

# Kentucky Division of Enforcement Annual Report State Fiscal Year 2017

Commonwealth of Kentucky  
Energy and Environment Cabinet  
Department for Environmental  
Protection

Division of Enforcement  
[dep-enforcement.ky.gov](http://dep-enforcement.ky.gov)



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# Message from the Director's Office

The Division of Enforcement saw many challenges and opportunities during SFY 2017. The Division, along with the remainder of the Energy and Environment Cabinet, completed its first year in our new offices at 300 Sower Boulevard. Compliance determination and enforcement activities in the coal industry remained the greatest single area of focus for the Division. Overall, case referrals in the water programs accounted for approximately 70 percent of the total cases referred for enforcement action during the fiscal year. As in previous years, the greatest number of enforcement case referrals came from the Division of Enforcement's Compliance and Operations Branch (COB). The COB issued over 1,200 notices of violation in SFY 2017, which is the greatest number of NOVs issued by the Division in a single year. Although the total number of enforcement case referrals decreased in SFY2017, as compared to the previous year, the number of cases referred and civil penalties collected were consistent with the averages over the past ten years.

The greatest challenge faced by the Division during SFY 2017 was in staffing. The departure of experienced staff members from both branches left the Division operating at 70 percent staffing for a large portion of the fiscal year. By the end of the year, the Division filled three vacancies in the Civil Enforcement Branch and one vacancy in the Compliance and Operations Branch, and was actively working toward filling the remaining three vacancies. The Division was able to operate effectively and efficiently in carrying out its role in the Department through balancing work loads and relying on more experienced specialists to help in training of new staff. Although staff turnover is a challenge to the Division and the Department, the hiring of new staff members allows new perspectives and can lead to improvements in productivity and opportunities for the development of new staff as well as leadership skills in the division's veteran staff members.

As in previous years, SFY 2017 was a dynamic and challenging time for the Division of Enforcement. We settled into our new work environment and took advantage of the opportunity to strengthen our working relationships with the remainder of the Cabinet. We experienced high productivity in both branches of the Division. We resolved a large number of cases, many of which were complex in nature. We worked through a shortage of staff while successfully meeting the terms of our mission. We gained new members of the Division, who are learning and developing as effective enforcement specialists. 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

