

**Kentucky**  
**Division of Enforcement**  
Annual Report  
State Fiscal Year 2016

**Commonwealth of Kentucky**  
**Energy and Environment Cabinet**  
**Department for Environmental**  
**Protection**  
**Division of Enforcement**  
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## Message from the Director's Office

As in previous years, SFY 2016 was marked with significant challenges and opportunities for the Division of Enforcement. The Coal Water Quality Initiative was in its sixth year and still prominent in its impact on the Division's total caseload. The Water programs accounted for 65 percent of the Division's caseload. An increasing number of referrals for enforcement action were referred from within the Division of Enforcement as compliance reviews in the coal industry continued. The greatest single source of enforcement case referrals in SFY 2016 was the Division itself. The Compliance and Operations Branch more than doubled the number of Notices of Violation issued and cases referred for enforcement action in SFY 2016 when compared to SFY 2015. At the same time, the resolution of enforcement actions in the coal industry posed, and will continue to pose, a challenge as the Division works with the mining industry, which is increasingly stressed from an economic standpoint.

Underground storage tank cases continued to make up nearly thirty percent of the Division's total caseload in SFY 2016. As was reported in the SFY 2015 annual report, delivery prohibition and failing to have a Designated Compliance Manager at each UST site generated a substantial portion of the case referrals in SFY 2016. Compliance issues at several of Kentucky's landfills led to enforcement actions in SFY 2016, some of which were successfully resolved and others that remain active cases, nearing resolution at the close of the fiscal year.

Air quality cases accounted for fewer than ten percent of the total caseload in SFY 2016. Although the number of cases referred to the Division is the lowest by percentage among the program divisions, the average civil penalties collected per case from air quality enforcement actions were the highest during the year. This is a reflection of the complex nature of the cases referred by the Division for Air Quality.

A major challenge for the Division of Enforcement during SFY 2016 was the development of new enforcement specialists. Since July 1, 2015, the Division brought on seven new employees, four in the Civil Enforcement Branch and three in the Compliance and Operations Branch. This equates to roughly 30% of the Division having one year or less experience at the end of SFY 2016. Through balancing work loads and relying on more experienced specialists to help in mentoring, the Division was able to stay effective and efficient in carrying out its role in the Department.

At the close of SFY 2016, when the 300 Sower Boulevard building was completed, the Cabinet began moving into its new office space. This created the greatest opportunity for the Division of Enforcement and the Cabinet as a whole. For the first time ever, the entire Energy and Environment Cabinet is housed in a single location. We at the Division of Enforcement began to see improvements in communication and productivity almost immediately as our Division is now able to interact seamlessly with the program divisions, legal staff, management and support staff. The staff and management of the Division of Enforcement look forward to the new fiscal year and beyond as we continue to fulfill our mission and improve our service to the Cabinet and the public.

*Jeffrey A. Cummins*  
Division Director



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.

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.

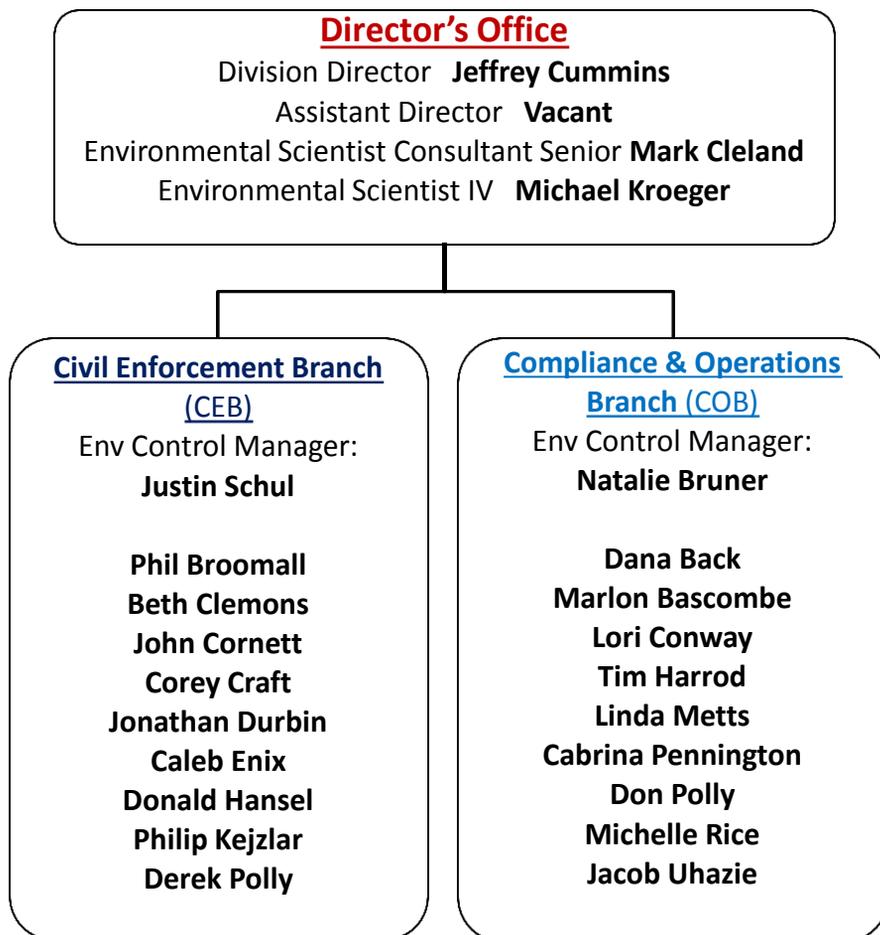


Figure 1

## 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 (currently vacant), and two Environmental Scientists. 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:** The Division of Enforcement receives new cases in the form of referrals. In SFY 2016, 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 678 new case referrals in SFY 2016. This was an increase in 51%, as compared to the number of new case referrals in SFY 2015 (450).

## Division of Enforcement New Cases *SFY 2010 - SFY 2016*

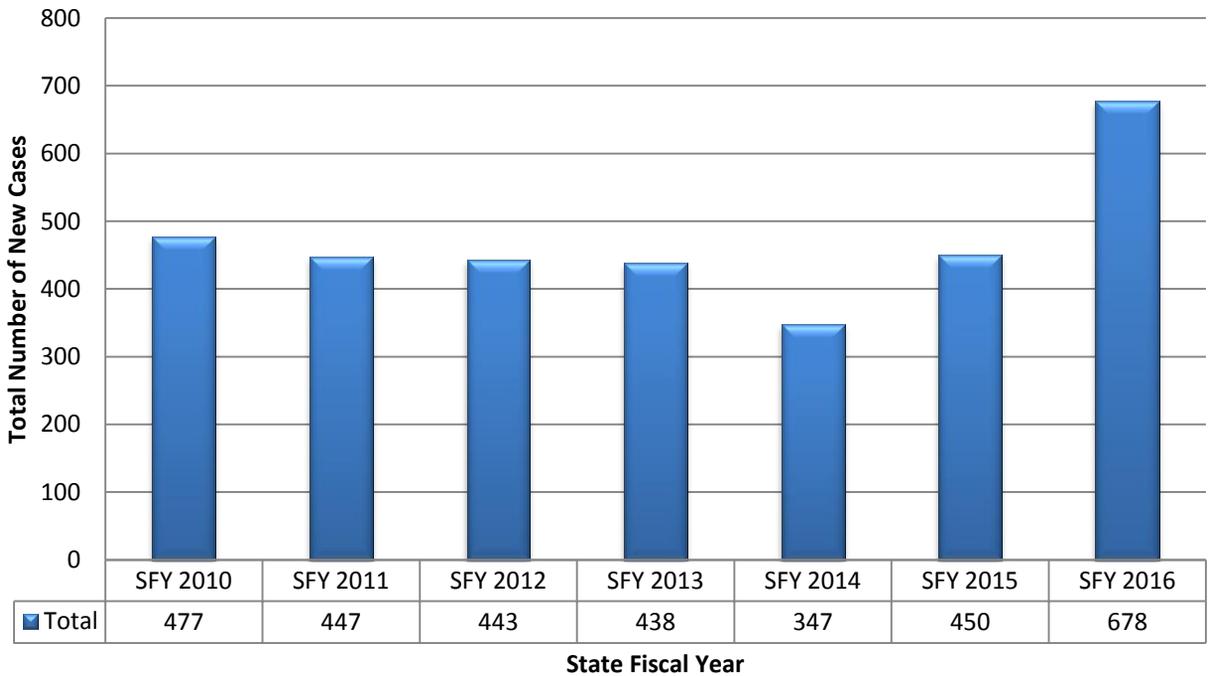


Figure 2

**Case Referrals by Program:** The Division of Enforcement received case referrals from nine different program areas in SFY 2016. Of 678 referrals, the highest number involved the wastewater program with 412 referrals (61%), followed by the UST program with 159 (23%).

