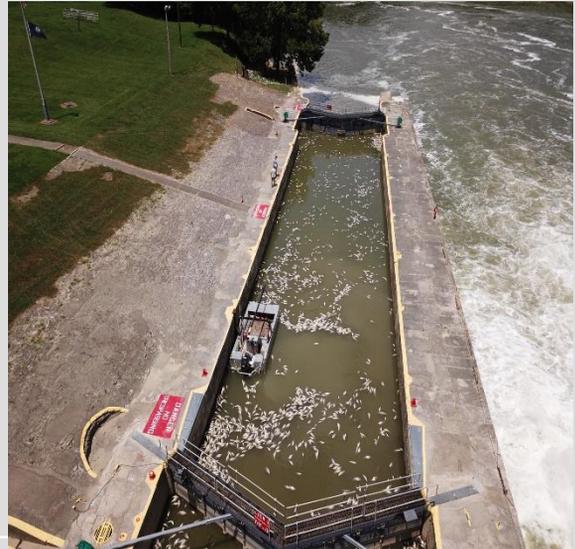


KENTUCKY DIVISION OF ENFORCEMENT ANNUAL REPORT STATE FISCAL YEAR 2020



Commonwealth of Kentucky
Energy and Environment Cabinet
Department for Environmental Protection
Division of Enforcement
dep-enforcement.ky.gov



Table of Contents

• Selected Figures	3
• Message from the Director's Office	4
• Introduction	5
• Director's Office	7
• Case Referral Data	8
• Civil Enforcement Branch	14
• Compliance and Operations Branch	25
• Compliance Notification Data	31
• Accomplishments in the Commonwealth	34
• Contact Information	38



Selected Figures

1.	Division Organizational Chart	6
2.	New Cases, SFY 2011 – SFY 2020	8
3.	Case Referrals by Program, SFY 2020	9
4.	Case Referrals by Division, SFY 2020	10
5.	New Division for Air Quality Cases by Regional Office, SFY 2020	11
6.	New Division of Waste Management Cases by Regional Office, SFY 2020	12
7.	New Division of Water Cases by Regional Office, SFY 2020	13
8.	Administrative Conference Conducted by Media, SFY 2020	15
9.	Settlement Documents Executed, SFY 2020	17
10.	Number of Cases Monitoring by Month, SFY 2020	18
11.	Average Number of Days to Executed Settlement, For Cases Referred SFY 2010 – SFY 2020	20
12.	Penalties Collected by State Fiscal Year, SFY 2010 – SFY 2020	22
13.	Settlement Documents Executed Annually by Type, SFY 2010 – SFY 2020	23
14.	Cases Closed Annually by Program, SFY 2011 – SFY 2020	24
15.	Notifications Issued (NOVs/LOWs) by Review Type, SFY 2020	28
16.	Compliance and Operations Branch Case Referrals by Type, SFY 2020	29
17.	Compliance Notifications Issued by Division, SFY 2020	31
18.	Compliance Notifications Issued by Activity Type, SFY 2020	32
19.	Compliance Notifications Issued by Program, SFY 2020	33

Message from the Director's Office

Like all the Divisions within the Department, the Covid-19 pandemic drastically changed the way the Division of Enforcement accomplished its mission in SFY 2020. Although the virus has only been around for a third of the fiscal year, the impact that it had on the Department was extreme. Like past fiscal years, the new challenges can create great opportunities for the Division. Unlike previous fiscal years, Enforcement saw very little turnover in SFY 2020. The Division was able to adjust quickly to working from home and has proved to be just as productive. The success of the Division during this challenging time can be directly attributed to the dedicated and hardworking staff that make up the Division. The Division continues to rely heavily on seasoned staff to develop newer team members, but has benefitted greatly from the stable staffing levels.

The Division of Enforcement continued to work some very high profile environmental cases in SFY 2020, including settlements with Jim Beam Brands, Barton Brands of Kentucky, Central Kentucky Landfill, and Louisville Metropolitan Sewer District. In SFY 2020, the Division saw a 24% increase in the number of new cases, with 365 new referrals. As in previous years, the wastewater program accounted for the largest number of new referrals to the Division, with 59%. The Division received 42 new Solid Waste cases, which is the second largest behind Wastewater, and saw continued decreases in the UST program referrals. The Division continued to monitor over 200 executed settlements, ensuring the regulated entities return to compliance with Kentucky's environmental regulations and statutes.

In SFY 2020, the Compliance and Operations Branch continued to make advances in the automation of Discharge Monitoring Report (DMR) reviews. The Division has reviewed both "Major" and "Minor Individual Permit" (Minor IP) facilities through automated reviews for all of SFY 2020. With over 1,300 Minor IP permits (compared to approximately 136 Majors), this equated into a large increase in the number of Notices of Violation issued by the Compliance and Operations Branch. During the fiscal year, the Division issued 2,139 Notices of Violation, nearly 1,000 more than in previous fiscal years. The Division plans to expand DMR automation in SFY 2021, into additional sections of the KPDES permitted universe.

In previous "Letter's from the Director's Office", it had been mentioned on multiple occasions how much of an advantage having all the Cabinet in the 300 Sower Building has improved communication and work efficiency amongst staff. While Covid-19 has taken us away from that environment, it has forced us to evolve the way we conduct business and accomplish our goals. TEAMs meetings and increased phone calls have become the regular. The electronic routing and approving of documents has led to increases in efficiencies and decreased waste as well as printing costs. Division reporting shows high productivity in both Branches while telecommuting. As we move into SFY 2021 and continue to adapt to Covid-19, the Division will continue to seek more productive ways to accomplish its mission and fulfill its service to the citizens of the Commonwealth. The staff and management of the Division look forward to the new fiscal year, and the opportunities and challenges it will surely bring.

Michael B. Kroeger
Assistant Director

Introduction

On July 9, 2004, the Governor issued Executive Order 2004-731, making significant revisions in the organizational structure of the Cabinet. Several of the changes involved the Kentucky Department for Environmental Protection (KDEP), one of which was the creation of a new Division of Enforcement. The Division of Enforcement combined the staff and most of the activities previously included in the enforcement branches of the Division for Air Quality, the Division of Waste Management, and the Division of Water. The primary purpose of the organization of the Division of Enforcement was to promote a fair, firm, and consistent approach to gaining compliance through the resolution of enforcement cases.



The Division of Enforcement consists of 3 units: the Director's Office, the Civil Enforcement Branch, and the Compliance and Operations Branch. Each of these units performs a distinctly different function within the Division.

The Director's Office is responsible for the overall management of the Division. This includes setting Division priorities for accomplishing Department goals, coordinating with all of KDEP's divisions, and coordinating with management for KDEP and the Cabinet.

Introduction

The Civil Enforcement Branch negotiates civil settlements for violations cited by the Kentucky Department for Environmental Protection. These cases include all media: air, waste, and water. The Civil Enforcement Branch continues to emphasize multi-media negotiations in order to efficiently and effectively address environmental violations.

The Compliance and Operations Branch has two functions: regulatory compliance and administrative support. Regulatory compliance involves citing environmental violations identified by either the Compliance and Operations Branch or KDEP's Central Office Programs; administrative support includes functions necessary for the day-to-day operation of the Division: budget, accounts payable, supplies, inventory, training, and travel.



Figure 1

Director's Office

Our Mission:

"To use a clear and consistent approach in bringing about and maintaining compliance with the Cabinet's regulatory programs by using appropriate and reasonable measures to resolve cases in a timely manner."

The Director's Office consists of the Division Director, the Assistant Director, and an Environmental Scientists Consultant Senior. To complete the Division's "Mission", the Director's Office provides direction and support to the staff, while creating a work atmosphere that promotes productivity.

In addition to the overall management of the Division, the Director is responsible for the development and implementation of division-level policy involving operations and administration; is the Department's lead settlement negotiator for the resolution of environmental violations; and is the face of the Division when dealing with Cabinet and Department level management, as well as the regulated community in high-profile cases.

Other duties tasked to the Director's Office include the development and implementation of new Department procedures; coordinating efforts to satisfy the reporting requirements for programs with federal oversight, such as the Clean Air Act, Clean Water Act, and Resource Conservation and Recovery Act; quantifying and compiling Division metrics for internal and external reports; organizing enforcement efforts on special projects or program specific cases; and consistently looking for more efficient ways to achieve Division goals and objectives.

Case Referral Data

Case Referral Data: The Division of Enforcement receives new cases in the form of referrals. In SFY 2020, the Division received case referrals from all twelve Regional Offices, the Department’s Central Office Programs, and internally from the Compliance and Operations Branch. Before a referral can become a case, it must be approved by the Division Director.

New Cases: The Division of Enforcement received a total of 365 new case referrals in SFY 2020. This was a increase by 24%, as compared to the number of new case referrals in SFY 2019 (228). Over the past ten years, the Division has received, on average, 418 new cases annually.

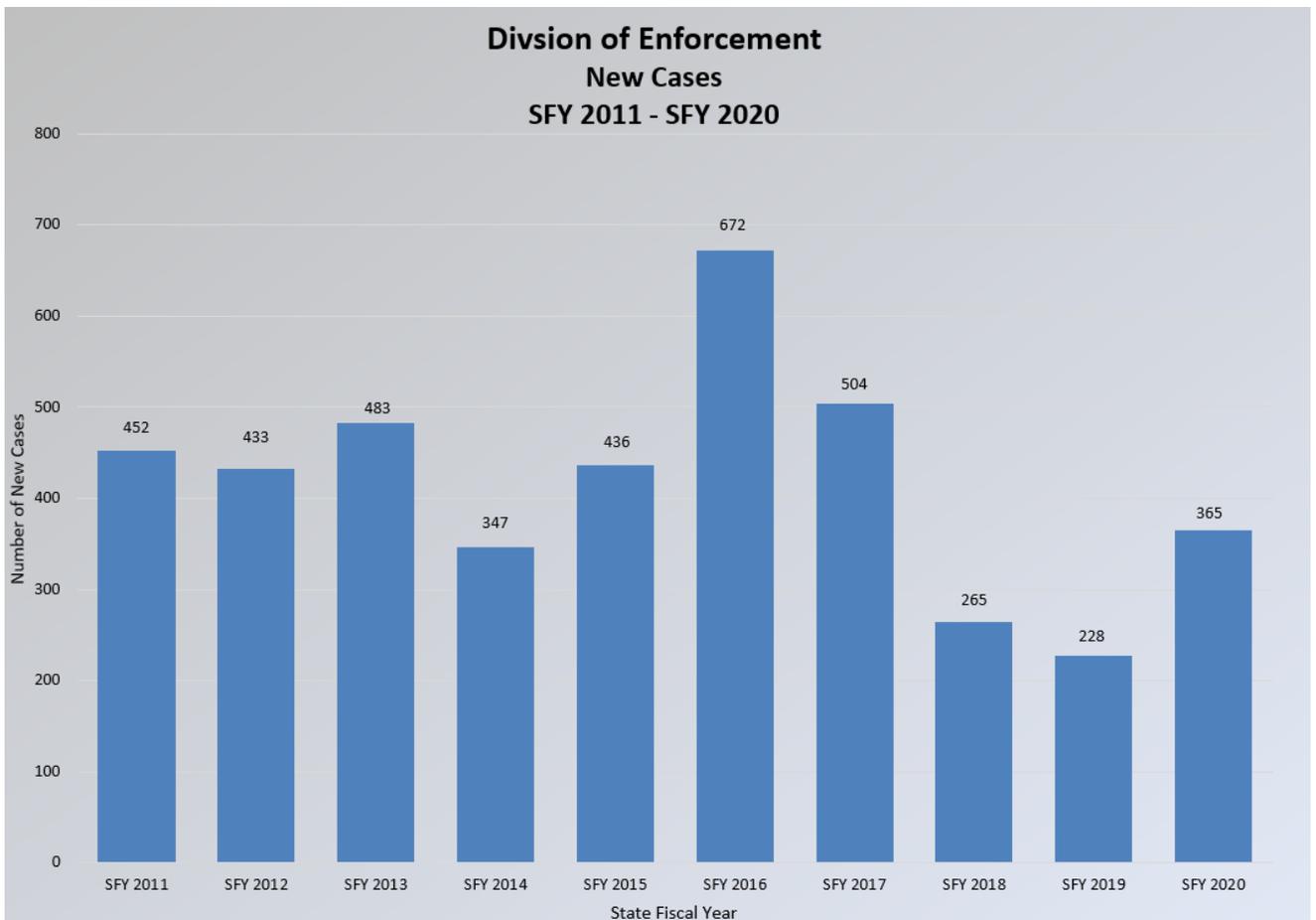


Figure 2

Case Referral Data

Case Referrals by Program: The Division of Enforcement received case referrals from ten different program areas in SFY 2020. Of those referrals, the highest number involved the wastewater program with 214 referrals (59%), followed by the UST program with 42 (11%).