# 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.

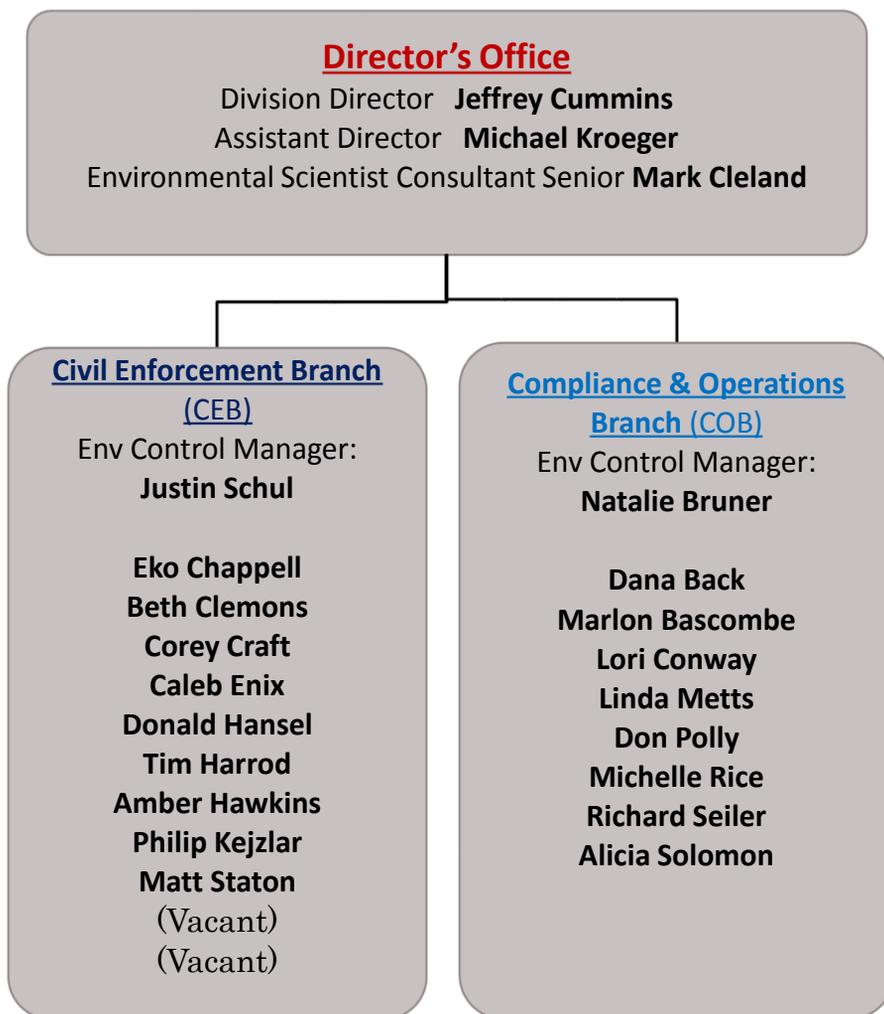


Figure 1

# 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 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 2017, 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 509 new case referrals in SFY 2017. This was a decrease by 25%, as compared to the number of new case referrals in SFY 2016 (677). Over the past seven years, the Division has received 471 new cases annually.