## Division of Enforcement Case Referrals by Program

SFY 2016

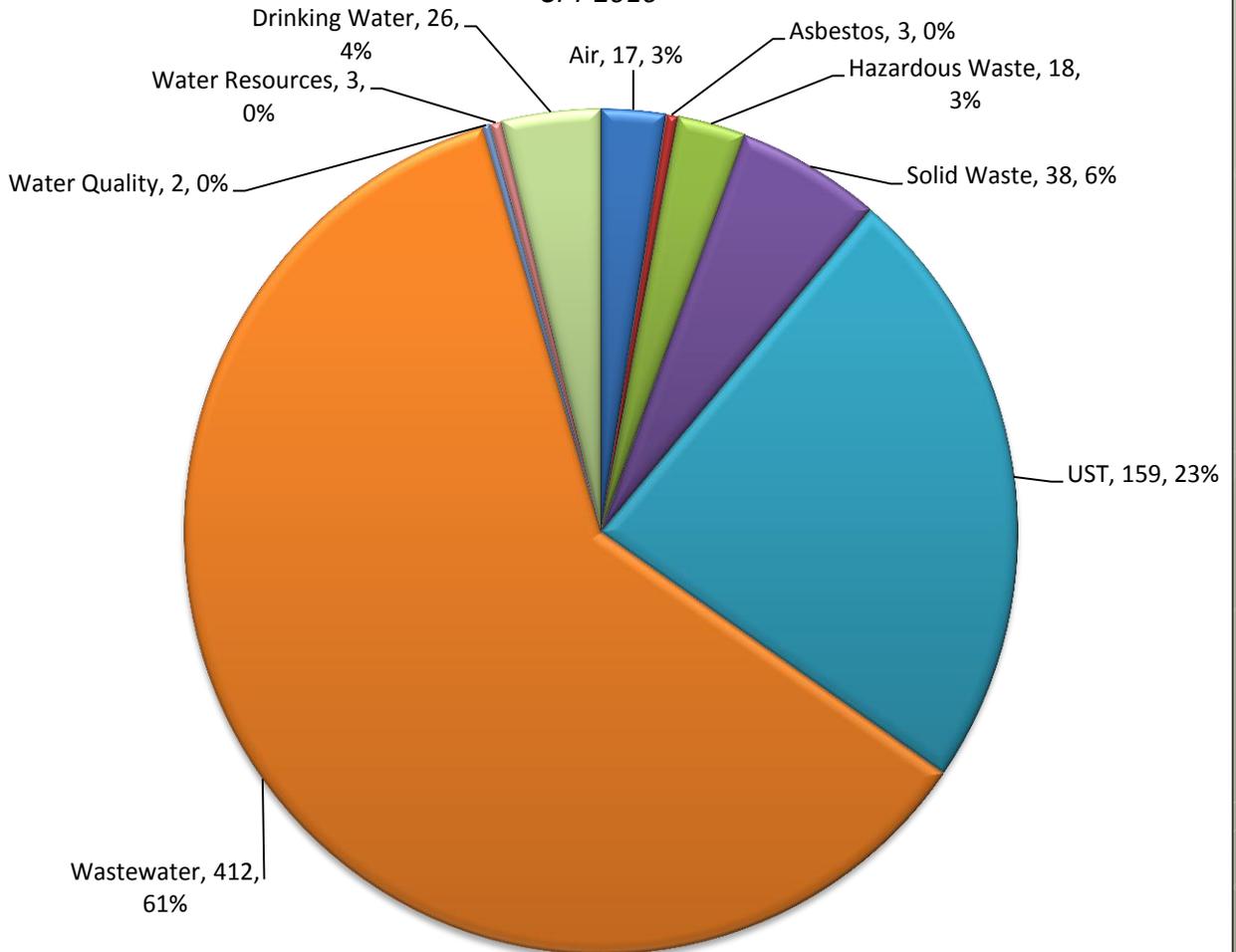


Figure 3

**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 2016. The Division's Compliance and Operations Branch had the most referrals with 314 (46%). Referrals from the Division of Waste Management accounted for the second most, with 210 (31%).

## Division of Enforcement Case Referrals by Division SFY 2016

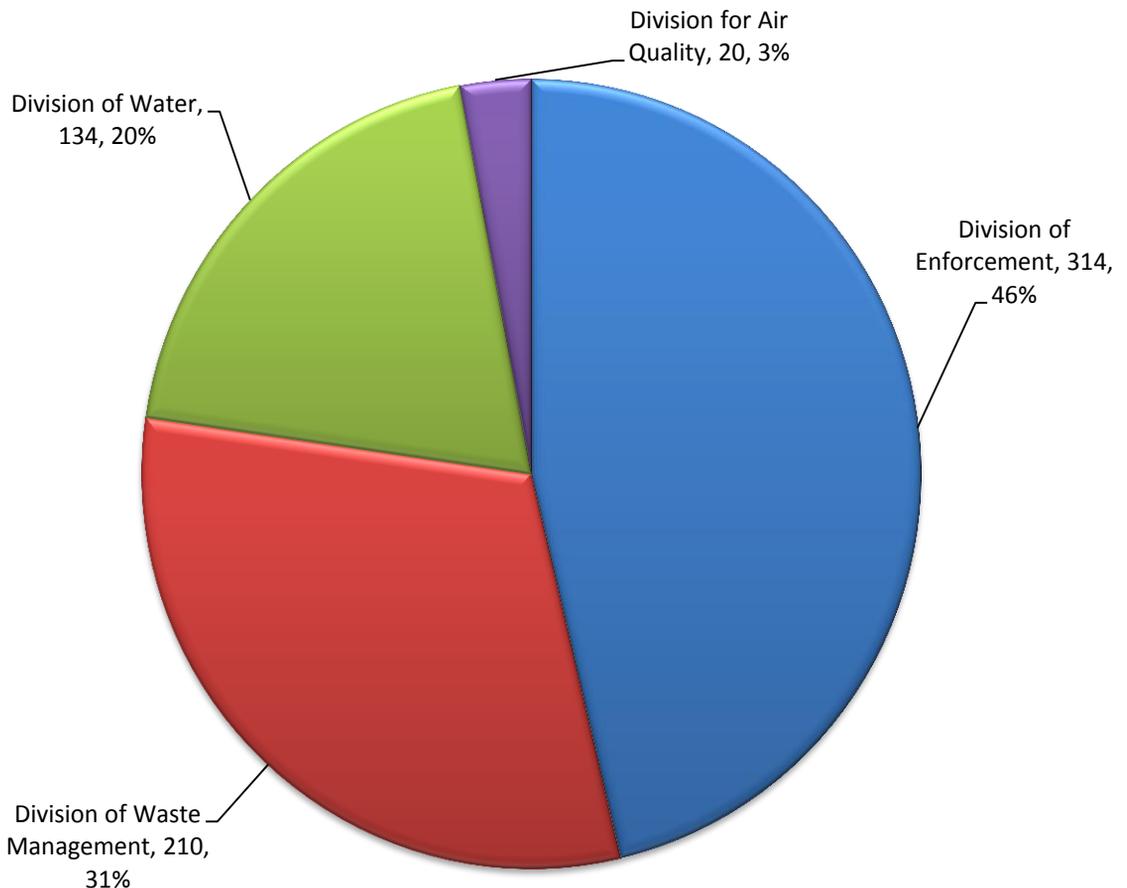


Figure 4

## Division of Enforcement

### New Division for Air Quality Cases by Regional Office

SFY 2016

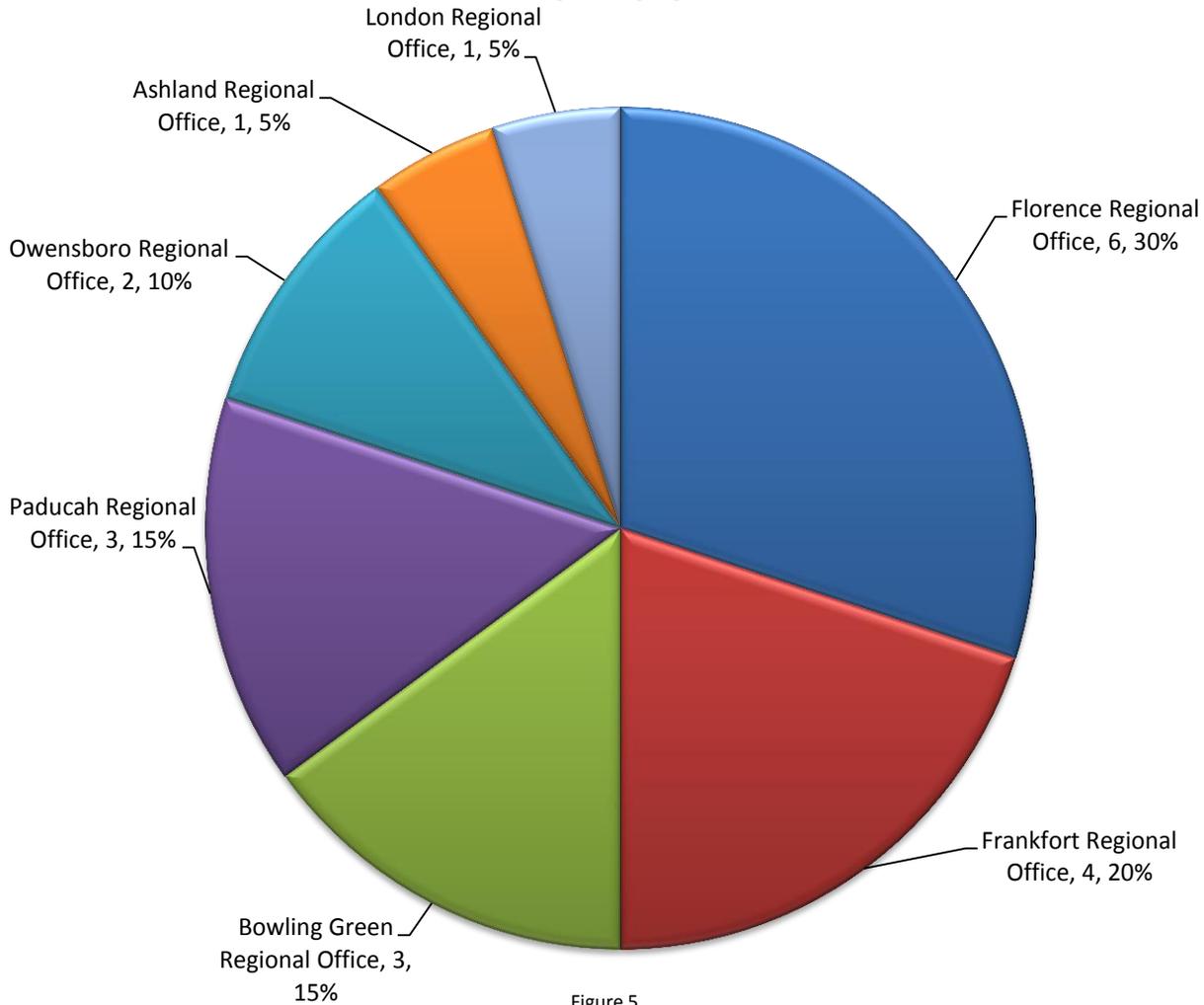


Figure 5

**Case Referrals from the Division for Air Quality:** The Division of Enforcement received 20 new case referrals from the Division for Air Quality in SFY 2016. Of the 20 referrals, the highest number came from the Florence Regional Office with 6 (30%), followed by the Frankfort Regional Office with 4 (20%).

