

**DEPARTMENT OF ENVIRONMENTAL QUALITY
ENFORCEMENT DIVISION
FISCAL YEAR 2011 (FY11) ENFORCEMENT STATUS REPORT
JULY 1, 2010 through JUNE 30, 2011**

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 Case Management Bureau and the Complaint Management Section.

I. Complaint Management Statistics

Total number of complaint and spill reports received during the report period was 708.

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) and General Group				
Air Quality - Dust	46	Spills (not impacting water)	23.0%	163
Air Quality - Emissions	40	Solid Waste		68
Air Quality - Odors	4	Junk Vehicles		22
Air Quality - Open Burning	25	Septic Pumpers		4
Asbestos	24	Sewage		26
Indoor Air Quality	0	Hazardous Waste		15
Total Air Quality Related	19.6%	Used Oil		18
Water Quality	67	Pesticides		7
Spills (impacting water)	30	Superfund		1
318 Permit	0	Total Waste Related	22.7%	161
Watershed Management (TMDL)	0	Abandoned Mines		1
Release of Chemicals from Tanks*	0	Strip and Underground Mining		0
Release of Chemicals from Pipelines	44	Opencut Gravel Mining		16
Municipal Wastewater Treatment Systems	3	Metal Mines		1
Underground Storage Tank Regulation	4	Total Mining Related	2.5%	18
Subdivisions	13			
Animal Feedlot Operation	5	Major Facility Siting Act (MFSA)	0.0%	0
Concentrated Animal Feedlot Operations	5			
Surface Water (MPDES) Permits	10	Other (Outside DEQ Authority)	2.4%	17
Ground Water (MGWPCS) Permits	0			
Public Water Supply Systems	29			
Total Water Related	29.7%	TOTAL FOR ALL COMPLAINTS		708

*Note that these are releases reported through ENFD; the Hazardous Waste Site Cleanup Bureau also receives underground storage tank 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 permitting authority either within DEQ or the regulatory authority of an outside agency.

Status of Complaint Spill Reports*	
Active (under investigation by ENFD)	156
Active Referred (to other DEQ program for investigation and follow-up)	17
Active Referred Closed (referred to DEQ program for resolution)	30
Active Enforcement Case (complaint that led to a request for enforcement action)	2
Closed (resolved by ENFD)	284
Closed by Program (resolved by other DEQ program)	43
Closed No Violation (ENFD investigation determined no violation occurred)	44
Closed Referred (referred to outside Agency for resolution)	122
Closed Not Enough Information (not enough information was provided or documented to validate)	10
	708

*Status as of 6/30/11. 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, 2010 through June 30, 2011.

Enforcement Actions Processed by Statute												
	Caseload			Case Status*								
	Total Caseload	Cases continuing FY10	Actions requested FY11	Case Development	Demand	In Litigation	BER Appeal	Under Order	Referred Cases	Vacated, Stayed or Suspended	Withdrawn	Closed
Asbestos Control Act	7	6	1		1	2		1				3
Clean Air Act of Montana	41	34	7	2	3	1		11	3		5	16
Metal Mine Reclamation Act	4	4	0			3		1				
Montana Hazardous Waste Act	12	10	2	2	1	1		6		1		1
Montana Solid Waste Management Act	9	9	0	2		1		4				2
Montana Underground Storage Tank Act	41	31	10			5	1	24			1	10
Montana Underground Storage Tank Installer and Inspector Licensing and Permitting Act	1	1	0									1
Motor Vehicle Recycling & Disposal Laws	14	14	0	1				11				2
Opencut Mining Act	43	32	11	2		4	2	23			1	11
Public Water Supply Laws	209	186	23	4		13	2	85	29	2	9	65
Sanitation in Subdivision Laws	7	7	0	1		1		2		1	2	
Septic Disposal and Licensure Laws	4	3	1				1	2				1
Strip and Underground Mine Reclamation Act	8	5	3	1			1	3				3
Water Quality Act	70	43	27	8	6	3	2	37	1		1	12
Water Treatment Plant Operations	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	470	385	85	23	11	34	9	210	33	4	19	127

*Status as of 6/30/11. Please note that case status changes 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., or Defendant and the Department are engaged in pre-complaint settlement negotiations; e.g., the

In Litigation: The Department has filed a complaint in District Court.

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	FY11 Caseload	Enforcement Action Type			
		Admin.	Civil	Criminal	Referred
Asbestos Control Act	7	3	4	0	0
Clean Air Act of Montana	41	25	8	0	8
Metal Mine Reclamation Laws	4	0	4	0	0
Montana Hazardous Waste Act	12	7	5	0	0
Montana Solid Waste Management Act	9	4	5	0	0
Montana Underground Storage Tank Act	41	28	13	0	0
MT Underground Storage Tank Installer and Inspector Licensing and Permitting Act	1	1	0	0	0
Motor Vehicle Recycling and Disposal Laws	14	3	11	0	0
Opencut Mining Act	43	34	9	0	0
Public Water Supply Laws	209	138	26	0	45
Sanitation in Subdivision Laws	7	6	1	0	0
Septic Disposal and Licensure Laws	4	2	2	0	0
Strip and Underground Mine Reclamation Act	8	8	0	0	0
Water Quality Act	70	65	4	0	1
Water Treatment Plant Operations	0	0	0	0	0
TOTAL	470	324	92	0	54

Penalty Statistics (in dollars)								
Statute	FY11 Orders with Penalties		Monetary Settlement Penalties		Monetary Penalties Collected		Penalties Suspended	Suppl. Env. Project
	Admin.	Civil	Admin.	Civil	Admin.	Civil		
Asbestos Control Act	2	0	\$28,750					\$28,750
Clean Air Act of Montana	9	0	\$42,956		\$157,856	\$73	\$6,100	
Metal Mine Reclamation Laws	0	0						
Montana Hazardous Waste Act	1	0	\$3,000		\$3,000			
Montana Solid Waste Management Act	0	2		\$10,792		\$16,897		
Montana Underground Storage Tank Act	11	3	\$18,672	\$4,948	\$15,093	\$8,436		
Montana Underground Storage Tank Installer and Inspector Licensing and Permitting Act	0	0						
Motor Vehicle Recycling and Disposal Laws	0	1		\$500		\$500		
Opencut Mining Act	13	2	\$70,168	\$41,675	\$9,848	\$41,675	\$7,200	
Public Water Supply Laws	14	3	\$9,309	\$17,952	\$11,441	\$3,171	\$11,441	
Sanitation in Subdivision Laws	0	0						
Septic Disposal and Licensure Laws	0	1		\$9,300		\$3,025		
Strip and Underground Mine Reclamation Act	4	0	\$140,138		\$140,138			
Water Quality Act	16	0	\$137,570		\$20,255		\$2,975	\$55,080
Subtotal*	70	12	\$450,563	\$85,167	\$357,631	\$73,777	\$27,716	\$83,830
TOTAL	82		\$535,730		\$431,408			

* The amount of Penalties Collected does not equal the Settlement Penalties because: 1) penalties were not due before the end of FY11; 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.