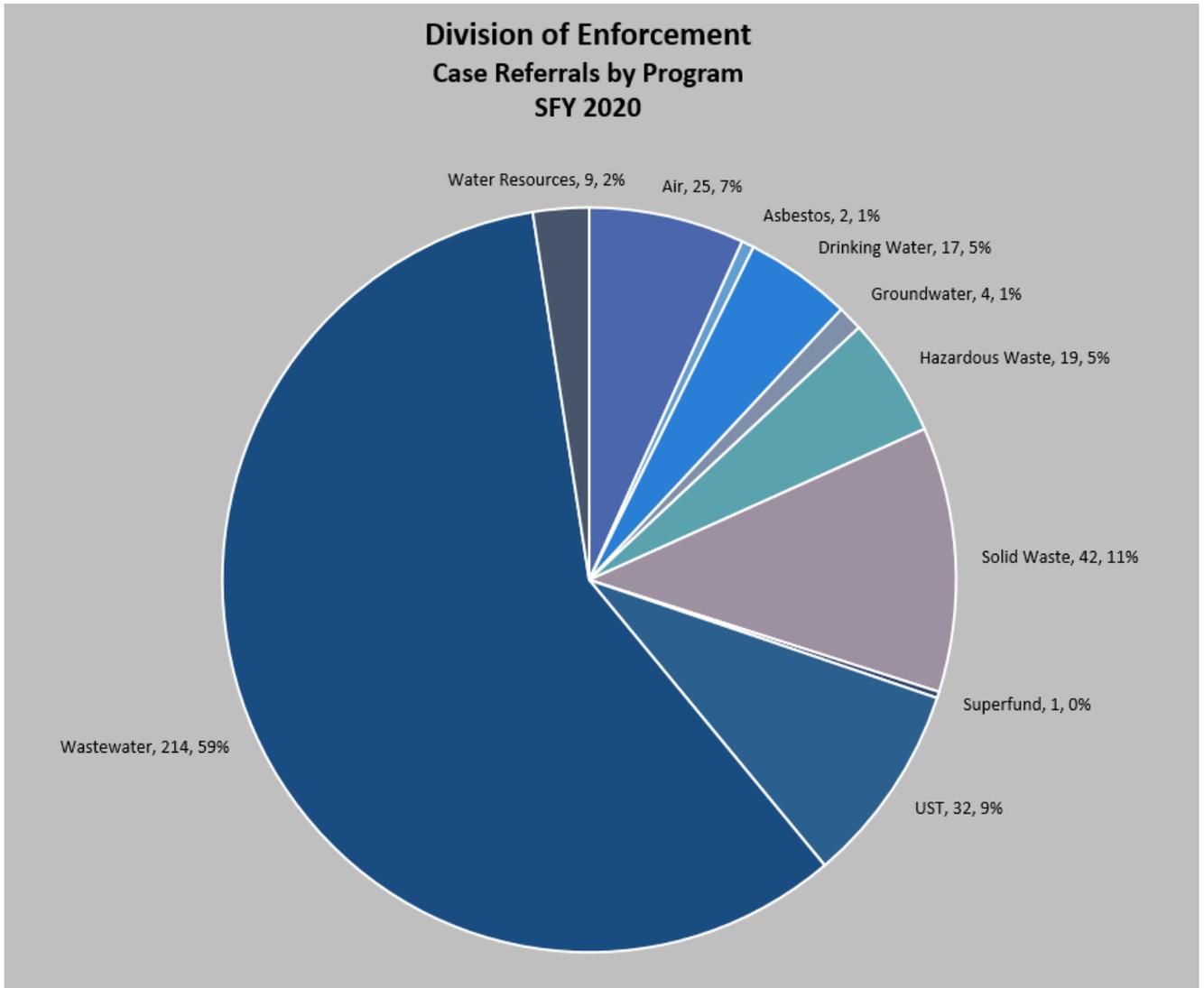


Figure 3

Case Referral Data

Case Referrals by Division: The Division of Enforcement received case referrals from all three media Divisions, Division for Air Quality (DAQ), Division of Waste Management (DWM), and Division of Water (DOW), as well as the Division's Compliance and Operations Branch (COB) in SFY 2020. The Division's Compliance and Operations Branch had the most referrals with 166 (46%). Referrals from the Division of Waste Management accounted for the second most, with 87 (24%).

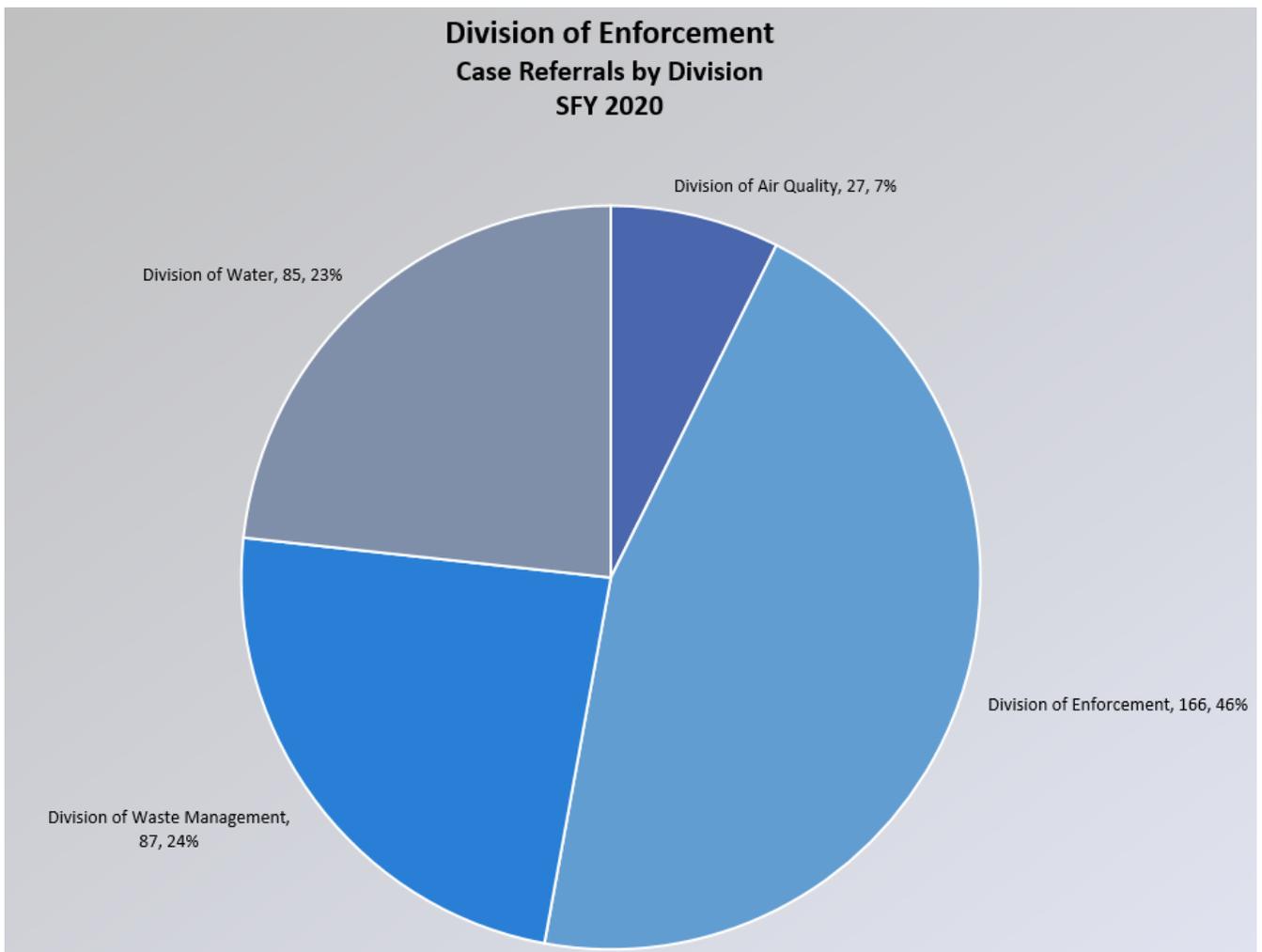


Figure 4

Case Referral Data

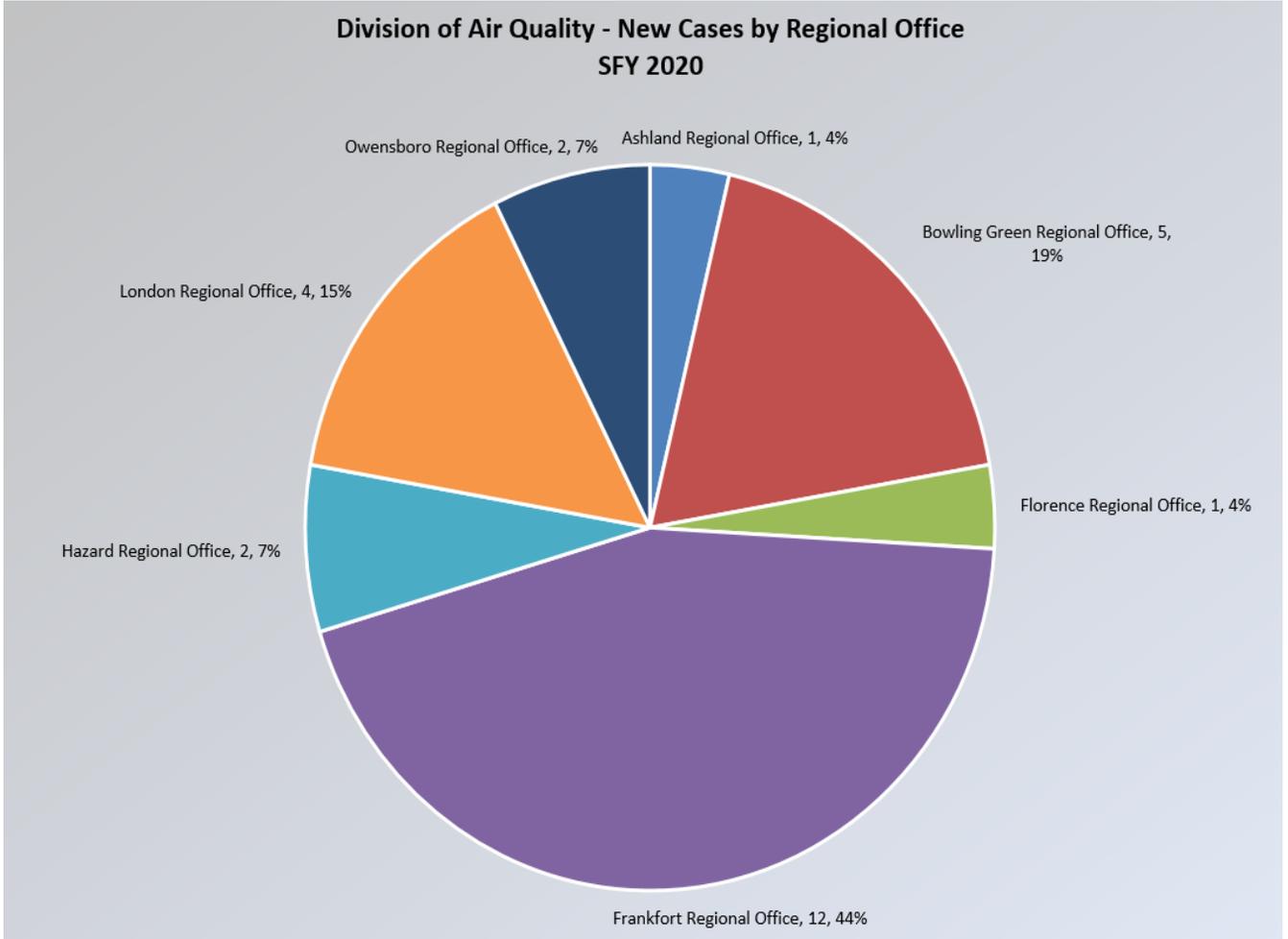


Figure 5

Case Referrals from the Division for Air Quality: The Division of Enforcement received 27 new case referrals from the Division for Air Quality in SFY 2020. Of the 27 referrals, the highest number came from the Frankfort Regional Office with 12 (44%), followed by the Bowling Green Regional Office with 5 (19%).