## Division of Enforcement

### New Division of Waste Management Cases by Regional Office

SFY 2016

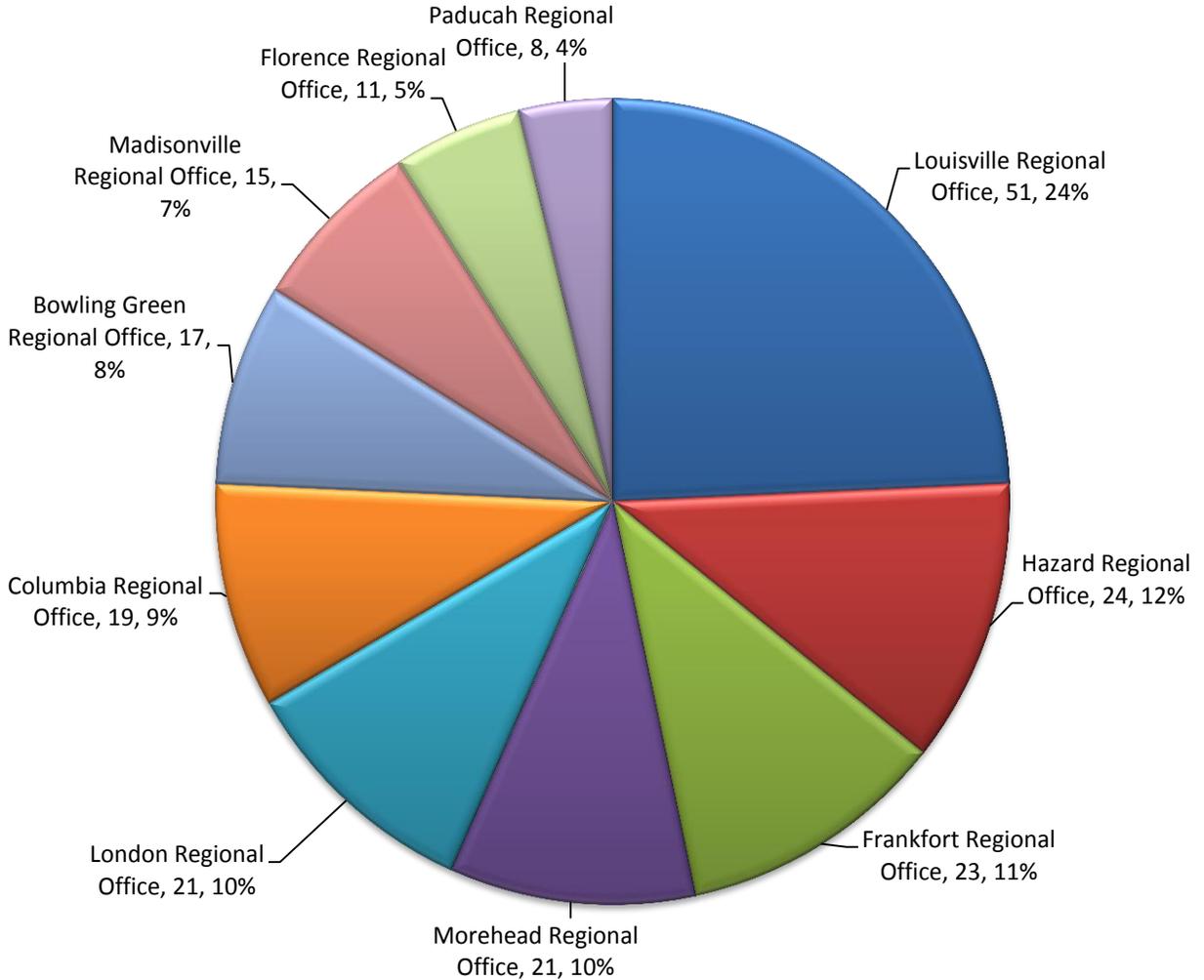


Figure 6

**Case Referrals from the Division of Waste Management:** The Division of Enforcement received 210 new case referrals from the Division of Waste Management in SFY 2016. Of the 210 referrals, the highest number came from the Louisville Regional Office with 51 (24%), followed by the Hazard Regional Office with 24 (12%).

## Division of Enforcement

### New Division of Water Cases by Regional Office

SFY 2016

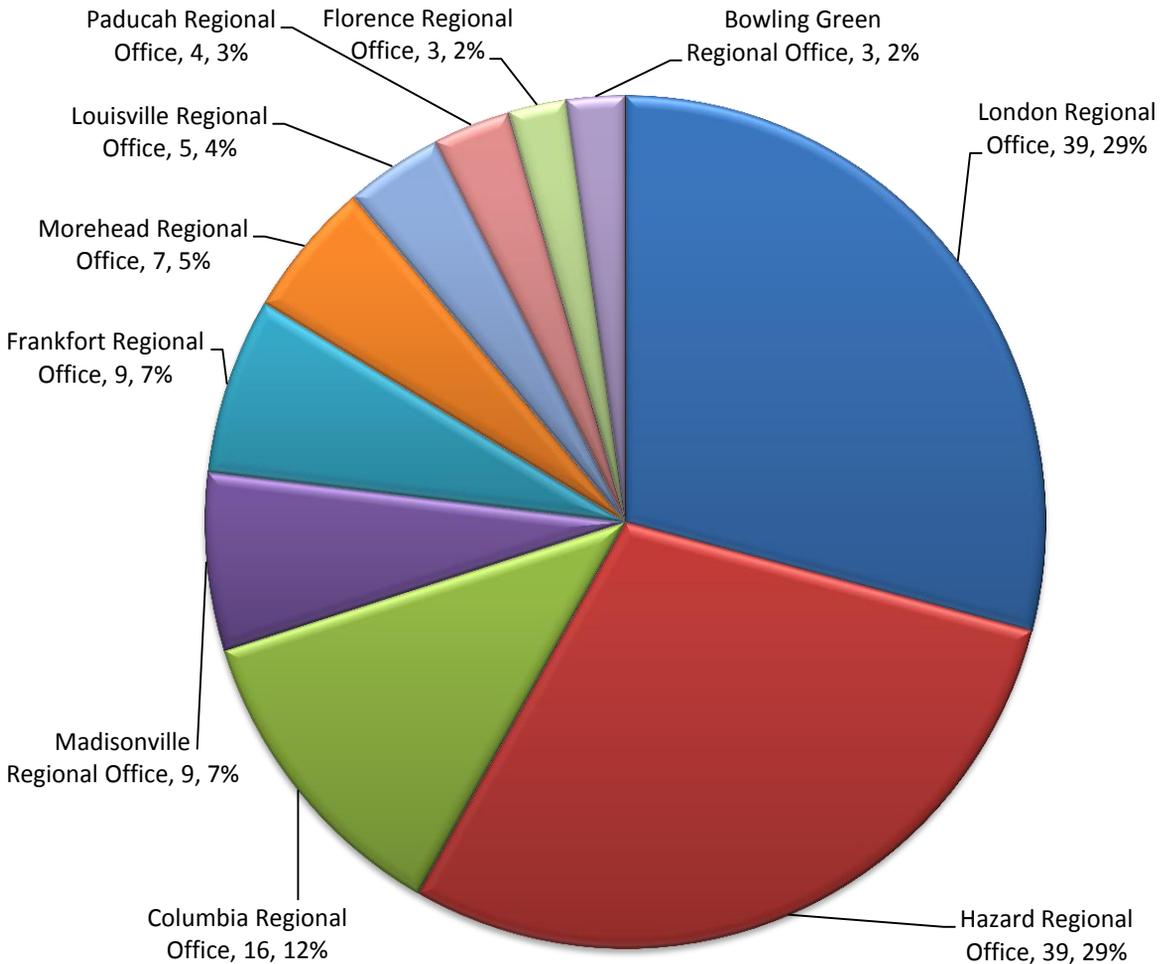


Figure 7

**Case Referrals from the Division of Water:** The Division of Enforcement received 134 new case referrals from the Division of Water in SFY 2016. Of the 134 referrals, the highest numbers came from the London Regional Office and Hazard Regional Office, each with 39 referrals (29% respectively).

