

**DEPARTMENT OF ENVIRONMENTAL QUALITY
ENFORCEMENT DIVISION
FISCAL YEAR 2009 (FY09) ENFORCEMENT STATUS REPORT
JULY 1, 2008 through JUNE 30, 2009**

The Enforcement Division (ENFD) is responsible for the implementation, coordination and tracking of Department of Environmental Quality (DEQ) enforcement activities, and for the investigation and response to spills and citizen complaints that allege impacts to human health and the environment. The Enforcement Division consists of the Complaint Management Section and the Case Management Bureau.

I. Complaint Management Statistics

Total number of complaint and spill reports received during the report period was 916.

In an effort to delineate areas of regulatory responsibility for complaints received by the Department, a complaint type is assigned that generally relates to program authority. The Complaint Management Section is responsible for the initial investigation of all complaints to determine their validity and to ensure proper follow-up occurs (if needed). Spills being recorded are typically associated with unauthorized material releases resulting from vehicle accidents, mechanical malfunctions, or human error.

Number of Complaint / Spill Reports by Type (DEQ Program or Environmental Media) & General Group				
Air Quality - Dust	85	Spills (not impacting water)	16.9%	155
Air Quality - Emissions	71	Solid Waste		67
Air Quality - Odors	4	Junk Vehicles		54
Air Quality - Open Burning	52	Septic Pumpers		8
Asbestos	32	Sewage		5
Indoor Air Quality	1	Hazardous Waste		27
Total Air Quality Related	26.7%	Used Oil		21
Water Quality	78	Pesticides		2
Spills (impacting water)	32	Superfund		6
318 Permit	3	Total Waste Related	20.7%	190
Watershed Management (TMDL)	0	Abandoned Mines		1
Release of Chemicals from Tanks*	0	Strip and Underground Mining		2
Release of Chemicals from Pipelines	28	Opencut Gravel Mining		26
Municipal Wastewater Treatment Systems	7	Metal Mines		5
Underground Storage Tank Regulation	5	Total Mining Related	3.7%	34
Subdivisions	38			
Animal Feedlot Operation	8	Major Facility Siting Act (MFSA)	0.3%	3
Concentrated Animal Feedlot Operations	5			
Surface Water (MPDES) Permits	29	Other (Outside DEQ Authority)	0.2%	2
Ground Water (MGWPCS) Permits	1			
Public Water Supply Systems	53			
Total Water Related	31.3%	TOTAL FOR ALL COMPLAINTS		916

*Note that these are releases reported through ENFD; the Hazardous Waste Site Cleanup Bureau also receives leak reports directly.

Status of complaint and spill reports received during reporting period:

Complaint reports are sent to the ENFD for initial investigation and database entry. Referral occurs when the determination is made that the complaint falls under a specific regulatory authority either within DEQ or an outside agency.

Status of Complaint Spill Reports*	
Active (under investigation by ENFD)	112
Active Referred (to other DEQ program for investigation and follow-up)	91
Active Enforcement Case (complaint that led to a request for enforcement action)	30
Closed (resolved by ENFD)	375
Closed by Program (resolved by other DEQ program)	128
Closed No Violation (ENFD investigation determined no violation occurred)	84
Closed Referred (referred to outside Agency for resolution)	84
Closed Not Enough Information (not enough information was provided or documented to validate)	12
	916

*Status as of 6/30/09. Please note that the status of complaints and spills can change on a daily basis as work progresses.

II. Case Management Statistics

The following tables provide various statistics concerning enforcement actions taken by the Department of Environmental Quality from July 1, 2008 through June 30, 2009.

Enforcement Actions Processed by Statute												
	Enforcement Requests			Status of Enforcement Requests*								
	Total Caseload	Cases continuing FY08	Actions requested FY09	Case Development	Demand	In Litigation	BER Appeal	Under Order	Referred Cases	Vacated, Stayed or Suspended	Withdrawn	Closed
Asbestos Control Act	6	4	2	0	2	2	0	2	0	0	0	0
Clean Air Act of Montana	39	24	15	1	3	1	1	10	5	0	0	18
Metal Mine Reclamation Act	6	3	3	2	0	0	1	1	0	0	0	2
Montana Hazardous Waste Act	15	15	0	0	1	1	0	9	0	1	1	2
Montana Solid Waste Management Act	12	11	1	2	1	2	0	6	0	0	0	1
Montana Underground Storage Tank Act	45	30	15	2	0	4	2	17	0	0	2	18
Montana Underground Storage Tank Installer and Inspector Licensing and Permitting Act	2	2	0	0	0	0	0	1	0	0	0	1
Motor Vehicle Recycling & Disposal Laws	15	13	2	2	0	0	0	12	0	0	0	1
Opencut Mining Act	55	29	26	10	0	2	0	26	0	2	3	12
Public Water Supply Laws	338	183	155	18	0	5	4	134	61	8	41	67
Sanitation in Subdivision Laws	13	7	6	4	2	1	0	3	0	1	1	1
Septic Disposal and Licensure Laws	4	3	1	0	0	0	0	3	0	0	0	1
Strip and Underground Mine Reclamation Act	12	6	6	1	0	0	0	4	0	0	1	6
Water Quality Act	40	30	10	1	2	2	2	21	1	1	1	9
Water Treatment Plant Operations	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	602	360	242	43	11	20	10	249	67	13	50	139

*Status as of 6/30/09. Please note that the status of cases will change as work progresses.

