with federal, state, local, and tribal agencies to ensure our projects and maintenance work comply with applicable laws and regulations;
- Incorporating environmental commitments (such as permit 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 (BMPs).

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 received from regulatory agencies and tribes in 2022, including: warning letters, inspection reports (citing violations and requiring corrective action), notices of violation, orders, and monetary penalties.

2022 Environmental Violations

In 2022, regulatory agencies and a tribe issued seven violations to highway construction projects, three violations to a standalone fish barrier correction project, and two violations to a Washington State Ferries project. These 12 violations issued in 2022 stemmed from 10 non-compliance events in 2022 (where one event resulted in two violations), and one non-compliance event in 2021. The total number of violations issued in 2022 decreased by three from the 15 violations we reported in our 2021 report.

Figure 1 below displays violation notices by categories, and Table 1 at the end of this report provides details of each non-compliance event.



Data source: WSDOT Environmental Services Office
 Note: Corps = US Army Corps of Engineers, Ecology = Washington State Department of Ecology, WDFW = Washington Department of Fish and Wildlife.

Of the 12 statewide violation notices, regulatory agencies and a tribe issued six to WSDOT only, three to both WSDOT and contractor (or Design-Builder/utility), and three directly to a WSDOT Design-Builder and sub-contractor. Violations can be 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 and a tribe issued a total of six violations directly to WSDOT in 2022 on four separate projects. Washington State Department of Ecology (Ecology) issued two violations for the discharge of pollutants to waters of the state. Puyallup Tribe of Indians and US Army Corps of Engineers (Corps) issued two violations collectively for the discharge of oil or petroleum to waters of the state. Washington Department of Fish and Wildlife (WDFW) issued one violation for inadequate temporary stream diversion maintenance and fish kill. The Corps issued one violation for unauthorized work.

WSDOT and contractor violations – Regulatory agencies issued a total of three violations to both WSDOT and the contractor/Design-Builder/sub-contractor in 2022 on three separate projects. In separate letters, Ecology issued violations for the discharge of concrete or slurry to waters of the state, the discharge of turbid water to waters of the state, and the discharge of process water to waters of the state.

Contractor-only violations – Regulatory agencies issued a total of three violations directly to the Design-Builder, a utility, and the utility’s sub-contractor. The City of Kirkland issued a violation to a utility and its sub-contractor for the discharge of pollutants to a municipal separate storm sewer system (MS4). Ecology issued a violation to the Design-Builder for the discharge of turbid water to waters of the state.

Ecology also issued a violation for inadequate well management to the Design-Builder in 2022 for an event that occurred in 2021.

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

Contractor penalties – In 2022, the City of Kirkland issued a utility and its sub-contractor a monetary penalty of \$6,000 in response to the discharge of pollutants to MS4.

WSDOT maintains strong practices that improve compliance for our projects. In 2023, we will continue to improve our performance by:

- Sharing lessons learned from 2022 and training in environmental procedures and permit requirements with WSDOT regions, ferries and megaprograms (per [RCW 47.85.040](#)).
- 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 non-compliance issues related to stormwater, containment, erosion, or hazardous materials.
- Updating our policies, procedures, guidance, contract language, and training to reflect the most up to date information.

Should you have any questions, or need further information, please contact Ahmer Nizam, Environmental Services Office Director, at 360-705-7480 or ahmer.nizam@wsdot.wa.gov.

Table 1: Violations notices received in 2022

Event	Project	Event Date	Activity resulting in Violation	Issuer/Project Response
Discharge of pollutants to MS4	I-405/NE 132nd Street Interchange Improvements	11/09/2022	Utility and its sub-contractor horizontal drilling impacted a sewer line and cause a blockage.	City of Kirkland issued \$6,000 fine to a utility its sub-contractor on 12/12/2022.
Discharge of concrete or slurry to waters of the state	SR520 Montlake Phase	09/30/2022	Plastic containment failed, allowing approximately 5-10 gallons of concrete slurry to enter waters of the state.	WSDOT and Design-Builder worked to implement enhanced procedural BMPs to prevent recurrence.
Inadequate fish removal	SR 169/Ravensdale Creek - Fish Passage	08/11/2022	WDFW identified fish mortalities at WSDOT construction site. WDFW was not properly notified of fish mortalities.	WSDOT notified contractor of WDFW Correction Requests received and immediately began correcting reported issues.
Unauthorized work	SR 169/Ravensdale Creek - Fish Passage	08/02/2022	Contractor expanded temporary work area below Ordinary High Water Mark without proper permit modifications.	WSDOT coordinated with contractor to develop new Joint Aquatic Resources Permit Application (JARPA) plan sheets to request after-the-fact permit from the Corps.
Discharge of pollutants	SR 519/Seattle Trm - Terminal Bldg & N. Trestle Replacement	08/02/2022	Pigment sealer sprayed by contractor entered waters of the state when containment system being utilized failed to contain material.	WSDOT directed contractor to improve containment system to prevent overspray entering waters of the state. Contractor modified application method to rolled painting method.
Discharge of pollutants	SR 519/Seattle Trm - Terminal Bldg & N. Trestle Replacement	08/01/2022	Pigment sealer sprayed by contractor entered waters of the state when containment system being utilized failed to contain material.	WSDOT directed contractor to improve containment system to prevent overspray entering waters of the state. Contractor modified application method to rolled painting method.

Event	Project	Event Date	Activity resulting in Violation	Issuer/Project Response
Discharge of turbid water	SR 169/Ravensdale Creek - Fish Passage	07/22/2022	During excavation, natural barrier separating the work area from the flowing stream was unintendedly breached causing a turbidity plume within waters of the state.	WSDOT inspector stopped work and notified contractor. Work proceeded by hand to prevent turbidity plumes.
Discharge of process water	SR520 Montlake Phase	06/03/2022	Unexpected heavy rainstorm caused pooling to occur on freshly poured concrete. Pooling water discharged into waters of the state. Nearby lightning strikes caused a stop work before crews could adequately cover concrete.	Upon end of thunderstorm, crews returned to site to protect concrete with plastic and collect excess water.
Discharge of oil or petroleum to waters of the state or US	I-5 SB HOV	02/04/2022	Fuel line of crane adjacent to waters of the state was vandalized over the weekend allowing fuel to enter waters of the state.	Puyallup Tribe of Indians issued order to WSDOT. Design-Builder developed sampling and cleanup plan for the affected area.
Discharge of oil or petroleum to waters of the state or US	I-5 SB HOV	02/04/2022	Fuel line of crane adjacent to waters of the state was vandalized over the weekend allowing fuel to enter waters of the state.	Corps issued an inspection report to WSDOT. Design-Builder developed sampling and cleanup plan for the affected area.
Discharge of turbid water	US 12/Nine Mile Hill to Frenchtown Vic - Add Lanes	01/24/2022	Sheet piling was removed while in contact with river flood water allowing turbidity plume to enter waters of the state. Rip-rap armoring was used to seal breach.	Ecology issued an inspection report requiring corrections to the Design-Builder. WSDOT met weekly with Design-Builder to discuss project progressing and ensure environmentally sensitive work occurs according to standard specifications.
Inadequate well management	SR520 Montlake Phase	09/14/2021	Contractor decommissioned vapor protection wells without following appropriate procedures.	Ecology issued a violation to the contractor.