**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.



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 231 Administrative Conferences in SFY 2016, for an average of 19 per month.*

## Division of Enforcement Administrative Conferences Conducted by Media SFY 2016

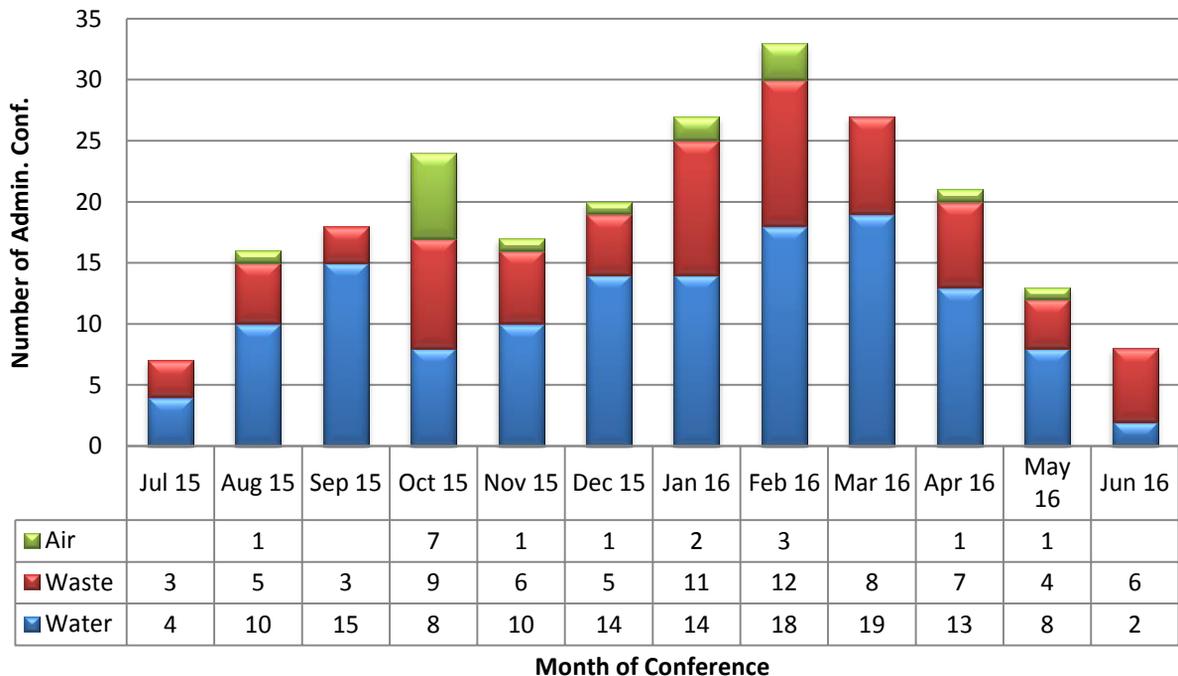


Figure 8

**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 2016, DENF reached 215 Agreements-in-Principle, an average of 18 per month.*



**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 171 Demand Letters in SFY 2016, an average of 14 per month.*

*In SFY 2016, Agreed Orders were used to resolve 85 cases in the Division, an average of 7 per month.*

## Division of Enforcement Settlement Documents Executed SFY 2016

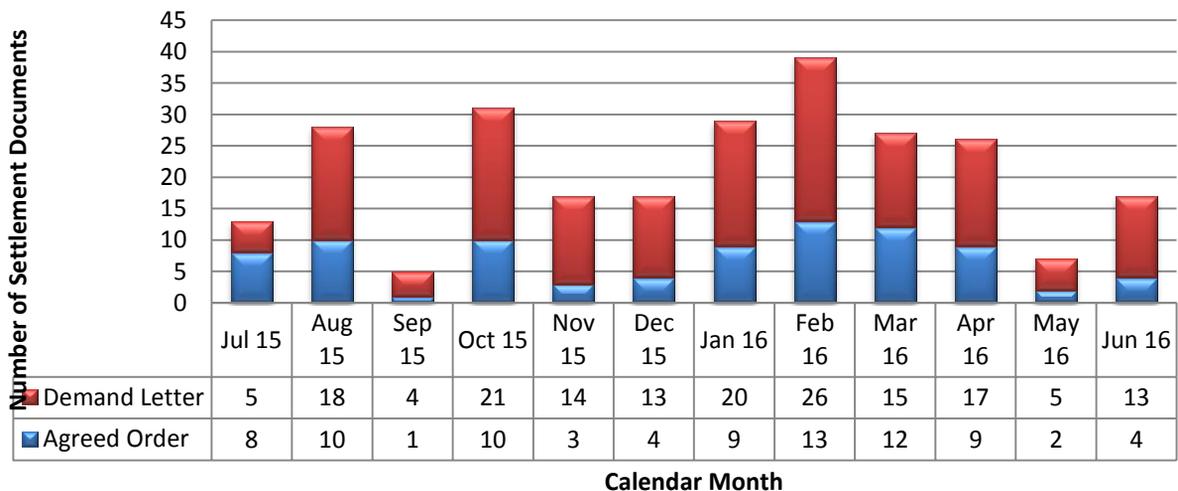


Figure 9

**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 2015, DENF monitored an average of 227 executed settlement documents each month.*

## Division of Enforcement Number of Cases Monitoring by Month SFY 2016

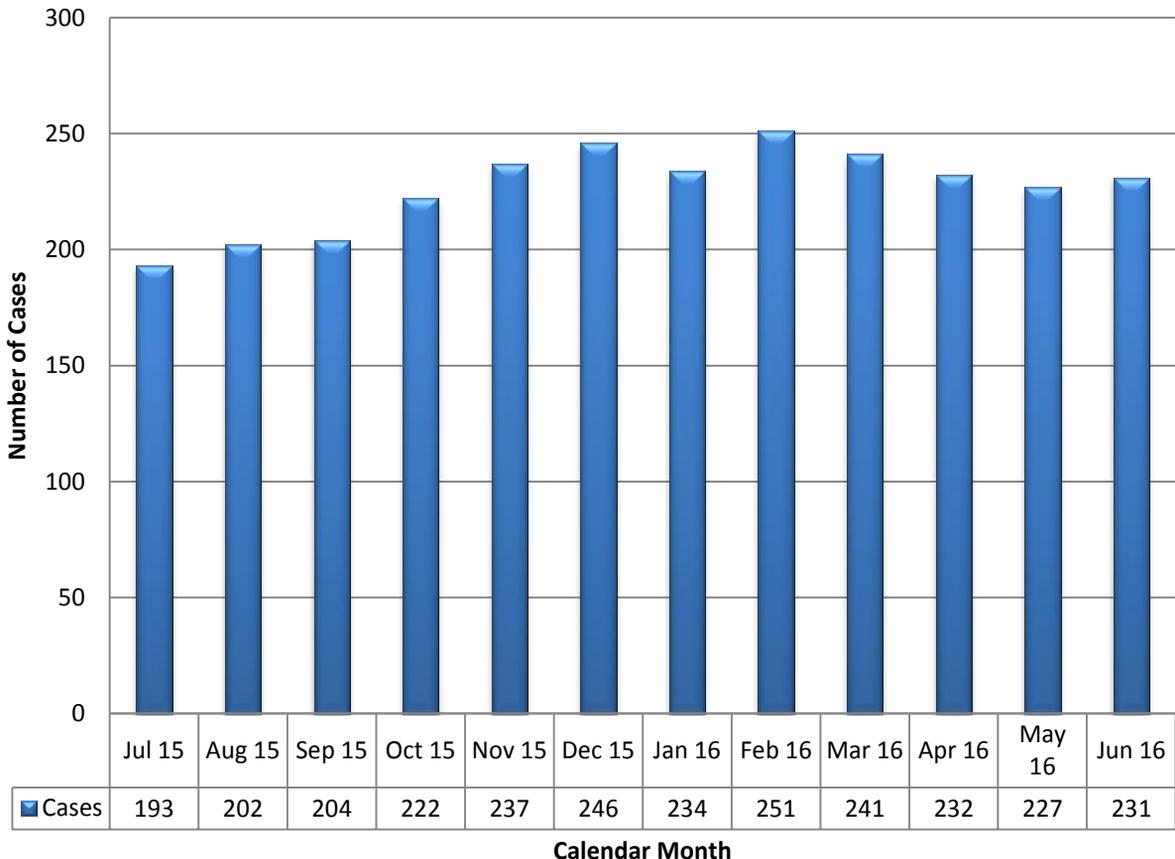


Figure 10

**Office of General Counsel (OGC).** Should the regulated entity and the Division not reach an Agreement-in-Principle, the case is referred to the Cabinet's OGC 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 OGC 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 2016, The Division referred 57 enforcement cases to the Cabinet's Office of General Counsel for further enforcement action, an average of 5 per month.*

*In SFY 2016, DENF resolved a total of 11 cases through the Office of General Counsel (7 Agreed Orders, 2 Secretary's Order, and 2 Franklin Circuit Court Decision).*

Case is Referred to the Office of General Counsel 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.