Case Referral Data

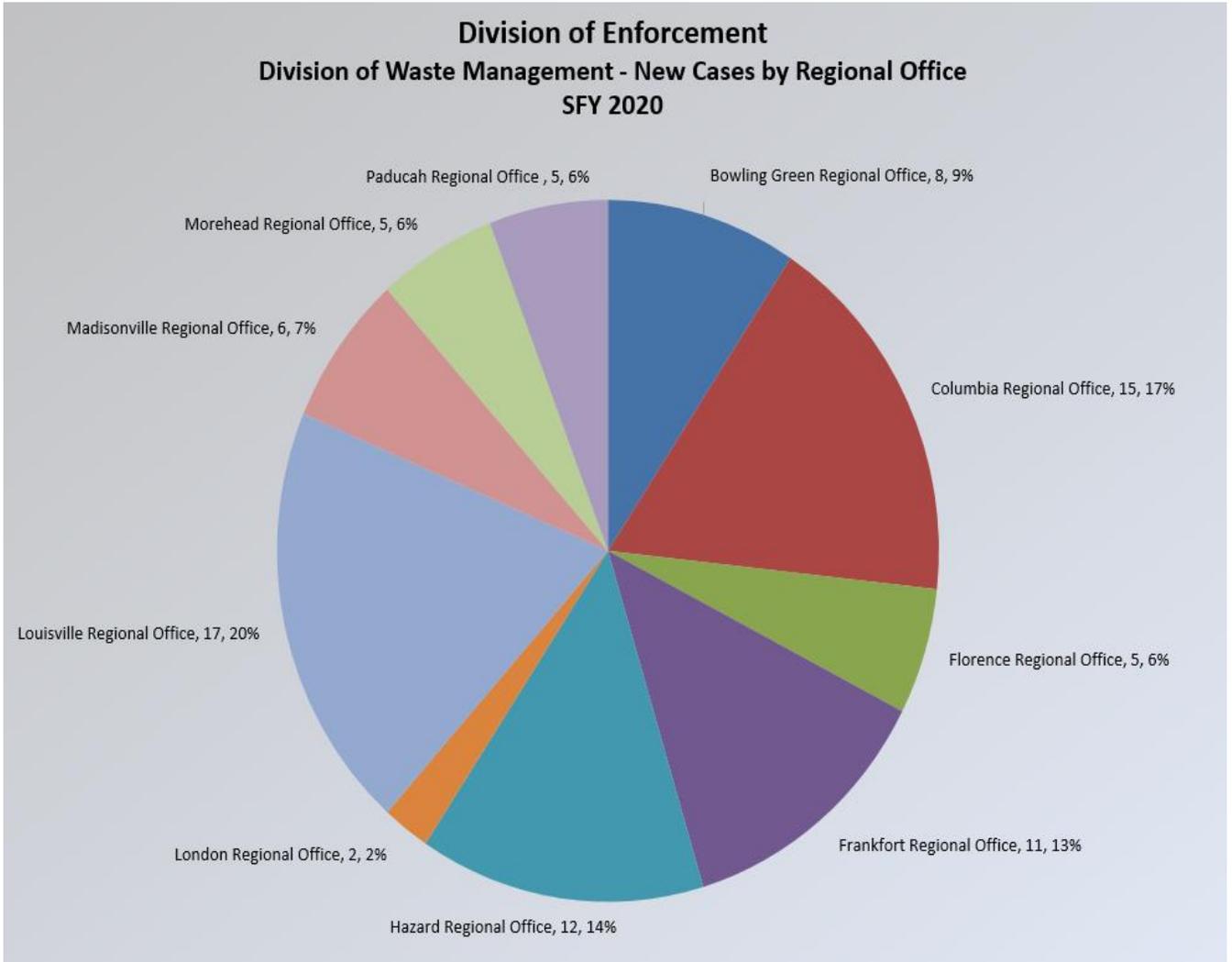


Figure 6

Case Referrals from the Division of Waste Management: The Division of Enforcement received 86 new case referrals from the Division of Waste Management in SFY 2020. Of the 86 referrals, the highest number came from the Louisville Regional Office with 17 (20%), followed by the Columbia Regional Offices with 15 (17%).

Case Referral Data

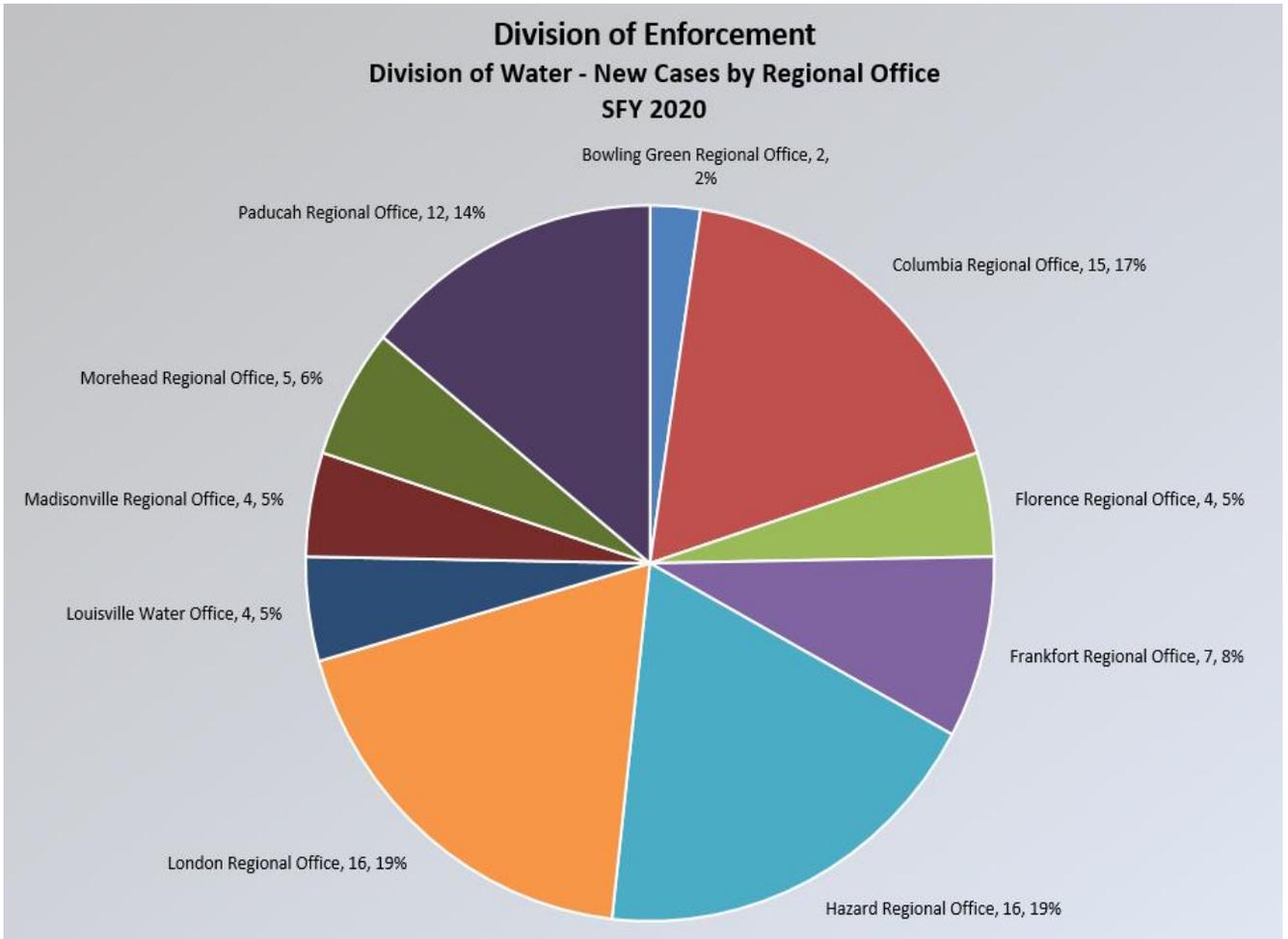


Figure 7

Case Referrals from the Division of Water: The Division of Enforcement received 85 new case referrals from the Division of Water in SFY 2020. Of the 85 referrals, the highest numbers came from the Hazard and London Regional Offices with 16 referrals (19%), followed by the Columbia Regional Office with 15 (17%).

Civil Enforcement Branch

The Civil Enforcement Branch (CEB). When an Enforcement Specialist in CEB is assigned a case by the Branch Manager, they first begin researching the case. This involves conducting a file review, discussing the case with the inspector and program specialists, and contacting the regulated entity. The Enforcement Specialist will begin drafting a resolution strategy, called a Case Resolution Proposal (CRP), which includes corrective actions that are required to return the responsible party to compliance and proposed civil penalties for the violations. Upon approval of the CRP, the Enforcement Specialist schedules an administrative conference with the responsible party to discuss the steps necessary to resolve the violations and return the entity to compliance.



Civil Enforcement Branch

The **Administrative Conference** allows the KDEP representatives and the regulated entity to discuss the facts of the case. The Enforcement Specialist determines whether any information presented during the administrative conference changes the basis of the CRP and if so, discusses those changes with Division management. The Enforcement Specialist will make an initial settlement proposal to the responsible party during the Administrative Conference. Negotiations continue until an Agreement-in-Principle is reached between the Department and the responsible party, or until the determination is made that the parties cannot reach a negotiated settlement. The negotiation process can be lengthy, in some cases requiring multiple meetings over a period of months.

The Civil Enforcement Branch conducted 179 Administrative Conferences in SFY 2020, for an average of 14 per month.

