

**DEPARTMENT OF ENVIRONMENTAL QUALITY
ENFORCEMENT DIVISION
FISCAL YEAR 2012 (FY12) ENFORCEMENT STATUS REPORT
JULY 1, 2011 through JUNE 30, 2012**

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 938.

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	60	Spills (not impacting water)	16.2%	152
Air Quality - Emissions	54	Solid Waste		65
Air Quality - Odors	9	Junk Vehicles		58
Air Quality - Open Burning	24	Septic Pumpers		6
Asbestos	39	Sewage		22
Indoor Air Quality	4	Hazardous Waste		27
Total Air Quality Related	20.3%	Used Oil		10
Water Quality	93	Pesticide or Herbicide		19
Spills (impacting water)	28	Superfund		0
310 or 318 Permit	11	Total Waste Related	22.1%	207
Watershed Management (TMDL)	0	Abandoned Mines		0
Release of Chemicals from Tanks*	0	Strip and Underground Mining		0
Release of Chemicals from Pipelines	71	Opencut Gravel Mining		36
Municipal Wastewater Treatment Systems	4	Metal Mines		8
Underground Storage Tank Regulation	11	Total Mining Related	4.7%	44
Subdivisions	49			
Animal Feedlot Operation	9	Major Facility Siting Act (MFSA)	0.0%	0
Concentrated Animal Feedlot Operations	3			
Surface Water (MPDES) Permits	7	Other (Outside DEQ Authority)	2.2%	21
Ground Water (MGWPCS) Permits	0			
Public Water Supply Systems	38			
Total Water Related	34.5%	TOTAL FOR ALL COMPLAINTS		938

*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)	269
Active Referred (to other DEQ program for investigation and follow-up)	4
Active Referred Closed (referred to DEQ program for resolution)	87
Active Enforcement Case (complaint that led to a request for enforcement action)	7
Closed (resolved by ENFD)	315
Closed by Program (resolved by other DEQ program)	35
Closed No Violation (ENFD investigation determined no violation occurred)	68
Closed Referred (referred to outside Agency for resolution)	139
Closed Not Enough Information (not enough information was provided or documented to validate)	14
	938

*Status as of 6/30/12. 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, 2011 through June 30, 2012.

Enforcement Actions Processed by Statute												
	Caseload			Case Status*								
	Total Caseload	Cases continuing FY11	Actions requested FY12	Case Development	Demand	In Litigation	BER Appeal	Under Order	Referred Cases	Vacated, Stayed or Suspended	Withdrawn	Closed
Asbestos Control Act	6	4	2		1	2		3				
Clean Air Act of Montana	30	24	6		4	1		10	3			12
Metal Mine Reclamation Act	5	4	1			3		2				
Montana Hazardous Waste Act	12	12	0			1		5		1	1	4
Montana Solid Waste Management Act	8	7	1	1		2	1	4				
Montana Underground Storage Tank Act	43	35	8	3	1	4	1	13		1		20
Montana Underground Storage Tank Installer and Inspector Licensing and Permitting Act	0	0	0									
Motor Vehicle Recycling & Disposal Laws	12	12	0					5			1	6
Opencut Mining Act	63	33	30	2	3	11	4	14		1	2	26
Public Water Supply Laws	175	133	42	14		10	2	78	15	1	3	52
Sanitation in Subdivision Laws	4	4	0	1				2		1		
Septic Disposal and Licensure Laws	4	4	0				1	2				1
Strip and Underground Mine Reclamation Act	11	5	6	1			1	4				5
Water Quality Act	78	60	18	6	5	2	2	48	1	1	2	11
Water Treatment Plant Operations	1	0	1					1				
TOTAL	452	337	115	28	14	36	12	191	19	6	9	137

*Status as of 6/30/12. 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 and 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	FY12 Caseload	Enforcement Action Type			
		Admin.	Civil	Criminal	Referred
Asbestos Control Act	6	4	2		
Clean Air Act of Montana	30	13	7		10
Metal Mine Reclamation Laws	5	1	4		
Montana Hazardous Waste Act	12	7	5		
Montana Solid Waste Management Act	8	3	5		
Montana Underground Storage Tank Act	43	29	14		
MT Underground Storage Tank Installer and Inspector Licensing and Permitting Act	0				
Motor Vehicle Recycling and Disposal Laws	12	2	10		
Opencut Mining Act	63	45	18		
Public Water Supply Laws	175	121	26		28
Sanitation in Subdivision Laws	4	4			
Septic Disposal and Licensure Laws	4	2	2		
Strip and Underground Mine Reclamation Act	11	11			
Water Quality Act	78	73	4		1
Water Treatment Plant Operations	1	1			
TOTAL	452	316	97	0	39

Penalty Statistics (in dollars)								
Statute	FY12 Orders with Penalties		Monetary Settlement Penalties		Monetary Penalties Collected		Penalties Suspended	Suppl. Env. Project
	Admin.	Civil	Admin.	Civil	Admin.	Civil		
Asbestos Control Act	1	0	\$24,300		\$810		\$21,870	\$21,870
Clean Air Act of Montana	6	0	\$372,343		\$187,593			\$24,000
Metal Mine Reclamation Laws	1	0	\$9,350		\$9,350			
Montana Hazardous Waste Act	4	0	\$103,600		\$93,200		\$9,900	
Montana Solid Waste Management Act	0	0				\$46		
Montana Underground Storage Tank Act	4	3	\$4,980	\$16,000	\$6,626	\$3,000	\$600	
Montana Underground Storage Tank Installer and Inspector Licensing and Permitting Act	0	0						
Motor Vehicle Recycling and Disposal Laws	0	0						
Opencut Mining Act	18	3	\$97,996	\$268,705	\$102,096	\$34,000	\$18,000	
Public Water Supply Laws	9	1	\$2,474	\$1,147	\$8,320	\$18,715	\$1,171	
Sanitation in Subdivision Laws	0	0						
Septic Disposal and Licensure Laws	0	0				\$836		
Strip and Underground Mine Reclamation Act	5	0	\$28,300		\$23,400		\$5,700	
Water Quality Act	31	0	\$1,638,200		\$333,350		\$2,000	\$1,300,000
Subtotal*	79	7	\$2,281,543	\$285,852	\$764,745	\$56,597	\$59,241	\$1,345,870
TOTAL	86		\$2,567,395		\$821,342			

* The amount of Penalties Collected does not equal the Settlement Penalties because: 1) penalties were not due before the end of FY12; 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.