**Executed Settlements:** The Division of Enforcement uses Agreed Orders (AO), Demand Letters (DL), Office of General Counsel (OGC) 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 188 days to issue a Demand Letter, 319 days to execute an Agreed Order, 907 days to execute an OGC Agreed Order, and 772 days to execute a Secretary's Order.*

## Division of Enforcement Average Number of Days to Executed Settlement For Cases Referred SFY 2008 - SFY 2016

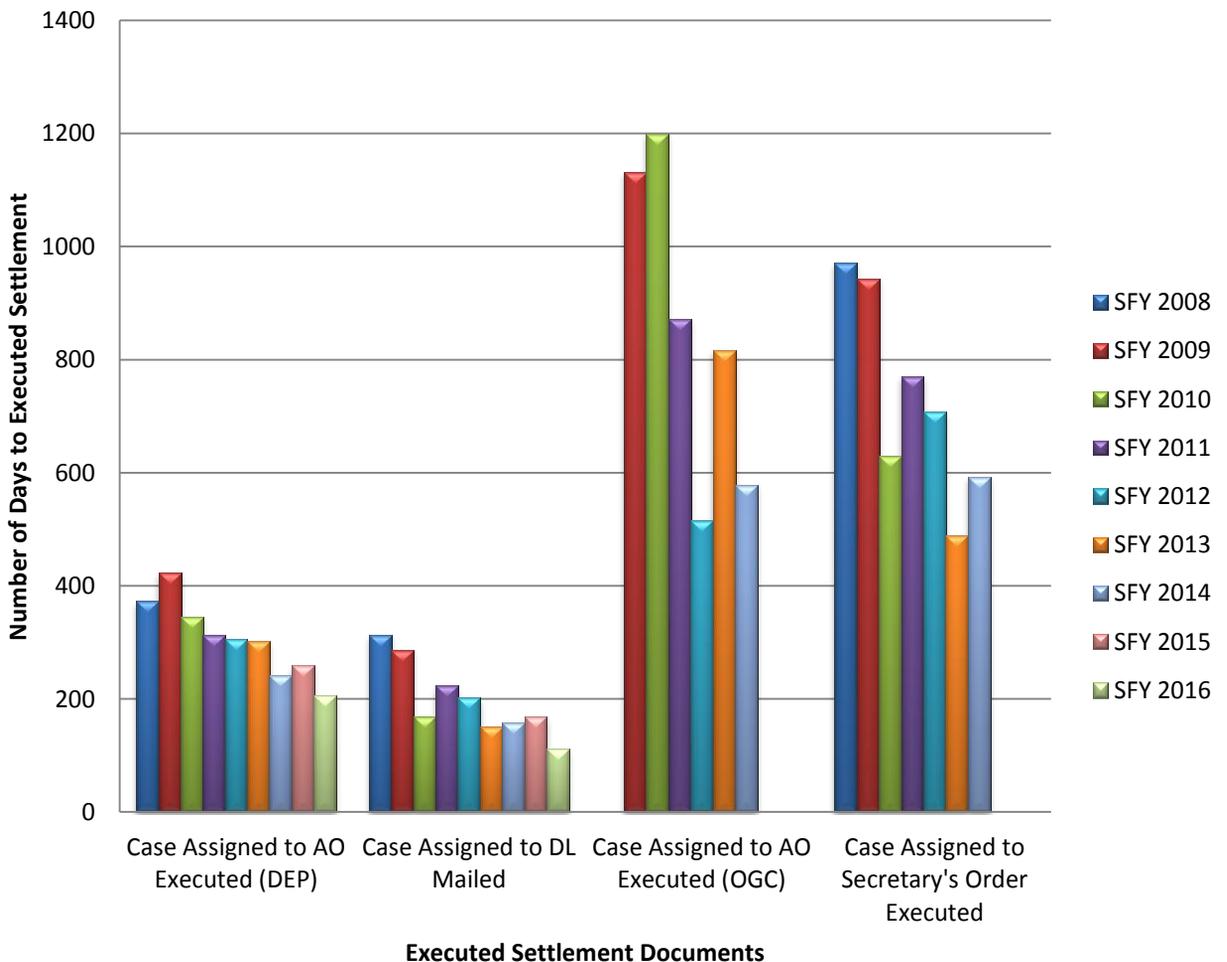


Figure 11



**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 2016, 3 enforcement cases were being worked as joint actions between Kentucky's Department for Environmental Protection and the United States Environmental Protection Agency.*

# 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 2016, the Division of Enforcement collected \$2,288,731.82 in civil and stipulated penalties. \$1,385,884.91 of penalties collected involved cases from the Water media.*

## Division of Enforcement Penalties Collected by State Fiscal Year SFY 2009 - SFY 2016

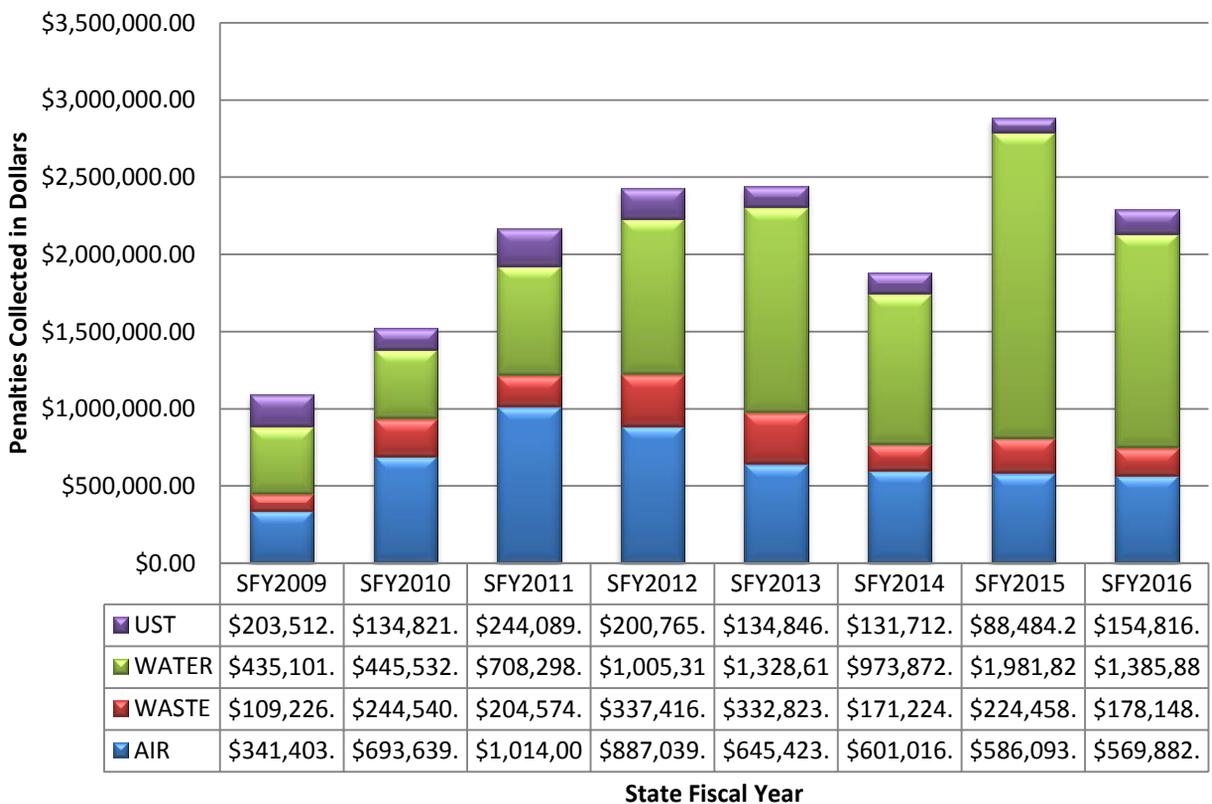


Figure 12

**Total Settlement Documents:** In SFY 2016, 267 settlement documents were executed. 256 of the settlements were negotiated in the Division of Enforcement, and 11 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 2009 - SFY 2016