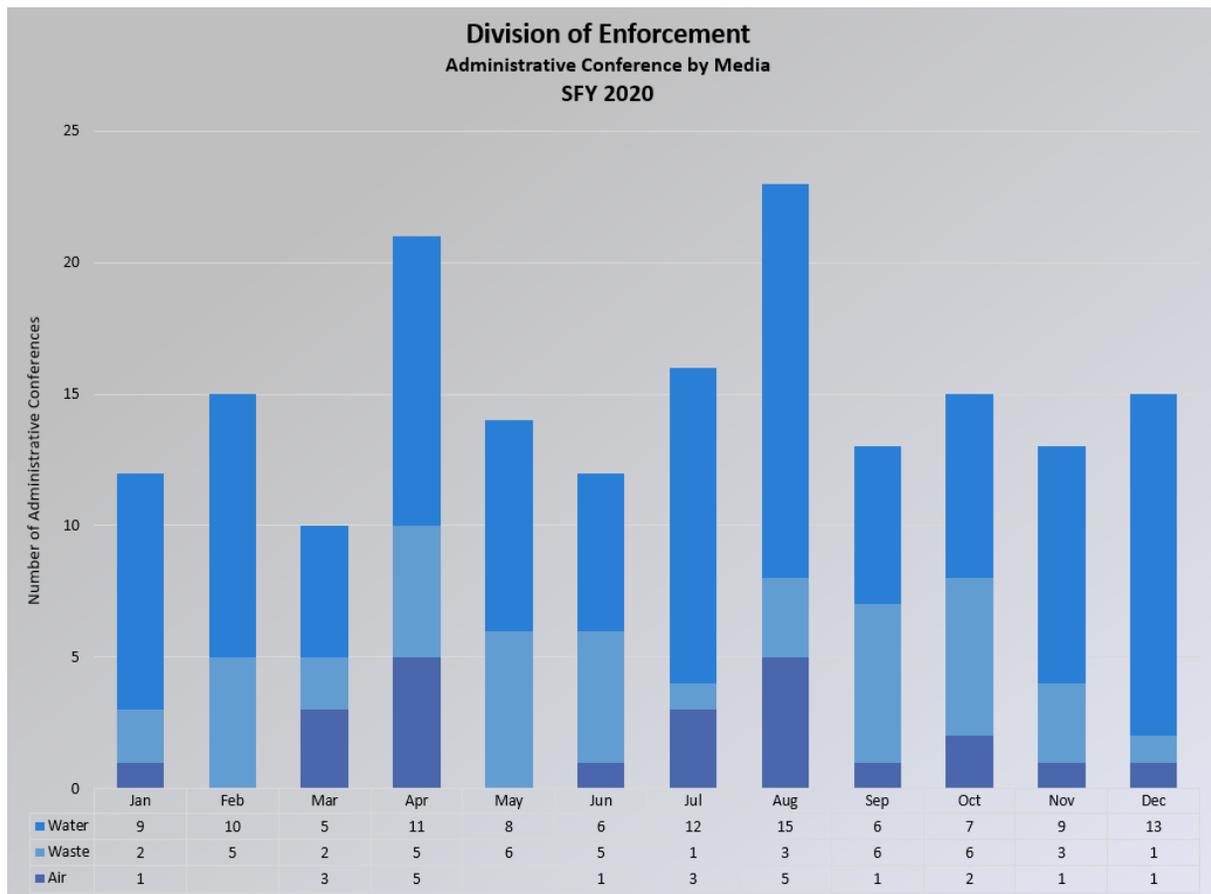


Figure 8

Civil Enforcement Branch

Agreement-in-Principle. If negotiations are successful and the Division reaches an agreement on the terms of settlement with a responsible party, the Enforcement Specialist will draft a written document to formalize the agreement. The case is given an “Agreement-in-Principle” status, and the formal resolution document, which contains remedial measures and the amount of penalty to be assessed, is routed for approval.

In SFY 2020, DENF reached 133 Agreements-in-Principle, an average of 11 per month.



Civil Enforcement Branch

Demand Letters, which are unilateral agreements, are often used when the regulated entity has already completed the remedial measures required to return it to compliance. Demand Letters are formalized by the signature of the Director of the Division. Demand Letters are not final orders of the Cabinet and are not enforceable in Franklin Circuit Court. A Demand Letter may also be utilized when calling in stipulated penalties pursuant to executed Agreed Orders.

Agreed Orders, which are bi-lateral agreements, are used for more complex agreements. Agreed Orders are formalized by the signature of the Cabinet Secretary and filed with the Cabinet’s Office of Administrative Hearings. Agreed Orders are final orders of the Cabinet, and as such, are enforceable in Franklin Circuit Court.

The Division issued a total of 46 Demand Letters in SFY 2020, an average of 4 per month.

In SFY 2020, Agreed Orders were used to resolve 61 cases in the Division, an average of 5 per month.

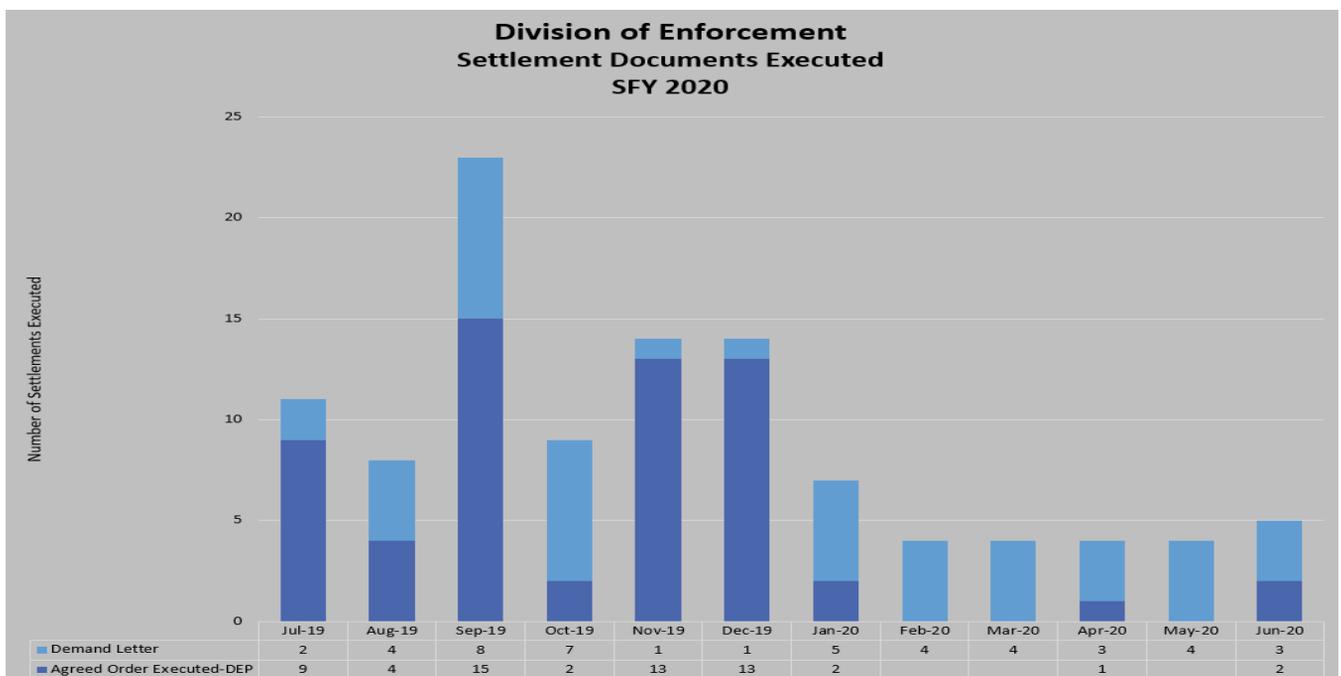


Figure 9

Civil Enforcement Branch

Monitoring. The Enforcement Specialist assigned to a case is responsible for monitoring compliance with executed Demand Letters, Agreed Orders, or Secretary's Orders. Cases will be closed upon compliance with the executed agreement. Failing to comply with the executed agreement can result in the resumption of settlement negotiations, initiation of a separate enforcement action, or with the Cabinet filing a complaint in Franklin Circuit Court seeking injunctive relief.

In SFY 2020, DENF monitored an average of 225 executed settlement documents each month.

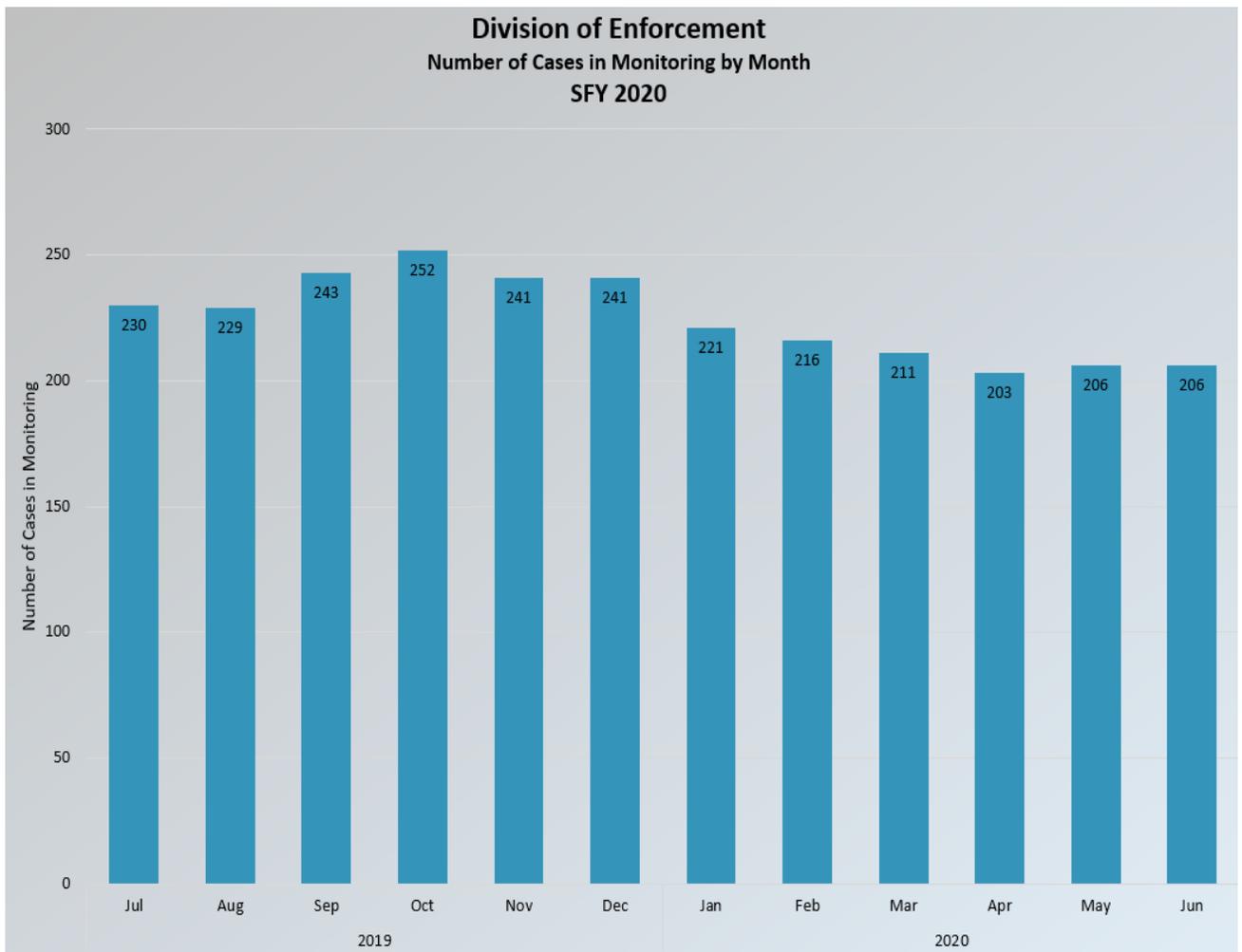


Figure 10

Civil Enforcement Branch

Office of Legal Services (OLS). Should the regulated entity and the Division not reach an Agreement-in-Principle, the case is referred to the Cabinet’s OLS where a Cabinet attorney is assigned to the case. These cases may be resolved through further negotiation, or may proceed to a formal hearing at the Office of Administrative Hearings.

Office of Administrative Hearings (OAH). When the Division is unable to resolve a case due to a multiple of factors, the OLS attorney will file the case with the Office of Administrative Hearings. A hearing officer considers the facts of the case and makes a recommendation for the resolution of the case to the Cabinet Secretary. The Cabinet Secretary can either accept or modify the hearing officer’s recommendation. The final resolution is documented in a Secretary’s Order, which is filed with OAH. The Secretary’s Order is a final order of the Cabinet and is enforceable in Franklin Circuit Court (FCC).

In SFY 2020, The Division referred 59 enforcement cases to the Cabinet’s Office of Legal Services for further enforcement action, an average of 5 per month.

In SFY 2020, DENF resolved a total of 23 cases through the Office of Legal Services (13 Agreed Orders, 8 Secretary’s Order, and 2 Franklin Circuit Court Decision).

Case is Referred to the Office of Legal Services if the Division and the Responsible Party fail to reach an Agreement-in-Principle.

Case is opened in the Office of Administrative Hearings and is settled in further negotiations or the hearing process.

If the responsible Party Fails to comply with a final order of the Cabinet, the order can be enforced in Franklin Circuit Court.

Civil Enforcement Branch

Executed Settlements: The Division of Enforcement uses Agreed Orders (AO), Demand Letters (DL), Office of Legal Services (OLS) Agreed Orders, and Secretary Orders (SO) to settle enforcement cases. The chart below shows the average number of days to reach an executed task.

Based on historical averages, once a case is referred to the Division, it takes 196 days to issue a Demand Letter, 337 days to execute an Agreed Order, 909 days to execute an OLS Agreed Order, and 1023 days to execute a Secretary's Order.