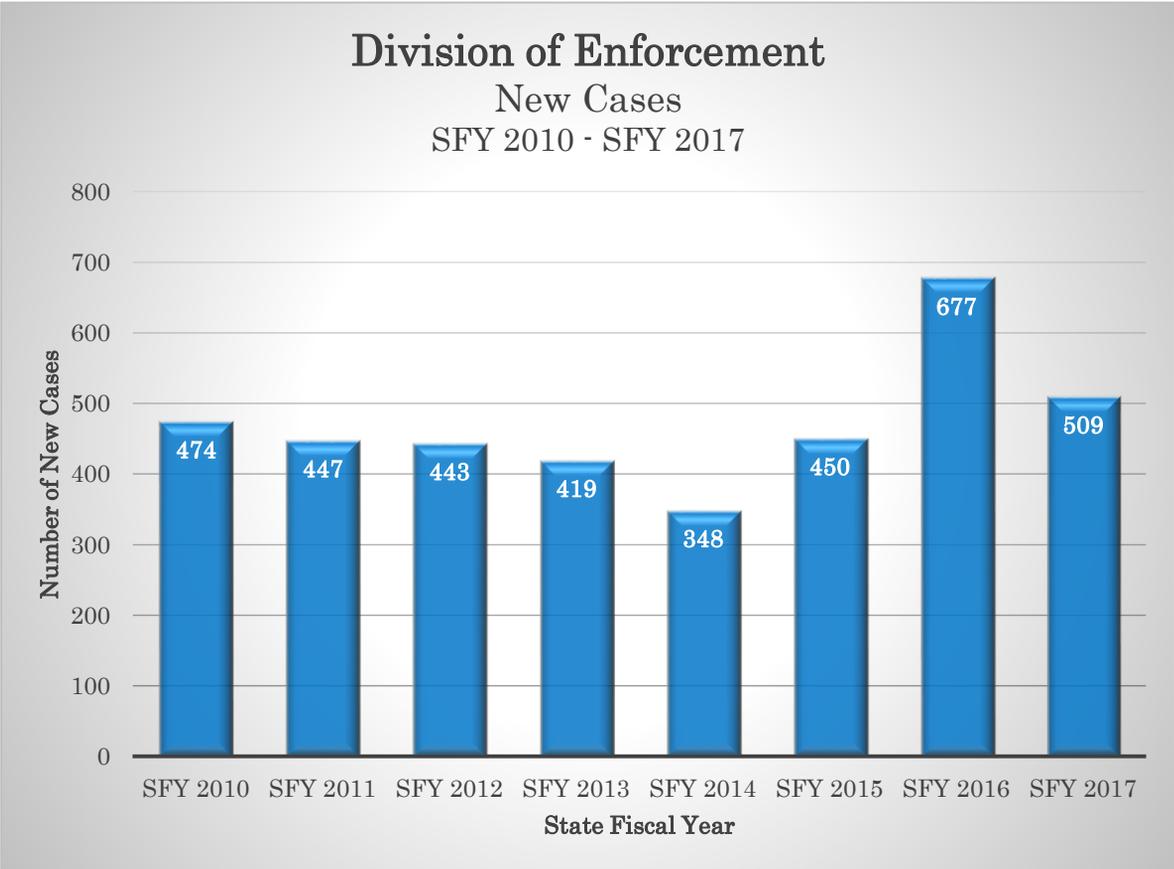


Figure 2

# Case Referral Data

**Case Referrals by Program:** The Division of Enforcement received case referrals from eleven different program areas in SFY 2017. Of 509 referrals, the highest number involved the wastewater program with 315 referrals (62%), followed by the UST program with 82 (16%).

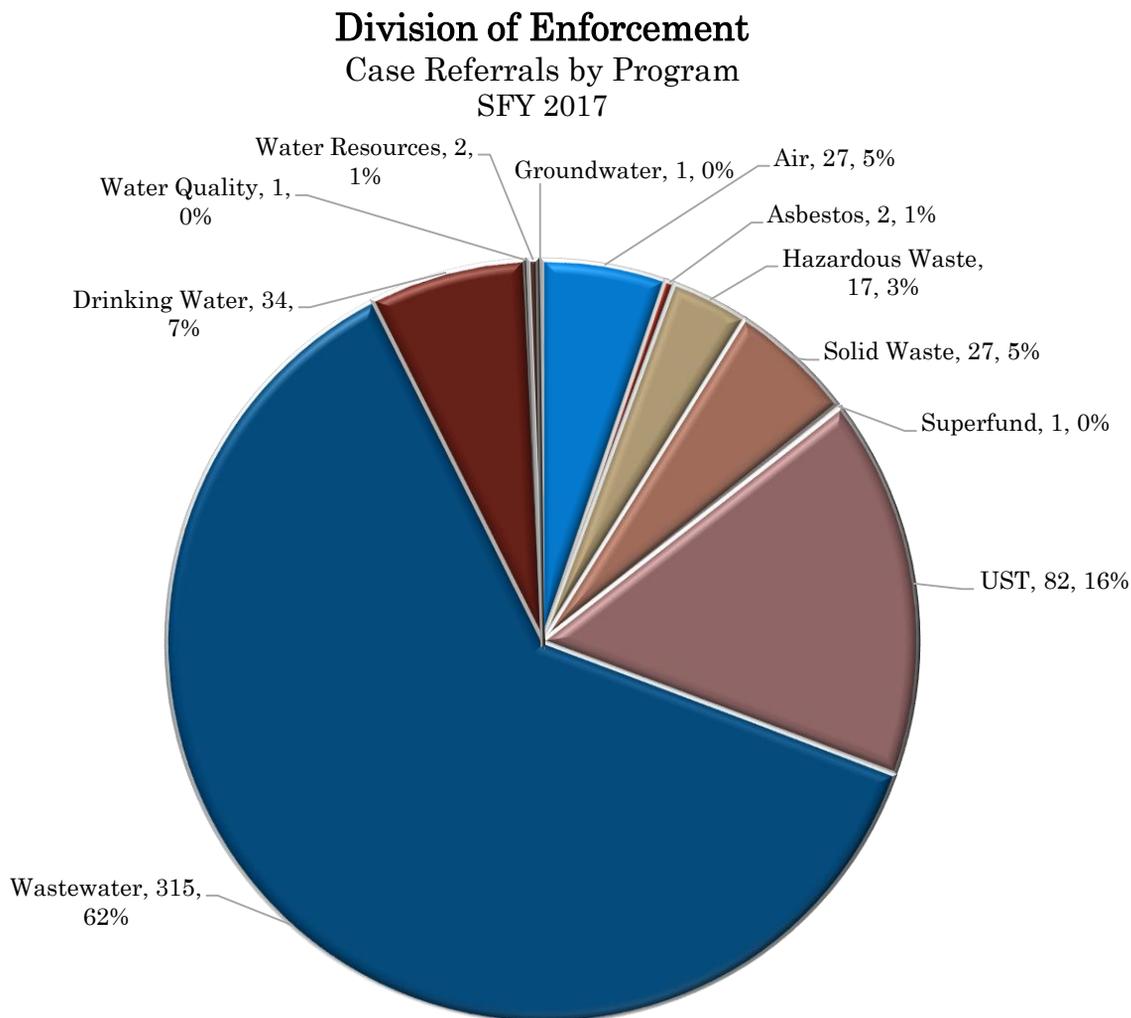


Figure 3

# 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 2017. The Division's Compliance and Operations Branch had the most referrals with 234 (46%). Referrals from the Division of Waste Management accounted for the second most, with 126 (25%).