Case status explanations

Case Development: Case is being developed in the Enforcement Division and/or Legal Unit. Activities include: 1) preparation and review of files and evidence; 2) preparation of administrative and judicial enforcement documents; and 3) preparation of penalty calculations.

Demand: Defendant and the Department are engaged in administrative settlement negotiations; e.g., a demand letter has been sent to the defendant, the defendant has been requested to consent to a draft administrative order, etc.

In Litigation: Defendant and the Department are engaged in pre-complaint settlement negotiations; e.g., the defendant has been requested to stipulate to a draft consent decree, etc.

BER Appeal: Defendant has formally requested a hearing with the Board of Environmental Review regarding a Department-issued order.

Under Order: Violator is subject to a legally-enforceable administrative or judicial order.

Referred Case: Case referred to another agency for case management.

Vacated: Case was vacated, either by mutual agreement or by the court, and is closed.

Stayed: Case in which the Department refrains from enforcing an administrative order against a violator.

Suspended: Case that is discontinued temporarily or permanently, but is not closed.

Withdrawn: Enforcement Request was withdrawn before case development began.

Closed Enforcement Case: Case is closed. The defendant has satisfied the terms of the settlement agreement or order.

Analysis of Enforcement Actions by Enforcement Action Type					
Statute	FY09 Caseload	Enforcement Action Type			
		Admin.	Civil	Criminal	Referred
Asbestos Control Act	6	3	3	0	0
Clean Air Act of Montana	39	26	8	0	5
Metal Mine Reclamation Laws	6	4	2	0	0
Montana Hazardous Waste Act	15	8	7	0	0
Montana Solid Waste Management Act	12	7	5	0	0
Montana Underground Storage Tank Act	45	31	14	0	0
MT Underground Storage Tank Installer and Inspector Licensing and Permitting Act	2	2	0	0	0
Motor Vehicle Recycling and Disposal Laws	15	4	11	0	0
Opencut Mining Act	55	48	7	0	0
Public Water Supply Laws	338	229	22	0	87
Sanitation in Subdivision Laws	13	12	1	0	0
Septic Disposal and Licensure Laws	4	3	1	0	0
Strip and Underground Mine Reclamation Act	12	12	0	0	0
Water Quality Act	40	33	6	0	1
Water Treatment Plant Operations	0	0	0	0	0
TOTAL	602	422	87	0	93

Penalty Statistics (in dollars)								
Statute	FY09 Orders with Penalties		Monetary Settlement Penalties		Monetary Penalties Collected		Penalties Suspended	Suppl. Env. Project
	Admin.	Civil	Admin.	Civil	Admin.	Civil		
Asbestos Control Act	0	0						
Clean Air Act of Montana	11	2	\$628,488	\$6,205	\$613,688	\$6,205	\$6,333	
Metal Mine Reclamation Laws	2	0	\$1,662		\$1,000			
Montana Hazardous Waste Act	3	0	\$102,969		\$102,969			
Montana Solid Waste Management Act	0	1		\$9,225		\$9,250		
Montana Underground Storage Tank Act	12	1	\$10,777	\$13,000	\$7,907		\$7,260	
Montana Underground Storage Tank Installer and Inspector Licensing and Permitting Act	1	0	\$260					
Motor Vehicle Recycling and Disposal Laws	0	1		\$10,000		\$10,000		
Opencut Mining Act	13	2	\$21,054	\$10,800	\$20,598			
Public Water Supply Laws	93	4	\$75,185	\$17,818	\$52,033	\$19,831	\$53,110	
Sanitation in Subdivision Laws	3	0	\$4,148		\$2,574			
Septic Disposal and Licensure Laws	1	0	\$14,400		\$14,400			
Strip and Underground Mine Reclamation Act	4	0	\$37,858		\$28,558			
Water Quality Act	5	1	\$43,222	\$5,412	\$21,825		\$24,222	\$18,522
Subtotal*	148	12	\$940,023	\$72,460	\$865,552	\$45,286	\$90,925	\$18,522
TOTAL	160		\$1,012,482		\$910,837			

* The amount of Penalties Collected does not equal the Settlement Penalties because: 1) penalties were not due before the end of FY09; 2) penalties are being paid under a payment schedule; 3) portions of penalties have been suspended; 4) the violator has failed to pay the penalty; 5) the violator has appealed the penalty order; or 6) the violator is or may be insolvent. In instances where the violator has not paid a penalty that is owed, the Department is actively pursuing collection.