

# **Violations of Environmental Permits and Regulations for State Highway Projects**

**Roger Millar**  
Secretary of Transportation

**Megan White**  
Director, Environmental Services Office

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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; 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 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 2019, including: warning letters, inspection reports (citing violations and requiring corrective action), notices of violation, orders, and monetary penalties.

### **2019 Environmental Violations**

In 2019, regulatory agencies issued four violations to highway construction projects, two violations to a ferry terminal construction project, and three violations to maintenance work. These violations stemmed from eight non-compliance events in 2019, and one in 2018. While the total number of violations issued in 2019 increased slightly from the six violations received in 2018, WSDOT and its contractors continuously work to improve compliance.

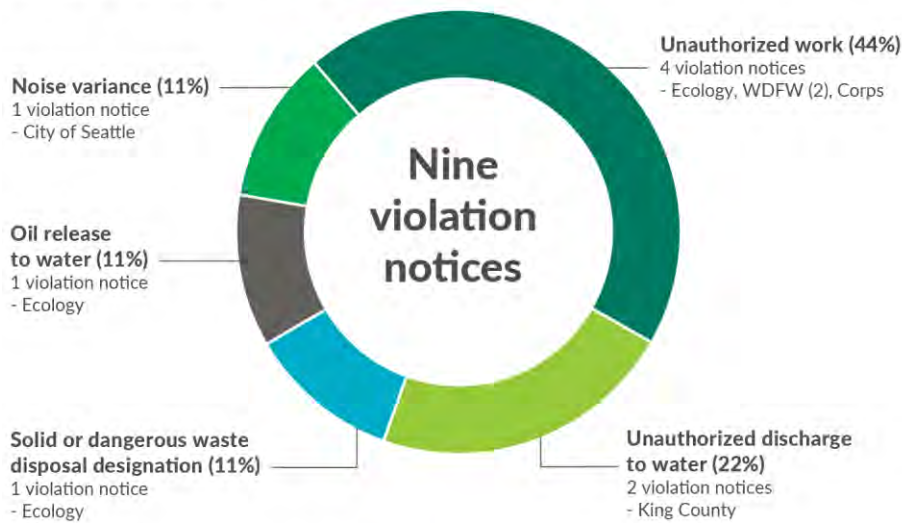
Four of the nine violations received in 2019 were due to working without the appropriate permit. One of these incidents involved maintenance crews lawfully unblocking a culvert after receiving a Hydraulic

Project Approval (HPA) from the Washington Department of Fish and Wildlife (WDFW). However, after crews experienced mechanical issues with a crane, they initiated another method for clearing the blockage that was not authorized in the HPA. When unanticipated circumstances (like this event) arise, WSDOT’s environmental staff work closely with regulatory agency staff, and review non-compliance events to identify approaches to avoid such violations in the future.

Of the nine statewide violation notices, regulatory agencies issued eight to WSDOT, and one directly to a WSDOT subcontractor. Violations are issued directly to a contractor when the regulatory agency determines that the contractor was solely responsible or was the permit-holder.

**WSDOT activities receive nine environmental violation notices in 2019**

*Number of notices by category and issuing agency*



Data source: WSDOT Environmental Services Office.

Note: Percentages do not add to 100 due to rounding. Ecology = Washington State Department of Ecology. WDFW = Washington Department of Fish and Wildlife. Corps = U.S. Army Corps of Engineers.

**WSDOT’s violations** – Regulatory agencies issued a total of eight violations directly to WSDOT in 2019: one unauthorized solid waste disposal, one spill of waste, two unauthorized discharges of water to local sewers, and four instances of working without the appropriate permit. One of the four instances of working without a permit occurred in late 2018, and the US Army Corps of Engineers issued a violation to WSDOT in 2019.

**Contractor’s violations** – City of Seattle issued one violation directly to a WSDOT subcontractor for a noise violation.

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

**Contractor’s penalties** – The City of Seattle issued a subcontractor on the SR 99 Alaska Way Viaduct Demolition Project a noise violation, which included a monetary penalty of \$475 for performing a nighttime prohibited activity during permitted nighttime work hours.

WSDOT maintains strong practices that improve compliance for our projects. In 2020, we will continue to improve our performance by:

- Sharing lessons learned from 2019 with WSDOT regions and modes.
- Discussing high-risk activities and environmental requirements with the contractor during pre-construction meetings.
- Assessing construction sites and working with contractors to prevent, 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 [megan.white@wsdot.wa.gov](mailto:megan.white@wsdot.wa.gov).