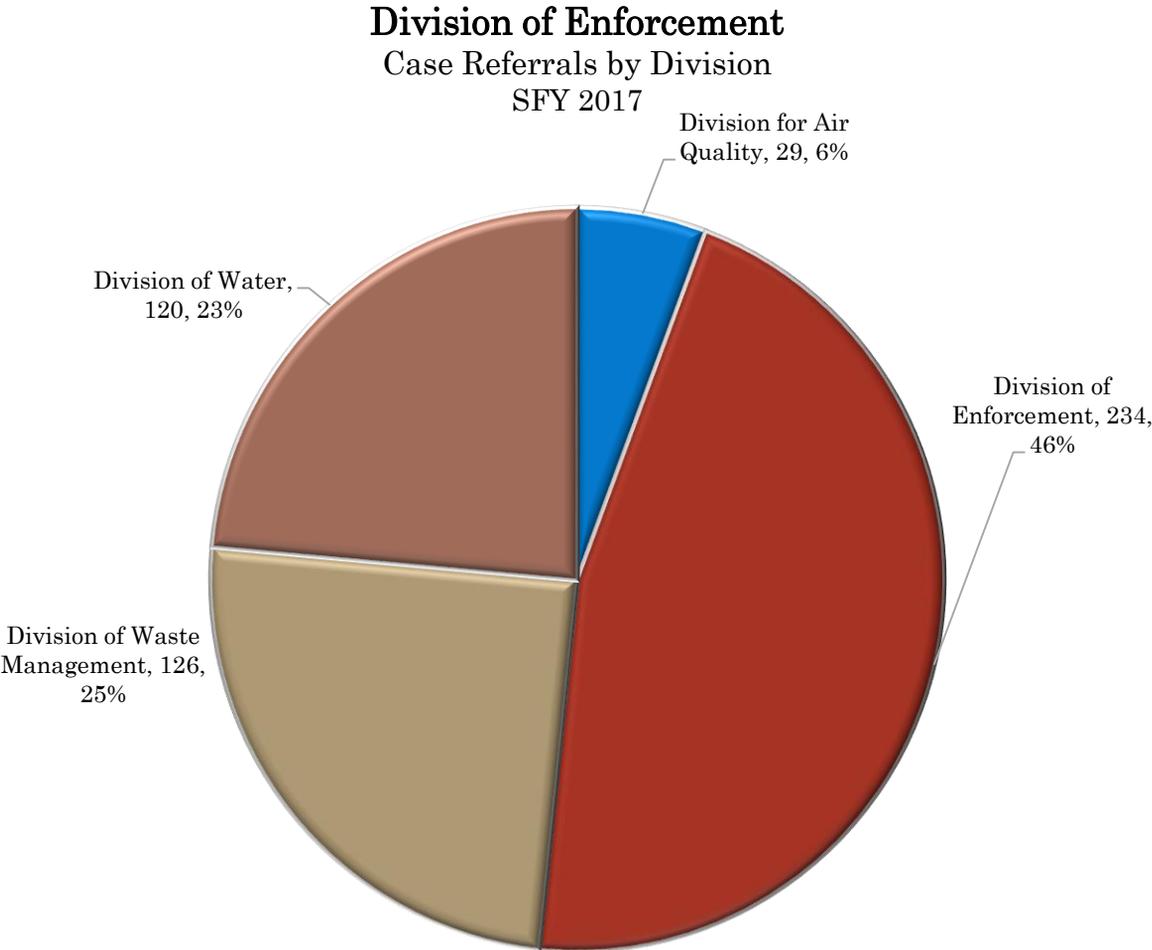


Figure 4

# Case Referral Data

## Division of Enforcement

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

SFY 2017

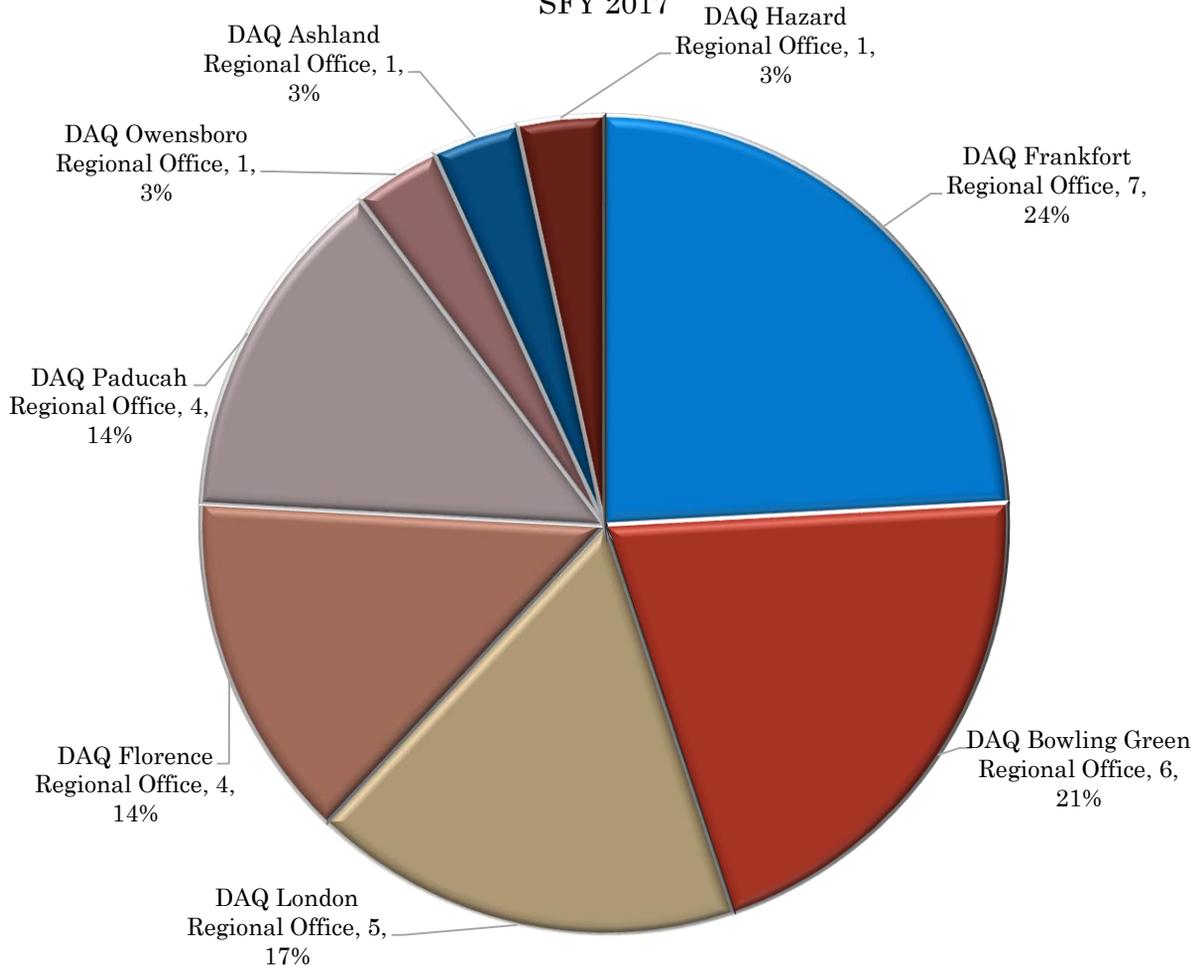


Figure 5

**Case Referrals from the Division for Air Quality:** The Division of Enforcement received 29 new case referrals from the Division for Air Quality in SFY 2017. Of the 29 referrals, the highest number came from the Frankfort Regional Office with 7 (24%), followed by the Bowling Green Regional Office with 6 (21%).