Division of Enforcement
Average # of Days from Case Assigned to Settlement Executed
Cases Referred from SFY 2010 through SFY 2020

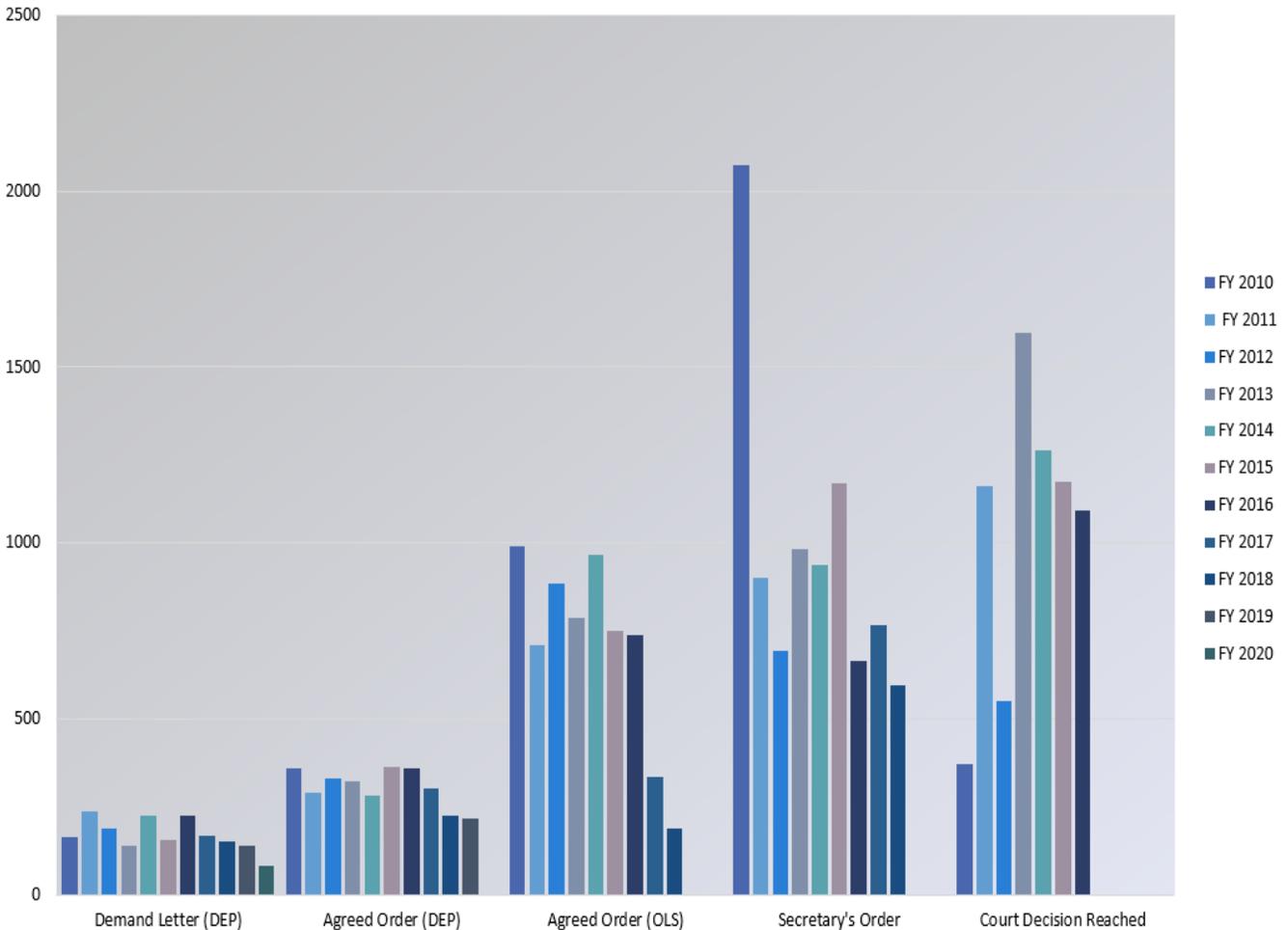


Figure 11

Civil Enforcement Branch



Environmental Protection Agency (U.S. EPA) can become involved in cases involving delegated authority for the state enforcement of federal programs. Examples of delegated programs include the Clean Air Act, the Clean Water Act, elements of the Safe Drinking Water Act, and the Resource Conservation and Recovery Act. The Cabinet will, under certain circumstances, refer a case to EPA for a federal enforcement action. In some cases, the Cabinet may negotiate an enforcement settlement jointly with U.S. EPA; U.S. EPA has the ability to overfile on an enforcement settlement previously reached between the Cabinet and the responsible party and proceed with a federal enforcement action.

At the end of SFY 2020, one enforcement case was being worked with EPA as the lead agency. There are currently several Consent Degrees being monitored for compliance, where Kentucky's Department for Environmental Protection and the United States Environmental Protection Agency have taken a joint action.

Civil Enforcement Branch

Penalties Collected: In most enforcement cases, the Division of Enforcement assesses civil penalties for documented violations of Kentucky’s environmental laws. The Division may also use stipulated and performance penalties to encourage future compliance and to ensure that remedial measures or other requirements of an Agreed Order are completed. Penalty collections are tracked by the Office of Administrative Hearings and categorized by media type (UST, Water, Waste, and Air).

In SFY 2020, the Division of Enforcement collected \$2,034,799.70 in civil and stipulated penalties. \$814,695 of penalties collected involved cases from the Water media.

**DIVISION OF ENFORCEMENT
CIVIL PENALTY COLLECTIONS DATA BY FISCAL YEAR
SFY 2010 through SFY 2020**

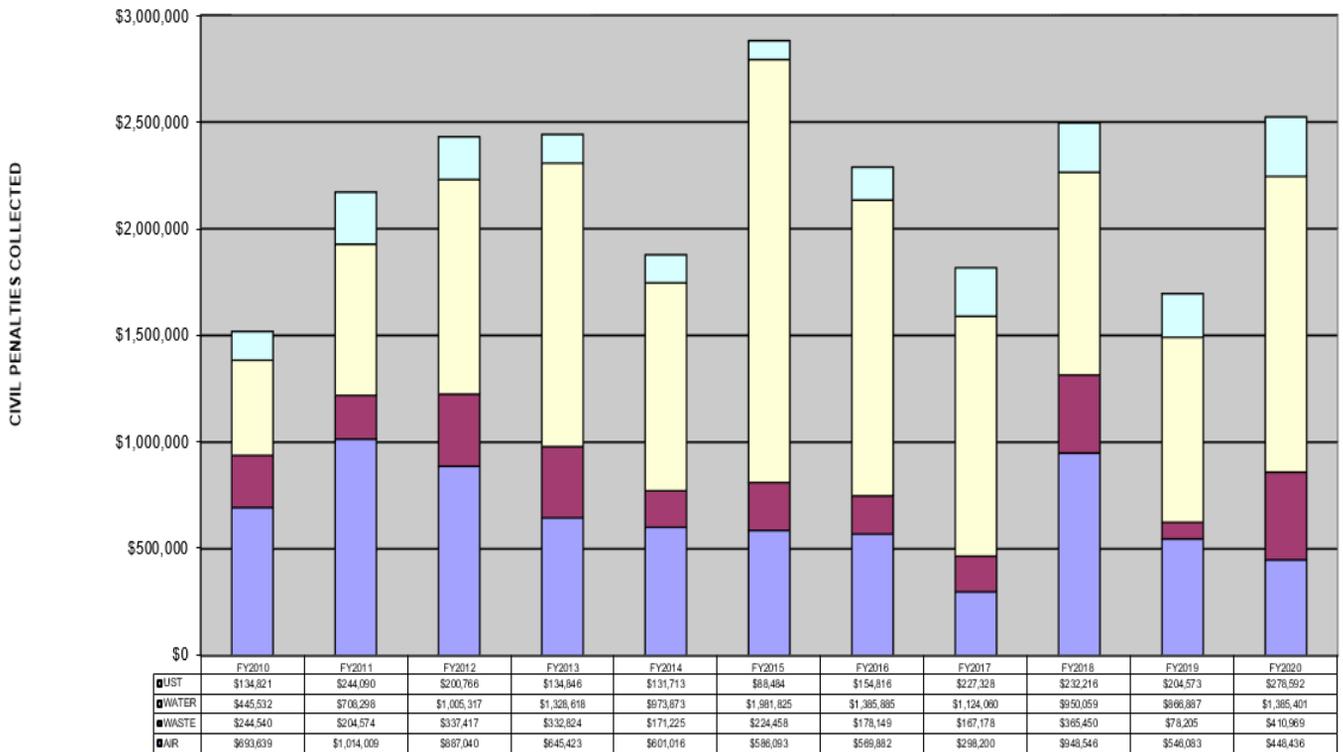


Figure 12

Civil Enforcement Branch

Total Settlement Documents: In SFY 2020, 144 settlement documents were executed. 121 of the settlements were negotiated in the Division of Enforcement, and 23 of the settlements came from cases that were referred to the Office of General Counsel.

**Division of Enforcement
Settlement Documents Executed Annually by Type
SFY 2010 through SFY 2020**

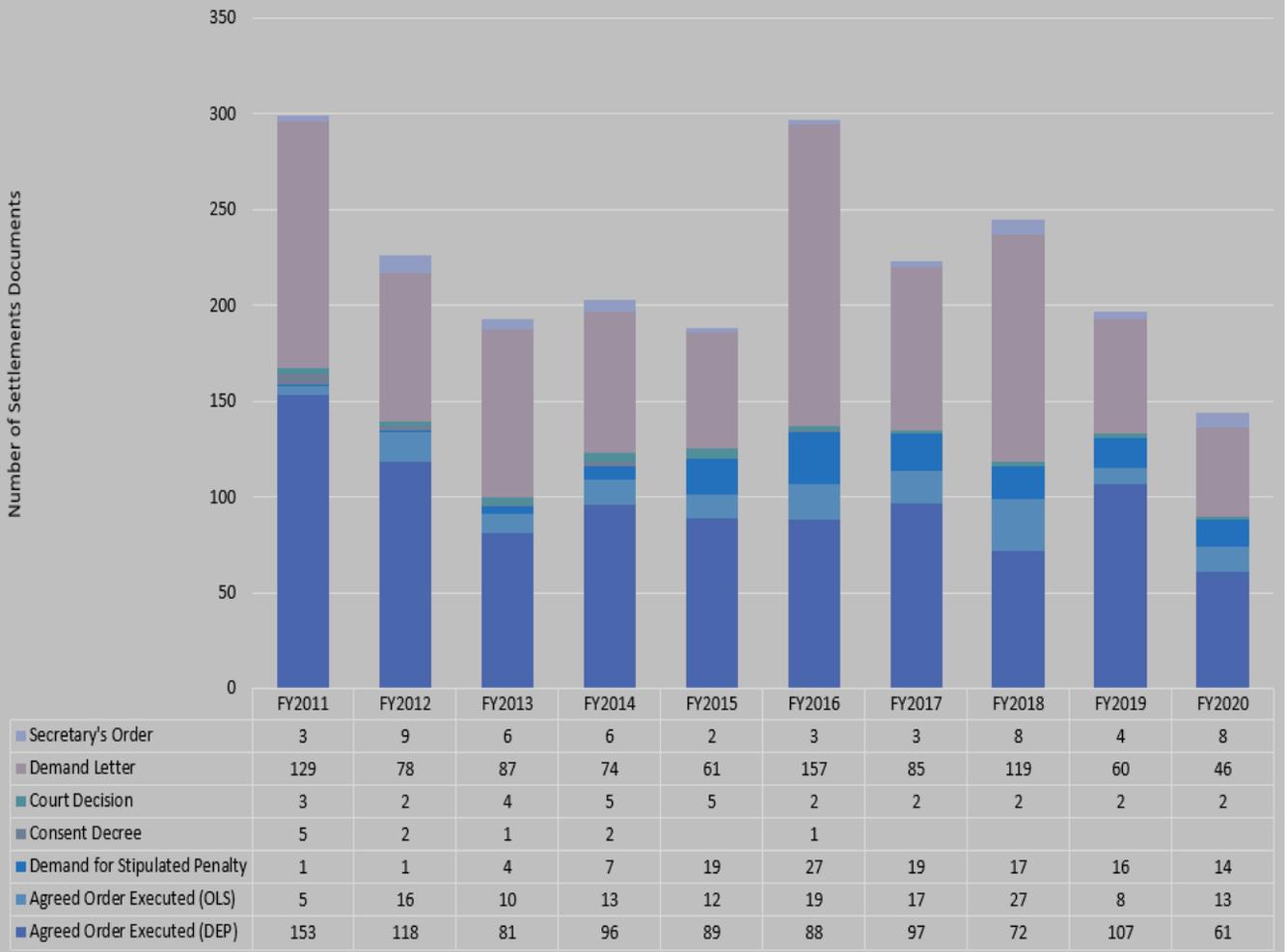


Figure 13

Civil Enforcement Branch

Closed Cases: From SFY 2011 to SFY 2020, an average of 265 cases have been closed annually. The Division of Enforcement closed a total of 170 enforcement cases in SFY 2020.

