

Department of Environmental Quality Enforcement Division Status Report

JULY 1, 2017 through JUNE 30, 2018

The Enforcement Division (ENFD) is responsible for the implementation, coordination, and tracking of Department of Environmental Quality (DEQ) enforcement activities, including the response to spills and the investigation of citizen complaints that allege violations of laws and rules regulated by DEQ to protect human health and the environment.

I. Complaint Statistics

Number and type of complaint and spill reports received during the report period.

Number of Complaint / Spill Reports by Type (DEQ Program or Environmental Media) and General Group			
Air Quality - Dust	31	Spills (not impacting water)	189
Air Quality - Emissions	70	Solid Waste	60
Air Quality - Odors	7	Junk Vehicles	13
Air Quality - Open Burning	15	Septic Pumpers	5
Asbestos	42	Sewage	11
Energy - ESF12	3	Hazardous Waste	6
Total Air Quality Related	22.0%	Used Oil	16
Water Quality	85	Pesticide or Herbicide	3
Spills (impacting water)	55	Superfund	1
318 Permit	2	Total Waste Related	39.7%
Watershed Management (TMDL)	0	Abandoned Mines	0
Release of Chemicals from Tanks*	0	Strip and Underground Mining	0
Release of Chemicals from Pipelines	29	Opencut Gravel Mining	22
Municipal Wastewater Treatment Systems	2	Metal Mines	4
Underground Storage Tank Regulation	14	Total Mining Related	3.4%
Subdivisions	28		
		Major Facility Siting Act (MFSA)	0.0%
Animal Feedlot Operation/ CAFO	7		
Surface Water (MPDES) Permits	11	Other (Outside DEQ Authority)	0.5%
Ground Water (MGWPCS) Permits	0		
Public Water Supply Systems	30		
Total Water Related	34.4%	TOTAL FOR ALL COMPLAINTS	765

*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 the reporting period:

Status of Complaint Spill Reports*	
Active (under investigation by ENFD)	83
Active Referred to Program (to DEQ program for investigation and follow-up)	0
Active Enforcement Case (complaint that led to an enforcement action)	0
Closed (resolved by ENFD)	334
Closed by Program (resolved by other DEQ program)	4
Closed No Violation (ENFD investigation determined no violation occurred)	64
Closed Referred (referred to outside agency for resolution)	84
Closed Referred to Program (to DEQ program for resolution)	186
Closed Not Enough Information (not enough information was provided or documented to validate)	10
TOTAL	765

*Status as of 6/30/18. Please note that the status of complaints and spills can change on a daily basis as work progresses.

II. Enforcement Case Statistics

The following tables provide various statistics on formal enforcement cases during the reporting period:

Enforcement Cases Processed by Statute												
	Caseload			Case Status*								
	Total Caseload	Cases continuing FY15	Cases requested FY16**	Case Development	Settlement Offer	Litigation	BER Appeal	Under Order	Referred Cases	Vacated, Stayed or Suspended	With-drawn	Closed
Asbestos Control Act	2	2						2				
Clean Air Act of Montana	37	30	7	3	1			17	3			13
Metal Mine Reclamation Act	4	3	1	1		2		1				
Montana Hazardous Waste Act	5	5				1		3		1		
Montana Solid Waste Management Act	13	12	1		1	4		6			1	1
Montana Underground Storage Tank Act	43	39	4	3	4	3		15			3	15
Montana Underground Storage Tank Installer and Inspector Licensing and Permitting Act	4	4						2				2
Motor Vehicle Recycling & Disposal Laws	7	7				1		4				2
Opencut Mining Act	45	28	17	2		1	2	15			10	15
Public Water Supply Laws	121	94	27	14	6	2	1	64	11	2	6	15
Sanitation in Subdivision Laws	12	10	2	1	1	1		7		1		1
Septic Disposal and Licensure Laws	5	4	1					4				1
Strip and Underground Mine Reclamation Act	5	4	1								1	4
Water Quality Act	84	76	8	3	4		6	55	1		1	14
Water Treatment Plant Operations	0	0										
TOTAL	387	318	69	27	17	15	9	195	15	4	22	83

*Status as of 6/30/18. Please note that case status changes as work progresses.

**Fiscal Year 2017 (FY17) is July 1, 2017 through June 30, 2018.

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.

Settlement Offer: Defendant and the Department are engaged in administrative settlement negotiations; e.g., a settlement offer 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 defendant has been requested to stipulate to a draft consent decree, etc.

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 is closed. The defendant has satisfied the terms of the settlement agreement or order.

Enforcement Cases by Enforcement Action Type				
Statute	FY16 Caseload	Enforcement Action Type		
		Admin.	Civil	Referred
Asbestos Control Act	2		2	
Clean Air Act of Montana	37	19	6	12
Metal Mine Reclamation Laws	4	1	3	
Montana Hazardous Waste Act	5	3	2	
Montana Solid Waste Management Act	13	4	9	
Montana Underground Storage Tank Act	43	30	13	
Montana Underground Storage Tank Installer and Inspector Licensing and Permitting Act	4	4		
Motor Vehicle Recycling and Disposal Laws	7	1	6	
Opencut Mining Act	45	32	13	
Public Water Supply Laws	121	93	16	12
Sanitation in Subdivision Laws	12	11	1	
Septic Disposal and Licensure Laws	5	3	2	
Strip and Underground Mine Reclamation Act	5	5		
Water Quality Act	84	82		2
Water Treatment Plant Operations	0			
TOTAL	387	288	73	26

Penalty Statistics								
Statute	FY17 Orders with Penalties		Settlement Penalties		Penalties Collected		Penalties Suspended	Suppl. Env. Project
	Admin.	Civil	Admin.	Civil	Admin.	Civil		
Asbestos Control Act								
Clean Air Act of Montana	7		\$238,550		\$326,500			
Metal Mine Reclamation Laws	2		\$8,800		\$1,200		\$5,600	
Montana Hazardous Waste Act								
Montana Solid Waste Management Act								
Montana Underground Storage Tank Act	4		\$7,819		\$5,312		\$7,218	
Montana Underground Storage Tank Installer and Inspector Licensing and Permitting Act				\$0				
Motor Vehicle Recycling and Disposal Laws	1		\$4,042				\$36,378	
Opencut Mining Act	11		\$172,635		\$123,785		\$62,607	
Public Water Supply Laws	1		\$240				\$240	
Sanitation in Subdivision Laws								
Septic Disposal and Licensure Laws								
Strip and Underground Mine Reclamation Act								
Water Quality Act	2		\$13,000		\$13,000			
Water Treatment Plant Operations								
Subtotal*	28	0	\$445,086	\$0	\$469,797	\$0	\$104,595	\$800,000
TOTAL	28	0	\$445,086	\$0	\$469,797	\$0	\$216,638	\$800,000

*The amount of Penalties Collected does not equal the Settlement Penalties because: 1) penalties were not due before the end of FY17; 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.