# Case Referral Data

## Division of Enforcement

New Division of Waste Management Cases by Regional Office  
SFY 2017

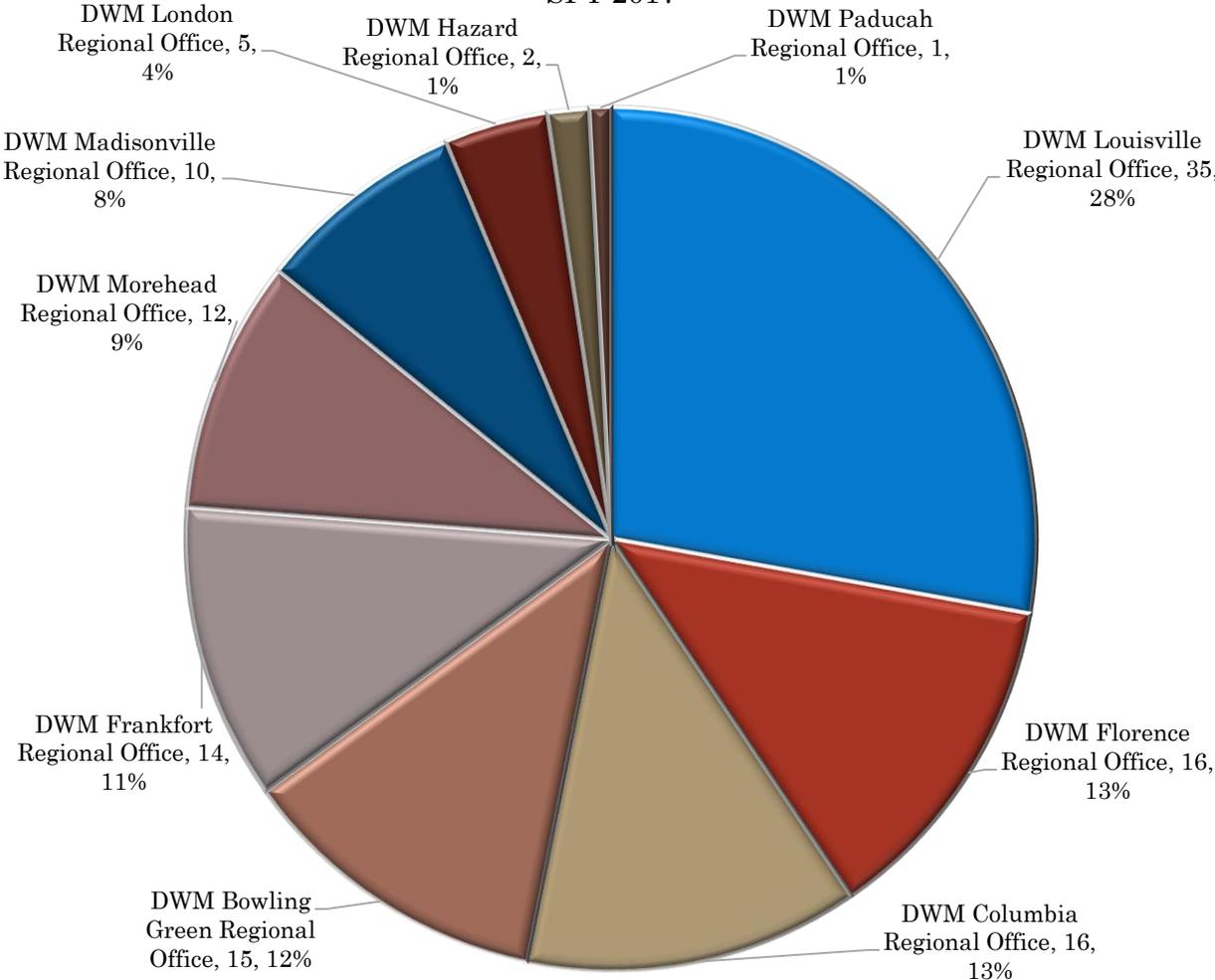


Figure 6

**Case Referrals from the Division of Waste Management:** The Division of Enforcement received 126 new case referrals from the Division of Waste Management in SFY 2017. Of the 126 referrals, the highest number came from the Louisville Regional Office with 35 (28%), followed by the Florence and Columbia Regional Offices with 16 each (13% respectively).