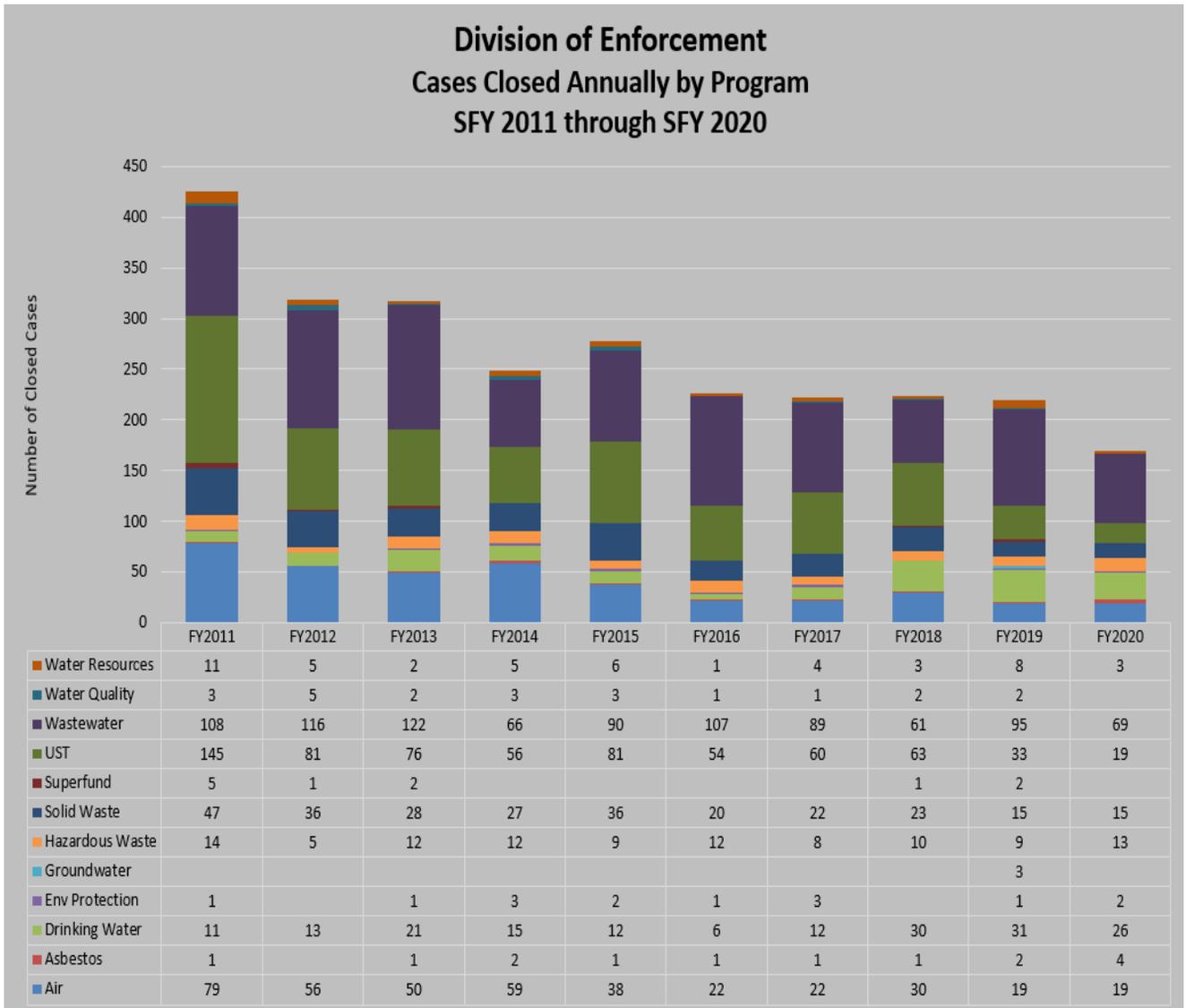


Figure 14

Compliance & Operations Branch

The Compliance and Operations Branch (COB): The primary duty of an Enforcement Specialist in the Compliance and Operations Branch is to determine compliance with Kentucky's environmental regulations and cite violations through the issuance of Notices of Violation (NOVs).

In SFY 2020, ninety-four percent (94%) of the NOVs generated by the Compliance and Operations Branch were for violations of the Kentucky Pollutant Discharge Elimination System (KPDES) permits issued by the Division of Water. KPDES permits include effluent limitations and require the regular submittal of Discharge Monitoring Reports to demonstrate compliance. Discharge Monitoring Reports are analyzed on a monthly/quarterly basis to ensure compliance with the KPDES Permit. The majority of the compliance reviews completed in SFY 2020 were of coal facilities and municipal and non-municipal major/minor wastewater facilities.

Six percent (6%) of the NOVs issued by the COB in SFY 2020 were for violations referred by Central Office Programs from the Division of Waste Management and the Division of Water. Violations were referred from Hazardous Waste, Pretreatment, Whole Effluent Toxicity (WET), and Water Resources Programs.

If a regulated entity fails to comply with the remedial measures contained in a NOV issued by the COB or the violations documented require further enforcement action the violations may be referred to the Division's Civil Enforcement Branch (CEB) for a formal enforcement action.

COB has issued 2,142 Notices of Violation and sent 222 Enforcement Referrals to CEB in SFY 2020.

Compliance & Operations Branch

Coal Compliance Reviews: Surface Mining Control and Reclamation Act (SMCRA) permits issued to coal facilities by the Cabinet's Department for Natural Resources (DNR) require that permittees also obtain a KPDES permit from the Division of Water. An Enforcement Specialist in the Compliance and Operations Branch conducts reviews of these coal facilities that typically cover the previous calendar year, but can cover as many as 5 years based on the statute of limitations. During reviews, a specialist researches KPDES Permits, DMRs, SMCRA Permits, facility maps, and bench and lab analysis sheets to determine violations. The specialist also coordinates with DOW and DNR staff, as well as the regulated entities. In SFY 2020, the Branch reviewed coal companies for the monitoring period of calendar year 2019. Many of those violations have resulted in referrals to the Civil Enforcement Branch for formal enforcement action.

In SFY 2020, Coal Compliance Reviews have resulted in 334 Notices of Violation being issued and 109 referrals to the Civil Enforcement Branch.



Compliance & Operations Branch



Major and Minor Wastewater Compliance Reviews: For municipalities, facilities with a design capacity over one million gallons per day (1.000 MGD) are considered “Majors”, and those under this threshold are considered “Minors”. Other criteria may be used to place an industrial facility on the “Major” or “Minor” list. Major facilities are reviewed every quarter for compliance. These reviews look at the data submitted for the previous 3 months. Minor facilities are reviewed at less frequent intervals, and the reviews typically cover a period of two years or from the time of the previous review. In the review of both Major and Minor facilities, the Enforcement Specialist researches KPDES permits, DMRs, Inspection Reports from the Program Regional Offices, and past enforcement actions to determine compliance. The Specialist also develops and monitors facility-specific remedial measures when issuing NOV. Violations that are noted in reviews are then incorporated into regular reporting which is submitted to the Environmental Protection Agency. Facilities that fail to comply with the remedial measure requirements of a NOV or have Significant Non-Compliance (SNC) violations may be referred to the Civil Enforcement Branch for formal enforcement action.

In SFY 2020, Major/Minor Compliance Reviews have resulted in 1,685 Notices of Violation issued and 93 referrals to the Civil Enforcement Branch.

Compliance & Operations Branch

Permit Program Compliance Reviews: The Enforcement Specialist tasked with these duties researches and evaluates violations referred from specific programs within the DAQ, DWM, and DOW. The Specialist researches referred violations and reviews previous enforcement history before determining remedial measures and issuing NOVs. The specialist works in conjunction with staff from the Program Divisions to ensure accuracy with the NOVs that are issued.

In SFY 2020, Permit Program Compliance Reviews have resulted in 124 Notices of Violation issued and 20 referrals to the Civil Enforcement Branch.