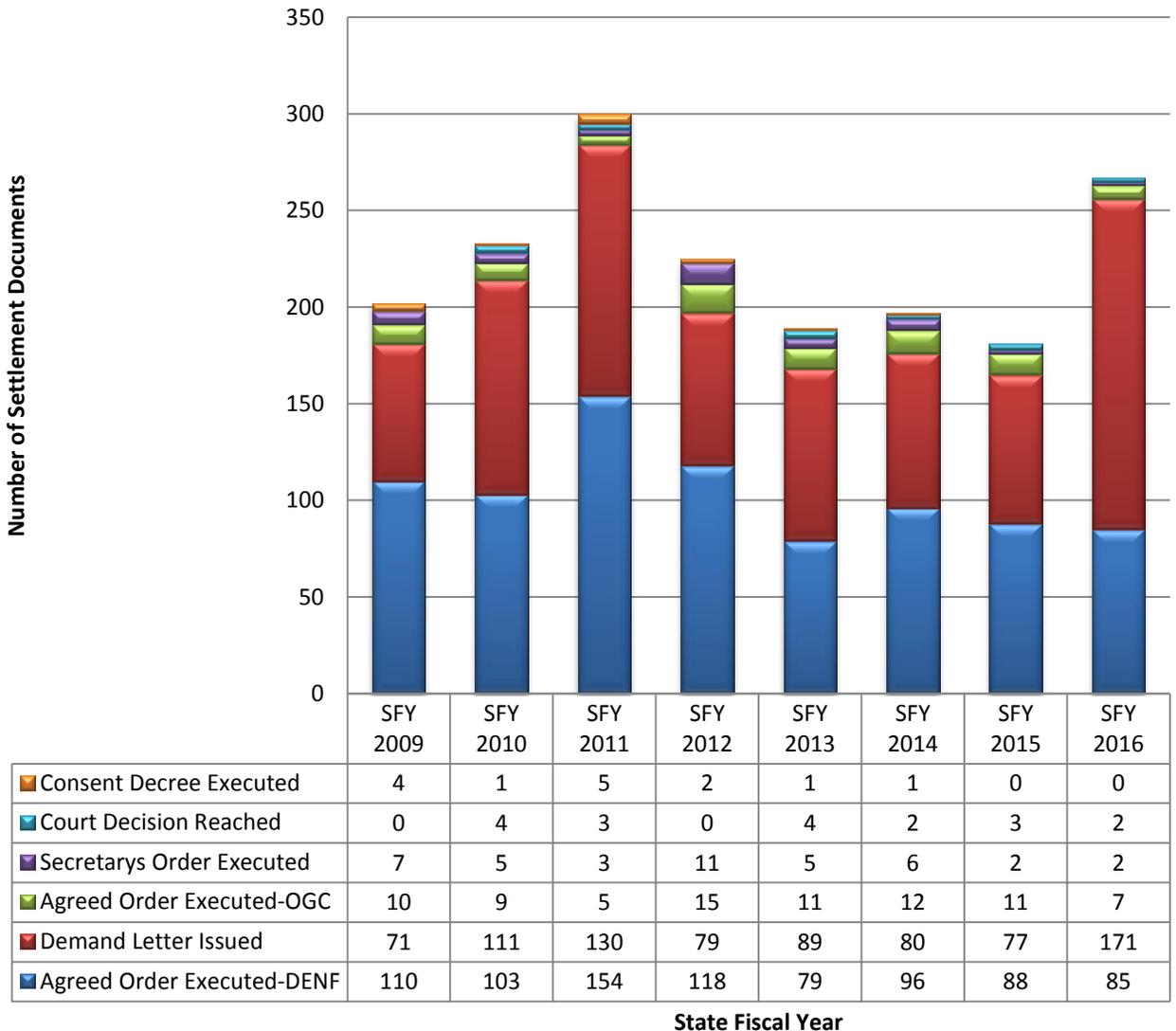


Figure 13

**Closed Cases:** From SFY 2009 to SFY 2016, an average of 357 cases have been closed annually. The Division of Enforcement closed a total of 234 enforcement cases in SFY 2016.

## Division of Enforcement Cases Closed Annually by Program SFY 2009 - SFY 2016

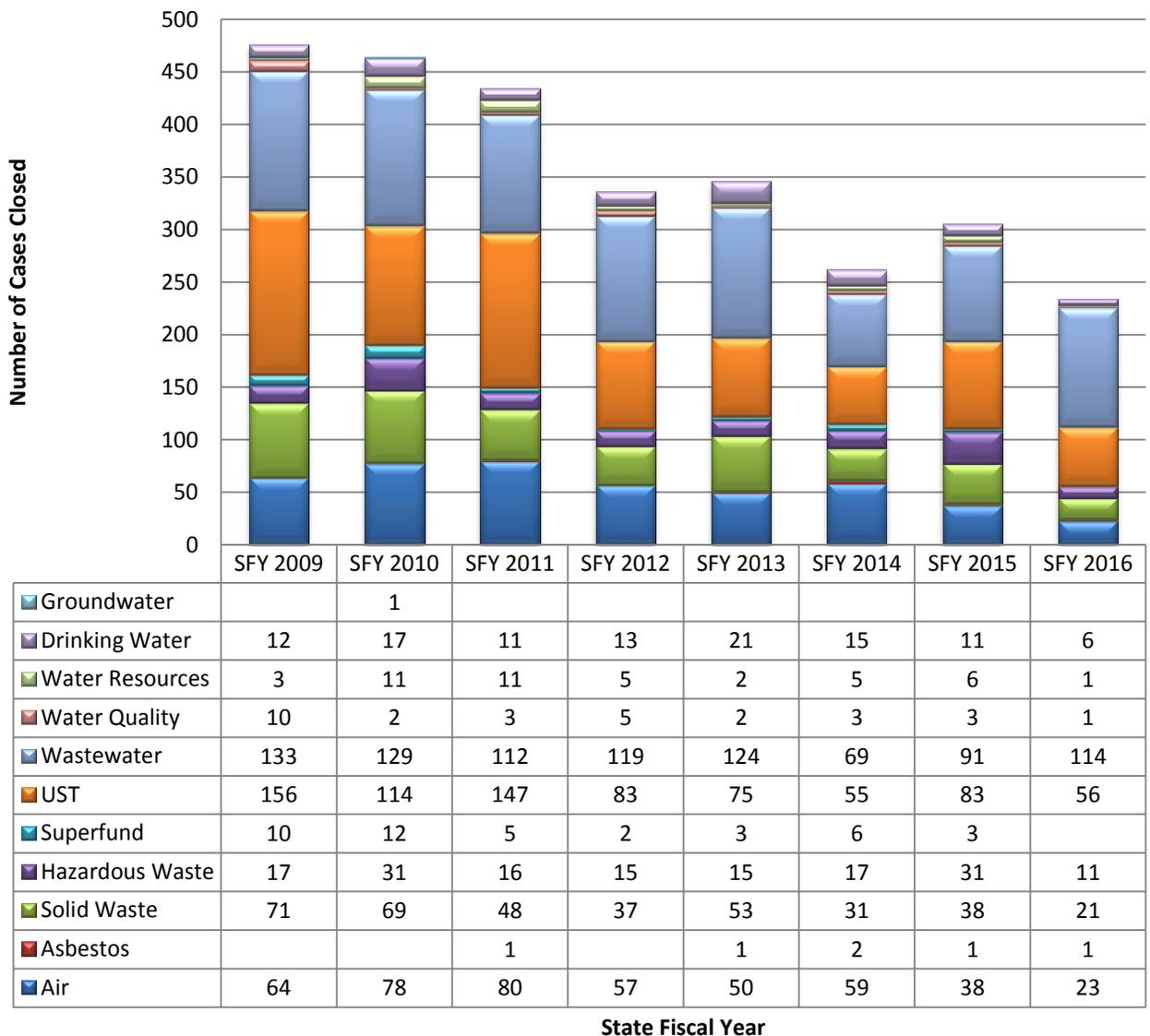


Figure 14

**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 2016, ninety-eight percent (98%) of the NOVs issued 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 done in SFY 2016 were of coal facilities and municipal and non-municipal major/minor wastewater facilities.

Two percent (2%) of the NOVs issued by the COB in SFY 2016 were for violations referred by Central Office Programs from the Division of Air Quality, Division of Waste Management, and the Division of Water. Violations are referred from Hazardous Waste, Solid Waste, Superfund, Underground Storage Tanks, Municipal Storm Separate Sewer System (MS4), Pretreatment, Whole Effluent Toxicity (WET), Water Resources, and Water Quality 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 1,080 Notices of Violation and sent 335 Enforcement Referrals to CEB in SFY 2016.*

**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 a 2 year monitoring period, 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 2016, the Branch completed reviewing all coal companies for the monitoring period of calendar years 2013 and 2014, and began work on a comprehensive review of 2015. Many of those violations have resulted in referrals to the Civil Enforcement Branch for formal enforcement action.

*In SFY 2016, Coal Compliance Reviews have resulted in 773 Notice of Violation issued and 290 referrals to the Civil Enforcement Branch.*





**Major and Minor Wastewater Compliance Reviews:** Generally, 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”, though other criteria may be used to place a 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 the Quarterly Non Compliance Report (QNCR) and the Annual Non Compliance Report (ANCR), for submittal 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 2016 Major/Minor Compliance Reviews have resulted in 287 Notices of Violation issued and 42 referrals to the Civil Enforcement 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 2016, Permit Program Compliance Reviews have resulted in 20 Notices of Violation issued and 3 referrals to the Civil Enforcement Branch.*