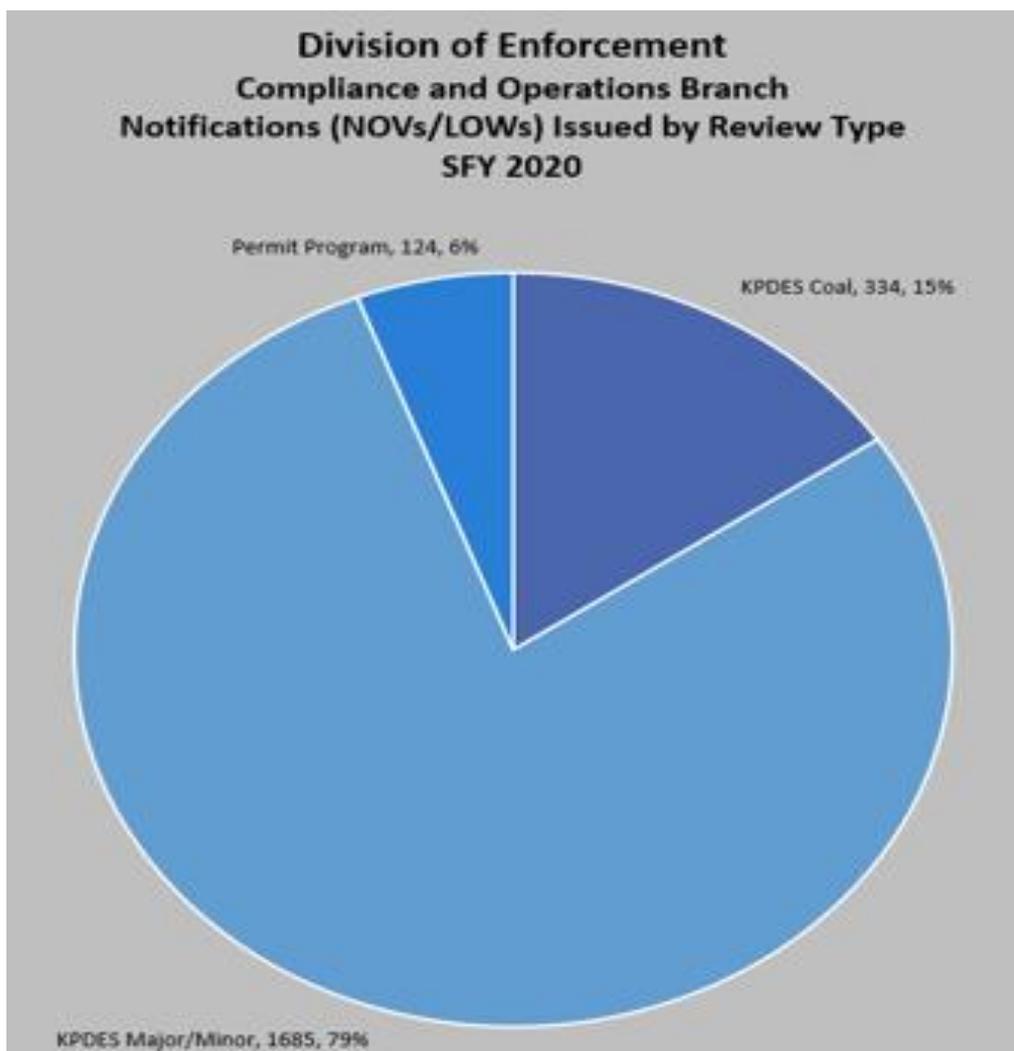


Figure 15

Compliance & Operations Branch

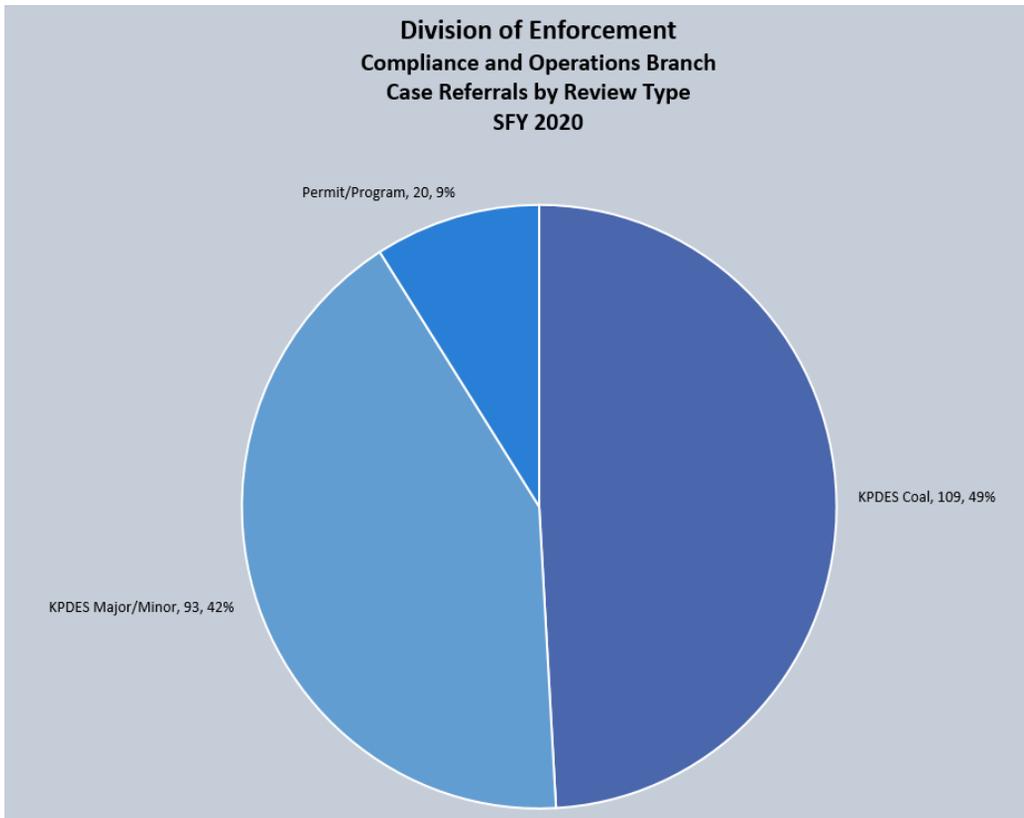


Figure 16

Referrals to the Civil Enforcement Branch: In SFY 2020, the Compliance and Operation Branch sent 222 referrals from Coal, Major and Minors, and Permit Program Reviews to the Civil Enforcement Branch. Each referral then becomes a case, or is consolidated into a larger case, and is assigned to an Enforcement Specialist in the Civil Enforcement Branch for further enforcement action. During the formal enforcement process, Compliance and Operations Branch staff complete up-to-date compliance reviews and serve as technical experts for the Division in settlement negotiations. The Enforcement Specialist will coordinate with Civil Enforcement Branch staff, the Director's and Commissioner's Office staff, the Office of Legal Services attorneys, and company representatives until final resolution is reached.

Compliance & Operations Branch

Administrative Duties: The COB has one staff member that is responsible for the administrative day-to-day operation of the Division. These duties include, but are not limited to: the entry and auditing of data in Integrated Compliance Information System (ICIS); the processing of civil penalties, stipulated penalties, and cost recovery payments; maintaining Division record keeping and databases; coordinating work flow through the Director's office; and providing administrative support for all staff.

In SFY 2020, Administrative Support Staff logged and processed 735 incoming correspondences and 293 penalty payments.



<https://www.best-job-interview.com/administrative-assistant-job-description.html>

Compliance Notification Data

Notices of Violation Issued by Division: The Department as a whole issued 5,224 compliance notifications, in the form of Notices of Violation and Letters of Warning, in SFY 2020. Notices of Violation from the Division of Enforcement made up roughly 41% of all notices issued.

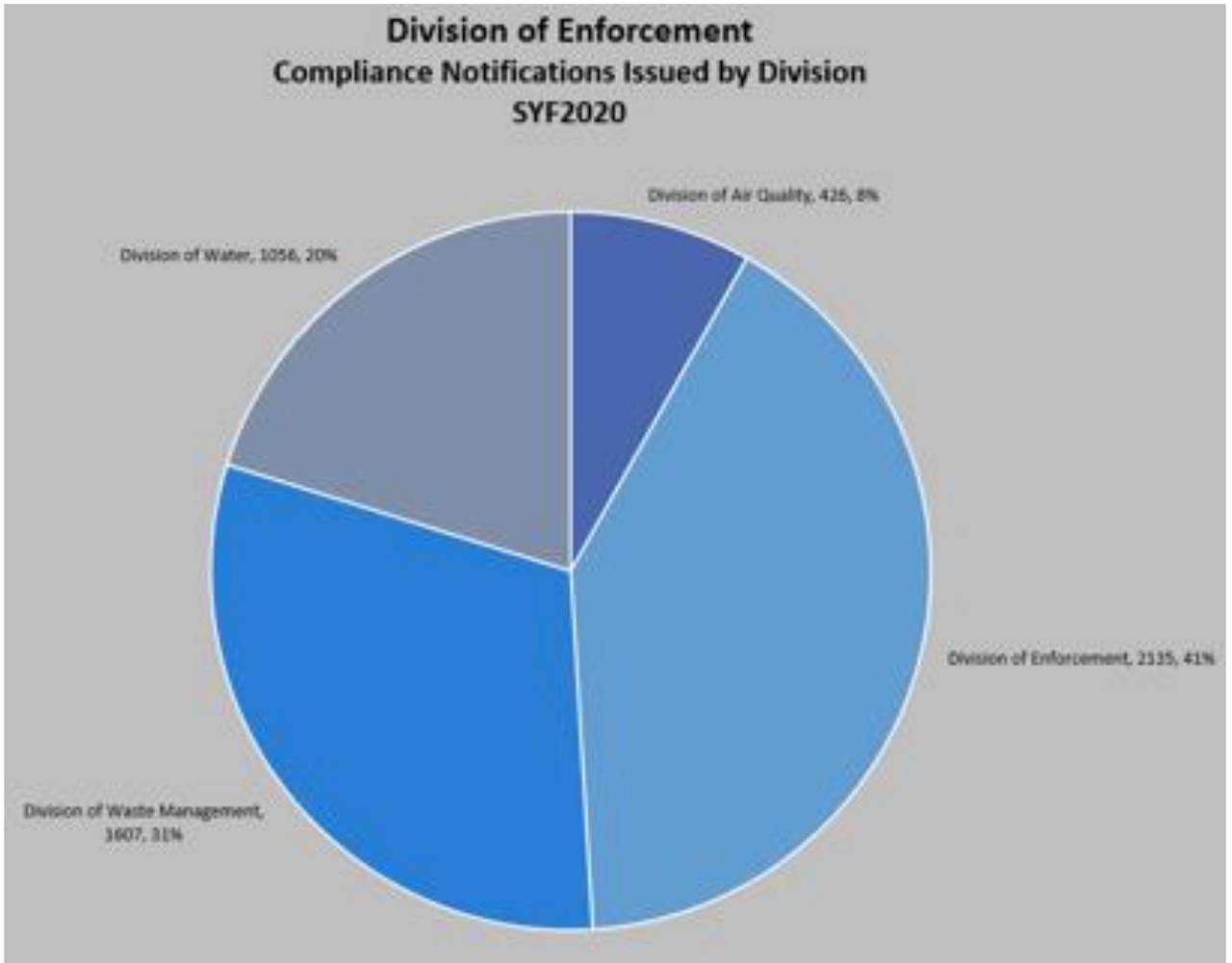


Figure 17

Compliance Notification Data

Compliance Notifications Issued by Activity Type: 49% of the Notices of Violation and Letters of Warning issued in SFY 2020 came from the Field Operations Branches. The second highest contribution was from the Compliance and Operations Branch of the Division of Enforcement with 38%.

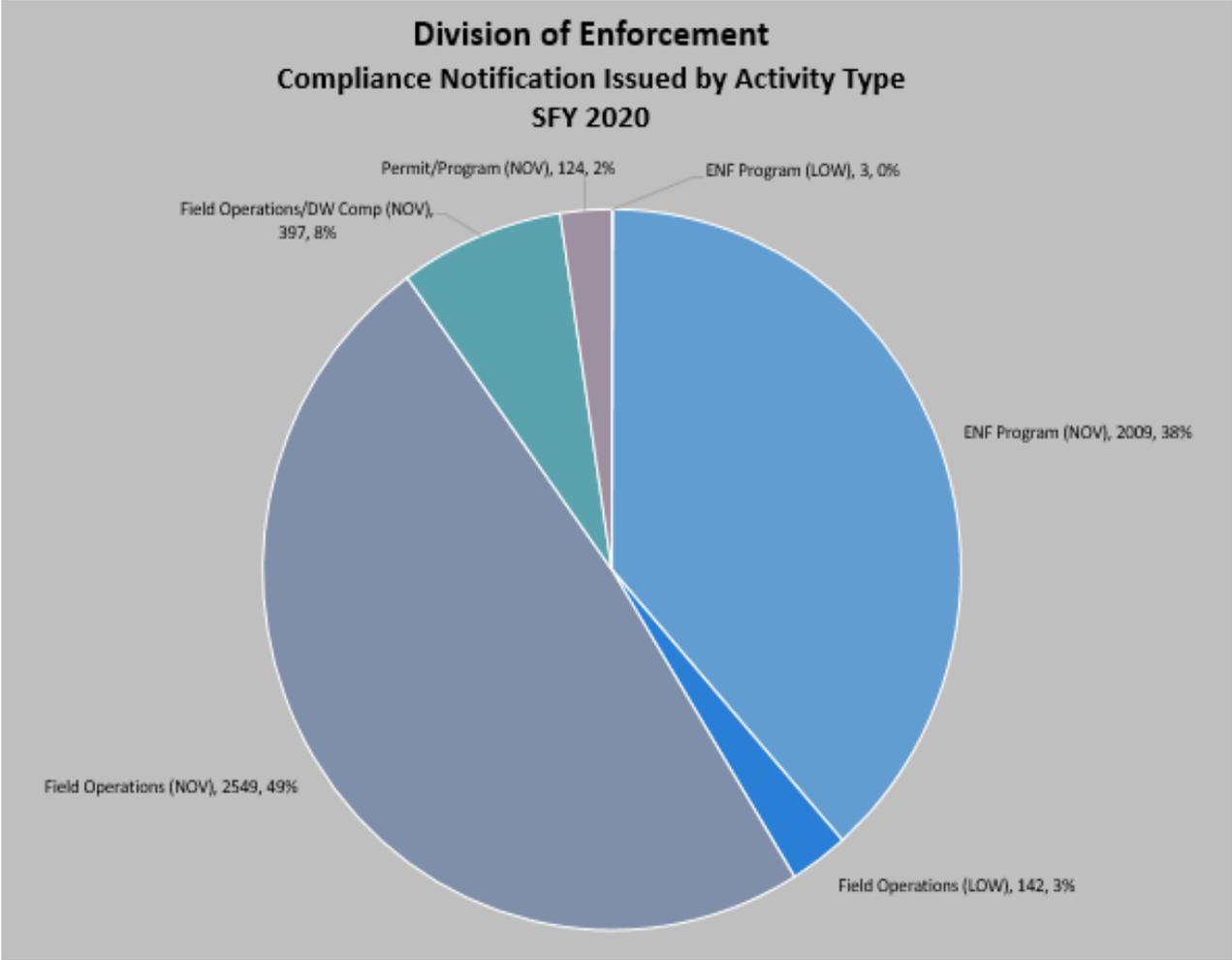


Figure 18

Compliance Notification Data

Compliance Notifications Issued by Program: In SFY 2020, the largest number of notifications issued by KDEP was in the Wastewater program with 2,626 (50%), followed by the UST program with 1,195 (23%), and the Drinking Water program with 445 (9%).