## Division of Enforcement Notices of Violation Issued by Review Type SFY 2016

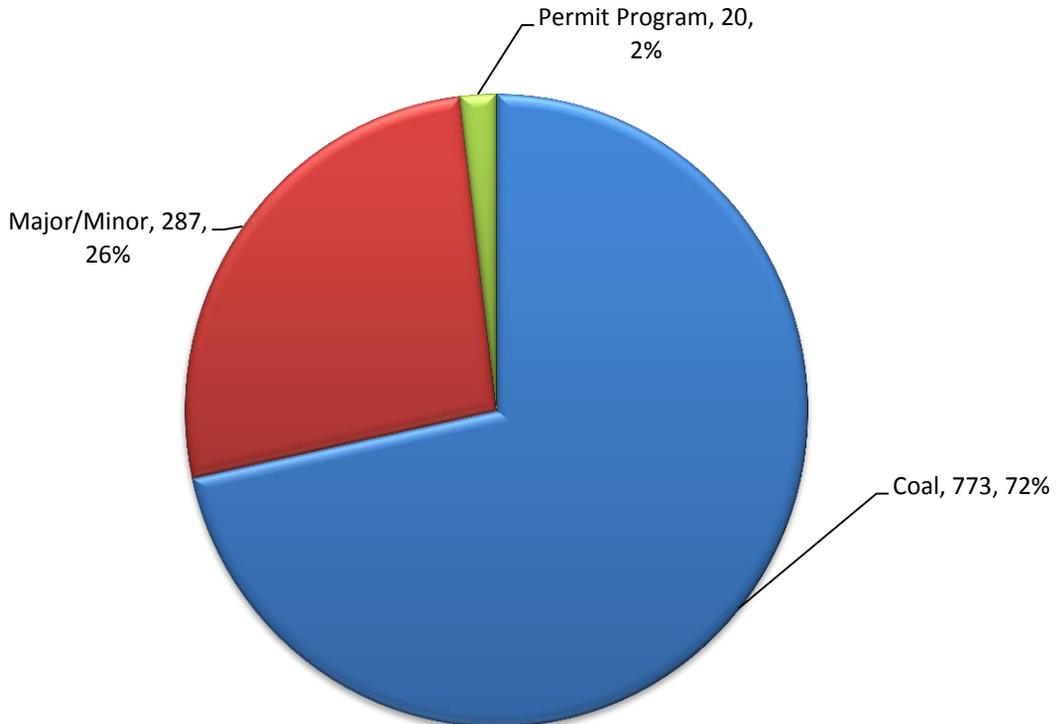


Figure 15

**Division of Enforcement**  
Compliance and Operations Branch  
Case Referrals by Review Type

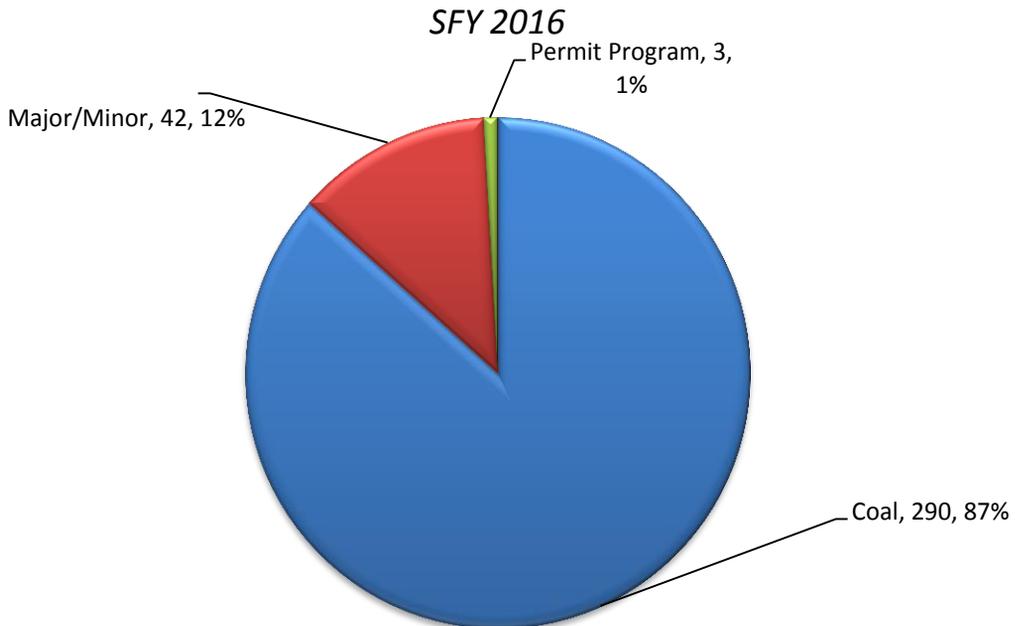


Figure 16

**Referrals to the Civil Enforcement Branch:** In SFY 2016, the Compliance and Operation Branch sent 335 referrals from Coal, Major and Minors, 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 General Council attorneys, and company representatives until final resolution is brought to the documented violations.

**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 2016, Administrative Support Staff logged and processed 1,043 incoming correspondences and 398 penalty payments .*



Photo Source: [http://www.infobarrel.com/Top\\_Five\\_Main\\_Duties\\_of\\_Administrative\\_Professionals](http://www.infobarrel.com/Top_Five_Main_Duties_of_Administrative_Professionals)

**Notices of Violation Issued by Division:** The Department as a whole issued 4,707 compliance notifications, in the form of Notices of Violation and Letters of Warning, in SFY 2016. Notices of Violation from the Division of Enforcement made up roughly 23% of all Notices issued.

## Kentucky Department for Environmental Protection

### Compliance Notifications Issued by Division SFY 2016

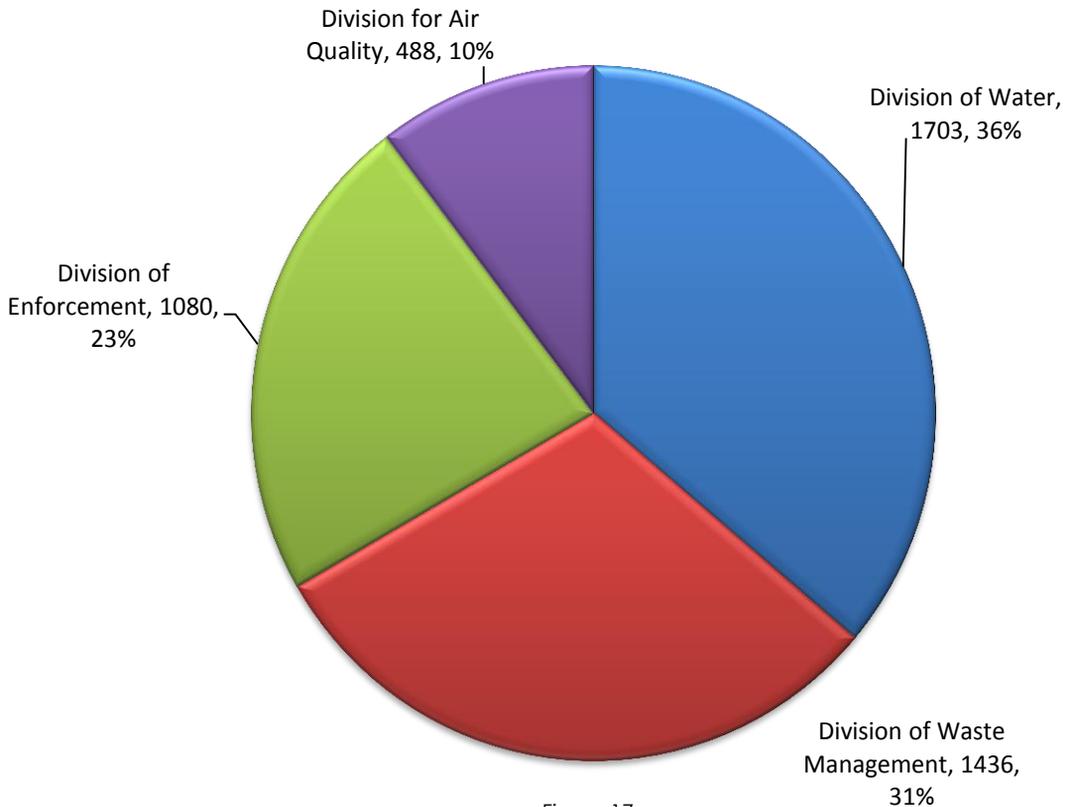


Figure 17

**Compliance Notifications Issued by Activity Type:** 61% of the Notices of Violation and Letters of Warning issued in SFY 2016 came from the Field Operations Branches. The second highest contribution was from the Compliance and Operations Branch of the Division of Enforcement.

## Kentucky Department for Environmental Protection

### Compliance Notifications Issued by Activity Type SFY 2016

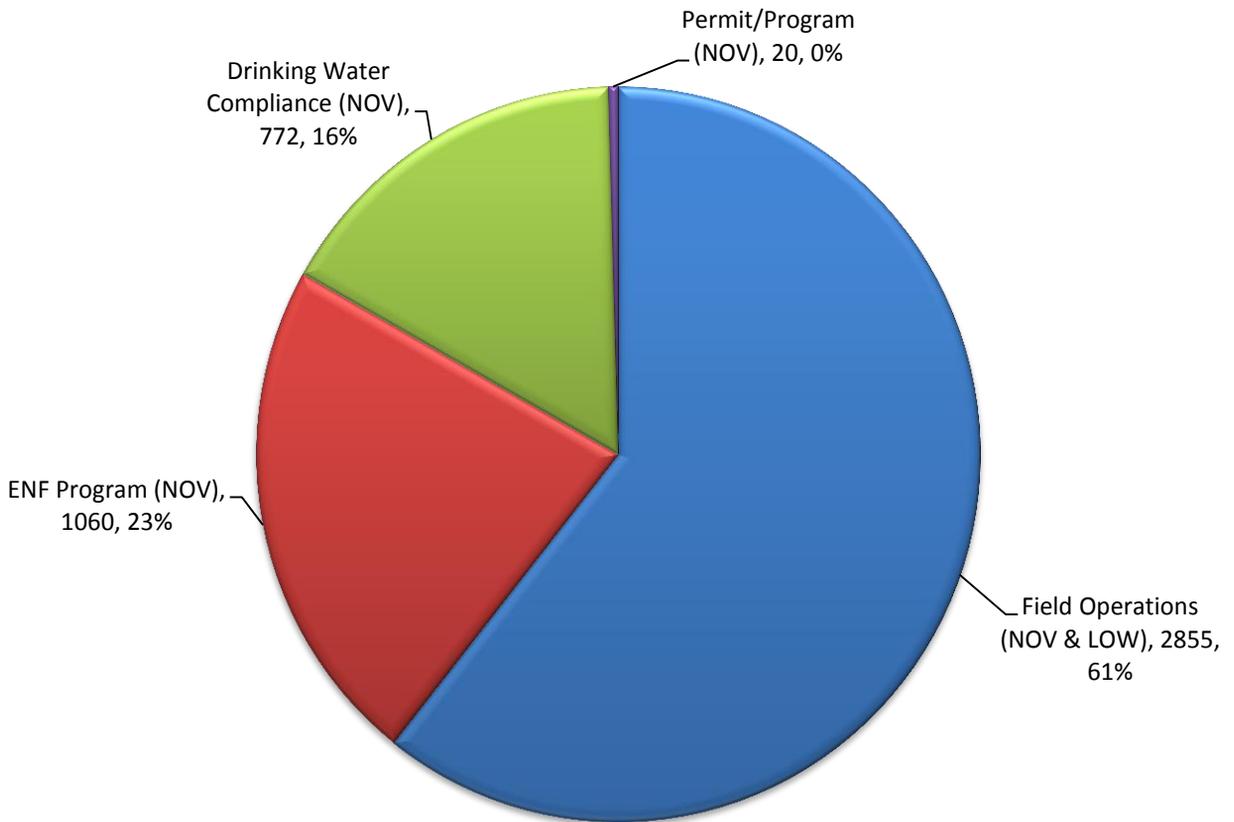


Figure 18

**Compliance Notifications Issued by Program:** In SFY 2016, the largest number of notifications issued by KDEP was in the Wastewater program with 1,871 (40%), followed by the UST program with 1,041 (22%), and the Drinking Water program with 811 (17%).

## Kentucky Department for Environmental Protection Compliance Notifications Issued by Program SFY 2016

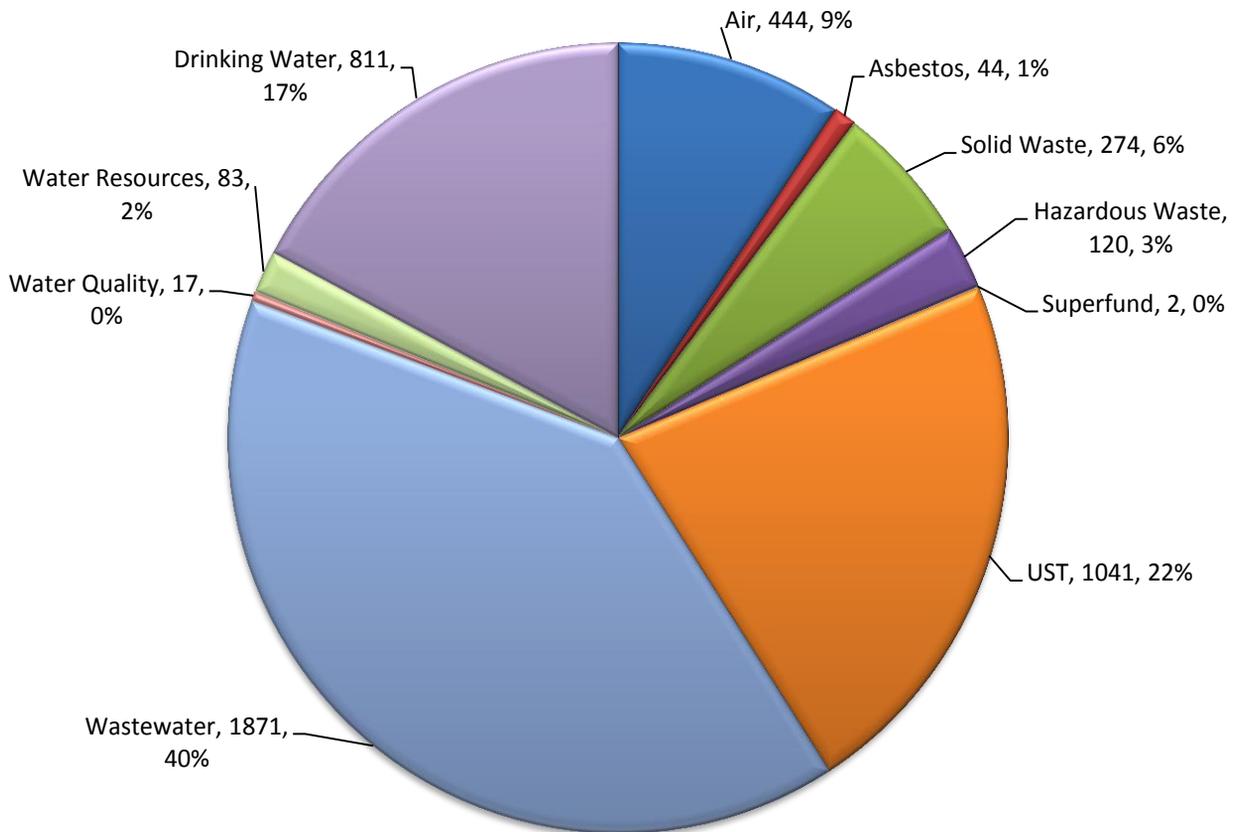


Figure 19

- **Advanced Disposal Services Blue Ridge Landfill, Inc.** (Blue Ridge) in Estill County was referred for accepting unpermitted wastes consisting of Technologically Enhanced Naturally Occurring Radioactive Material (TENORM) that was generated outside of the Commonwealth of Kentucky. Representatives of Blue Ridge, the Cabinet for Health and Family Services (CHFS), and the Energy and Environment Cabinet (EEC) have participated in several conferences regarding resolution of the alleged violations. To date, an Agreed Order has been drafted and discussed with Blue Ridge, but an agreement in principle has not been reached.
- **River Cities Disposal, LLC - Big Run Landfill** (Big Run) in Boyd County was referred based on a history of odor complaints. The Citizens of Boyd County Environmental Coalition (CBCEC), the Energy and Environment Cabinet (EEC), Big Run, and the Fiscal Court of Boyd County entered into Agreed Order of Judgement 15-CI-00618 on November 24, 2015. One of the requirements of the Agreed Order of Judgement was for EEC and Big Run to enter into a separate Agreed Order. The separate Agreed Order (“DWM 150210”) was executed by EEC’s Secretary on December 4, 2015. Agreed Order “DWM 150210” required River Cities Disposal, LLC to complete a multitude of remedial measures, including, but not limited to: ceasing acceptance of waste by rail after June 30, 2016; limiting the amount & types of waste being accepted at the landfill; limiting the landfill to accepting certain wastes only from certain counties in Kentucky, West Virginia, and Pennsylvania; monitoring for the formation of landfill gases, such as Hydrogen Sulfide (H<sub>2</sub>S) and Methane (CH<sub>4</sub>); submitting a multitude of plans; and paying civil and stipulated penalties. To date, Big Run has paid the \$125,000 civil penalty, as well as \$40,000 in stipulated penalties for alleged odor violations cited after Agreed Order “DWM 150210” was executed. EEC continues to monitor Big Run’s compliance with Agreed Order “DWM 150210”, as well as KRS Chapter 224 and the regulations promulgated pursuant thereto. Big Run has not received a Notice of Violation for odors since February, 2016.

- The **Delaplain Disposal Company** case originated as the result of a DMR review conducted by DENF covering the time period of CY 2013 and 2014 plus the first 6 months of CY 2015. Two NOVs issued by the DOW Frankfort Regional Office were included in the case for resolution. Delaplain is a large non-POTW with an average daily flow of 0.12 MGD and a design flow 0.24 MGD. The WWTP discharges treated wastewater into an unnamed tributary of Dry Run Creek, which is a tributary of the North Fork of Elkhorn Creek and the Kentucky River. The WWTP provides wastewater treatment for 260 households and 33 commercial or industrial sources. While several effluent limitation parameters were found in violation, the principle pollutants of concern were fecal coliform bacteria and E. coli. As part of the resolution to the case, Delaplain proposed a change in the way it applies chlorine disinfectant to the treated sanitary waste to ensure that the bacteria are effectively killed prior to discharge to the receiving stream. Delaplain completed the change to the disinfection system and paid the Cabinet a civil penalty in the amount of \$7,000.
- **Ficosa North America Corporation** is a manufacturing company that produces truck and car side and rear view mirrors and small lamps, as well as molded and painted components. The plant produces hazardous waste and is registered as a Large Quantity Generator (LQG) for D001, D035, F005, F003, and D040. This case was referred to the Division of Enforcement for multiple hazardous waste violations including shipping 23 drums of hazardous waste off site without a hazardous waste manifest, using an unregistered transporter, and taken to an unpermitted site to be stored. Representatives from Ficosa met with the Division of Enforcement on May 24, 2016. Ficosa returned to compliance, and the 23 drums of hazardous waste were removed by Veolia using the appropriate hazardous waste manifest. The Division of Enforcement reached an agreement with Ficosa on June 13, 2016. Ficosa will pay a civil penalty in the amount of fifty thousand dollars (\$50,000), and make a donation to the Southern Environmental Enforcement Network (SEEN) in the amount of thirty thousand dollars (\$30,000).

## SFY 2016 Accomplishment

- **DMR Automation:** Since the beginning of SFY 2016, the Compliance and Operation Branch has been working diligently, in conjunction with DEP IT Staff, to build a new system that will efficiently and fairly evaluate compliance with the Kentucky Pollution Discharge Elimination Program (KPDES) Permits, issued by the Cabinet's Division of Water. Federal law has changed the way Discharge Monitoring Report data is submitted to the Cabinet. Due to this change, the Cabinet is developing this system to help facilities that are not meeting permit limits return to compliance in a timely matter. The process will continue to develop and evolve over the next two years.
- **Compliance Reviews:** In SFY 2016, the Compliance and Operations Branch continued to work hard completing comprehensive Discharge Monitoring Reports (DMR) reviews of coal companies and wastewater facilities in the Commonwealth. With a mix of new and veteran staff, the Branch issued 1,073 notices of violations and sent 335 referrals to the CEB during the course of SFY 2016. This work required the review of thousands of DMRs and which resulted in documenting hundreds of violations. As we progress towards DMR Automation, violations will continue to be documented, Notices of Violation issued, and companies referred for further enforcement actions, to ensure environmental compliance with Kentucky's environmental regulations.

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