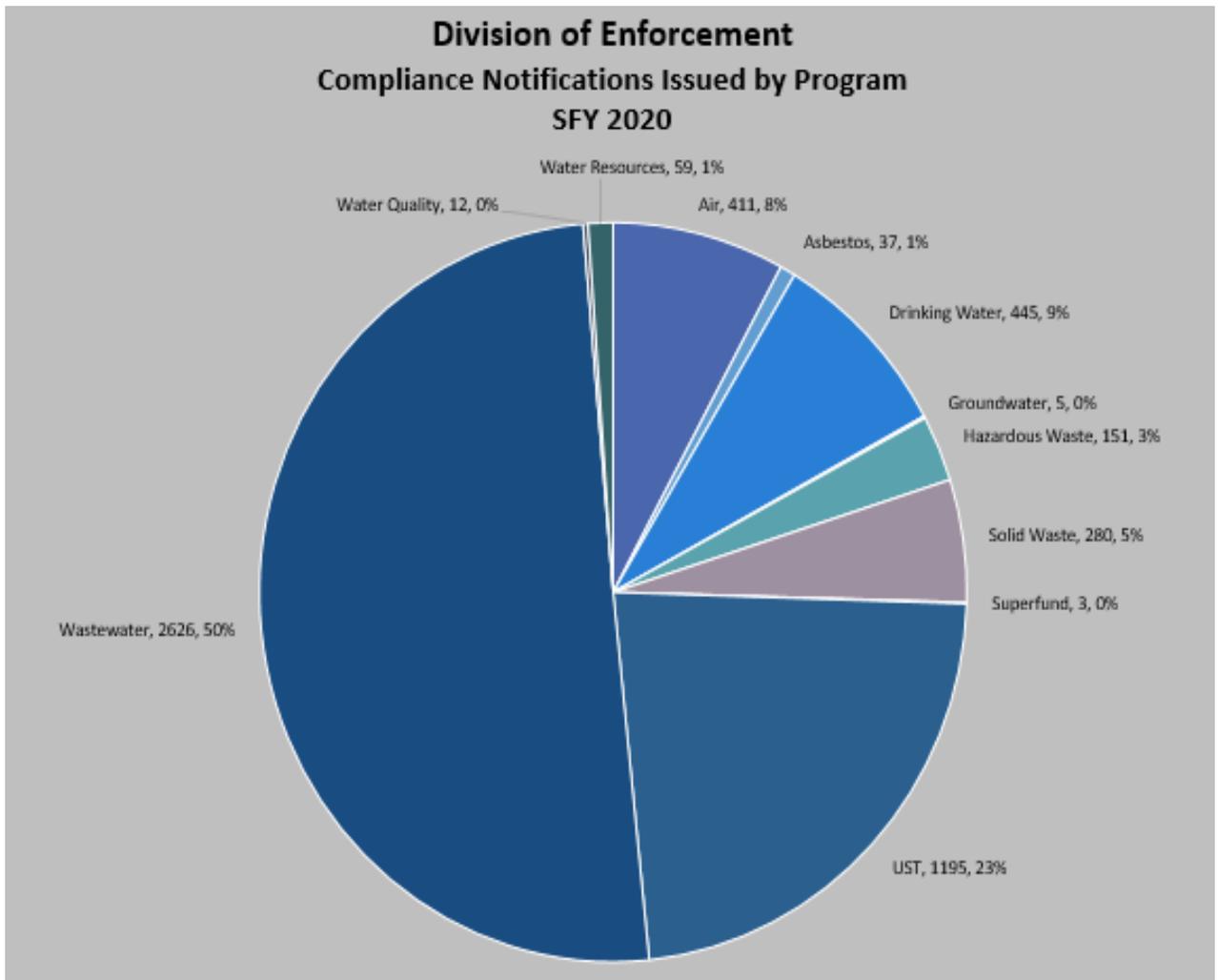


Figure 19

SFY 2020 Accomplishments

- **Jim Beam Brands Company (Old Crow Plant):** Jim Beam Brands Company (Jim Beam) was referred to the Division of Enforcement after lightning struck a warehouse at the Old Crow Plant on July 3, 2019. The warehouse caught on fire and collapsed, releasing bourbon and firefighting wastewater into Glenn's Creek. The release resulted in a significant fish kill and degradation to the waters of the Commonwealth. Jim Beam reported the incident. PECCO was contracted to dismantle the warehouse debris and Shield Environmental was contracted to perform monitoring and remediation. An initial administrative conference was conducted between Jim Beam and the Division of Enforcement on September 3, 2019. After negotiations, an Agreed Order was executed December 9, 2019. To date, a \$600,000 civil penalty and \$112,074.85 cost recovery have been paid and Disposal Documentation, the Exit Report and the Site Characterization Monitoring Plan (SCMP) have been submitted and approved. All other submittals are pending completion of SCMP implementation. The case is ongoing.
- **Pilot Travel Center #321:** On April 29, 2019, a semi-truck hit a fuel dispenser at Pilot Travel Center #321 and broke the shear valve, which caused diesel fuel to spill onto the pavement and into a storm drain. The incident caused 0.75 miles of stream degradation. Pilot hired contractors to immediately assist with cleanup. An underflow dam and booms were used to stop the spread of fuel downstream. The impacted storm drain was flushed and vac trucks were used to remove product from the stream. Absorbent was placed on the pavement at the site. Contaminated soil was excavated. The fuel/water mixture and contaminated media from the release was properly disposed of. A Notice of Violation was issued by the Division of Water on May 28, 2019. The Cabinet received an "Emergency Response Summary (04/29/19 Incident)" June 12, 2019 and a "Response to Notice of Violation" July 5, 2019. On July 11, 2019, the Division of Water issued Pilot a sufficiency letter. Pilot met with the Division of Enforcement on October 16, 2019. After negotiations, the Division of Enforcement issued Pilot a Demand Letter on November 7, 2019 requiring a \$10,000 civil penalty. The civil penalty was paid in full on December 2, 2019 and the case was closed.

SFY 2020 Accomplishments

- **Don Green:** Don Green had a Kentucky No Discharge Permit (KNDOP) for a landfarm to dispose of processed wastewater from the Sister Schubert and T. Marzetti manufacturing plants in Hart County. Mr. Green did not follow proper landfarm application rates, and also disposed of the waste into a sinkhole on his property. The waste mostly consists of fats, oils and grease skimmed from salad dressings. An agreed order was executed on October 11, 2019, which required Mr. Green to properly dispose of the remaining waste by October 1, 2019, and pay a civil penalty of \$30,000 in twelve installments of \$2,500. On January 16, 2020 the Division of Water verified that all remedial measures had been completed. Mr. Green continues to pay the penalty in installments.
- **Ronald McCauley Property:** Mr. McCauley's property was referred to DENF after a large brush fire was discovered and extinguished by the fire marshal in Jessamine County. DAQ Inspector Mitch Kuckla arrived shortly after the fire was extinguished and discovered the burn pile contained several prohibited items. These items included but were not limited to: processed wood, various metals, PVC pipes, various plastics, insulation, shingles, a car door, and multiple car tires. The site was recently purchased by Mr. McCauley so he could clean up the area of debris and remodel the adjacent properties. An NOV was issued for burning out of season and for the burning of prohibited items. Mr. McCauley participated with DENF in an enforcement conference on March 12, 2020, during this conference he admitted some of his contract workers had set the fire to dispose of the prohibited items. He agreed to clean up and properly dispose of all the waste and debris. A few weeks after the enforcement conference, receipts and photos were submitted to DENF documenting the disposal and the areas remediation. After negotiations, the Cabinet agreed to settle with Mr. McCauley for \$2,000 through a Demand Letter. The Demand Letter was delivered to Mr. McCauley on May 11, 2020; DENF is awaiting payment of the civil penalty before closing the case.

SFY 2020 Accomplishments

Discharge Monitoring Report (DMR) Compliance Automation: The Division of Enforcement continues to automate compliance reviews of Discharge Monitoring Reports (DMRs). The Division, through DMR Compliance Automation, is working to be able to address non-compliance with DMR effluent violations and KPDES monitoring and reporting requirements comprehensively throughout the Commonwealth.

The Division has divided the KPDES universe into five groups. It has been using automation to determine DMR non-compliance for major KPDES permits for several years. In February 2019, the Division added the compliance review for DMR monitoring and reporting violations for non-major individual KPDES permits. In March 2019, the Division automated the review of effluent violations for non-major individual KPDES permits. Storm water discharges associated with industrial activities, coal general permits, and all other KPDES permits are the remaining permit groups for which the Division will implement DMR Compliance Automation in the future.

In Federal Fiscal Year (FFY) 2019, Kentucky had 137 KPDES major individual permits and 1,244 non-major individual KPDES permits. Of these KPDES individual permits, Kentucky had 15 major permits (10.9%) in Category I non-compliance and 452 non-major individual permits (36.3%) in Category 1 non-compliance. The aggregate is 467 of 1,381 individual permits (33.8%) in Category 1 non-compliance.

Since FFY 2011, Kentucky has made major strides in addressing KPDES non-compliance.

- Kentucky has reduced the number of KPDES permits in Category 1 non-compliance from 1,164 in FFY2011 to 452 in FFY2018.
- Kentucky has been one of the leading states in NetDMR implementation.
- Kentucky has made major efforts to improve KPDES compliance in the surface coal mining industry, including annual DMR compliance reviews of all coal permits and the initiation and resolution of formal enforcement actions for KPDES non-compliance.

The Division will continue to implement DMR Compliance Automation to further improve compliance rates at KPDES permitted facilities and to improve surface water quality in the Commonwealth.

SFY 2020 Accomplishment

- **Permit Program Violations:** The Compliance and Operations Branch has seen an increase in permit program violation referrals from the media divisions. In SFY 2017, COB experienced an influx of Whole Effluent Toxicity violation referrals from the Division of Water's Surface Water Permits Branch. Thus prompting the Compliance and Operations Branch to cross-train additional staff. This new Permit Program employee still remains the reviewer on all his previous coal permits but now also oversees the Permit Program referrals as well. For SFY 2020, the violation referrals were from the Division of Waste Management's Hazardous Waste and Division of Water's Water Resources, Groundwater, and Wastewater. 124 Notices of Violation were issued by one employee in the Branch and programmatic distributions are as follows: Groundwater 5, Hazardous Waste 22, Water Resources 16 and Wastewater with 81.
- **Largest Coal Company:** Once again the Compliance and Operation Branch continues to provide excellent reviews of coal discharge monitoring reports. In SFY 2019, one Branch staff member reviewed the largest coal company in Kentucky. During calendar year 2019 DMR review, this company held 201 DNR permits that were covered by 72 separate KPDES permits. The DMR review yielded an additional 13,313 violations for the 2019 calendar year. These additional violations were referred and added to the current case in the Civil Enforcement Branch.

Contact Information

Division of Enforcement
Kentucky Department for Environmental Protection
Energy and Environment Cabinet

300 Sower Boulevard, 3rd Floor

Frankfort, KY 40601

(502) 564-2150 Telephone

(502) 564-4245 Fax

Director's Office

- **Michael Kroeger**, Assistant Director, (502) 782-6866,
Michael.Kroeger@ky.gov
- **Mark Cleland**, Environmental Scientist Consultant Senior,
(502)782-6856, Mark.Cleland@ky.gov

Civil Enforcement Branch

- **Justin Schul**, Environmental Control Manager, (502) 782-6870,
Justin.Schul@ky.gov

Compliance and Operations Branch

- **Natalie Bruner**, Environmental Control Manager, (502) 782-6861,
Natalie.Bruner@ky.gov