## Division of Enforcement

New Division of Water Cases by Regional Office  
SFY 2017

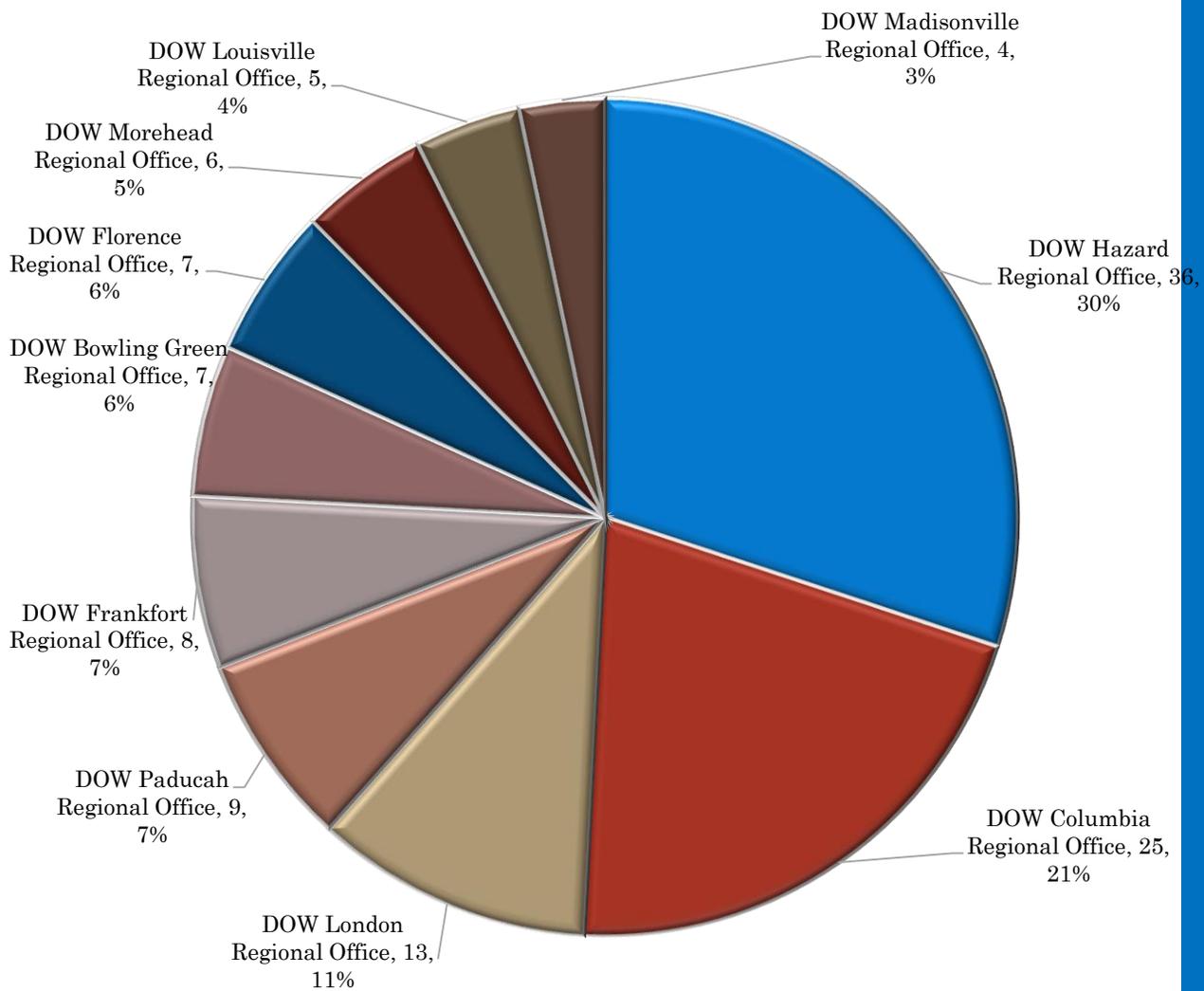


Figure 7

**Case Referrals from the Division of Water:** The Division of Enforcement received 120 new case referrals from the Division of Water in SFY 2017. Of the 120 referrals, the highest numbers came from the Hazard Regional Office with 36 referrals (30%), followed by the Columbia Regional Office with 25 (21%).

# 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 173 Administrative Conferences in SFY 2017, for an average of 14 per month.*

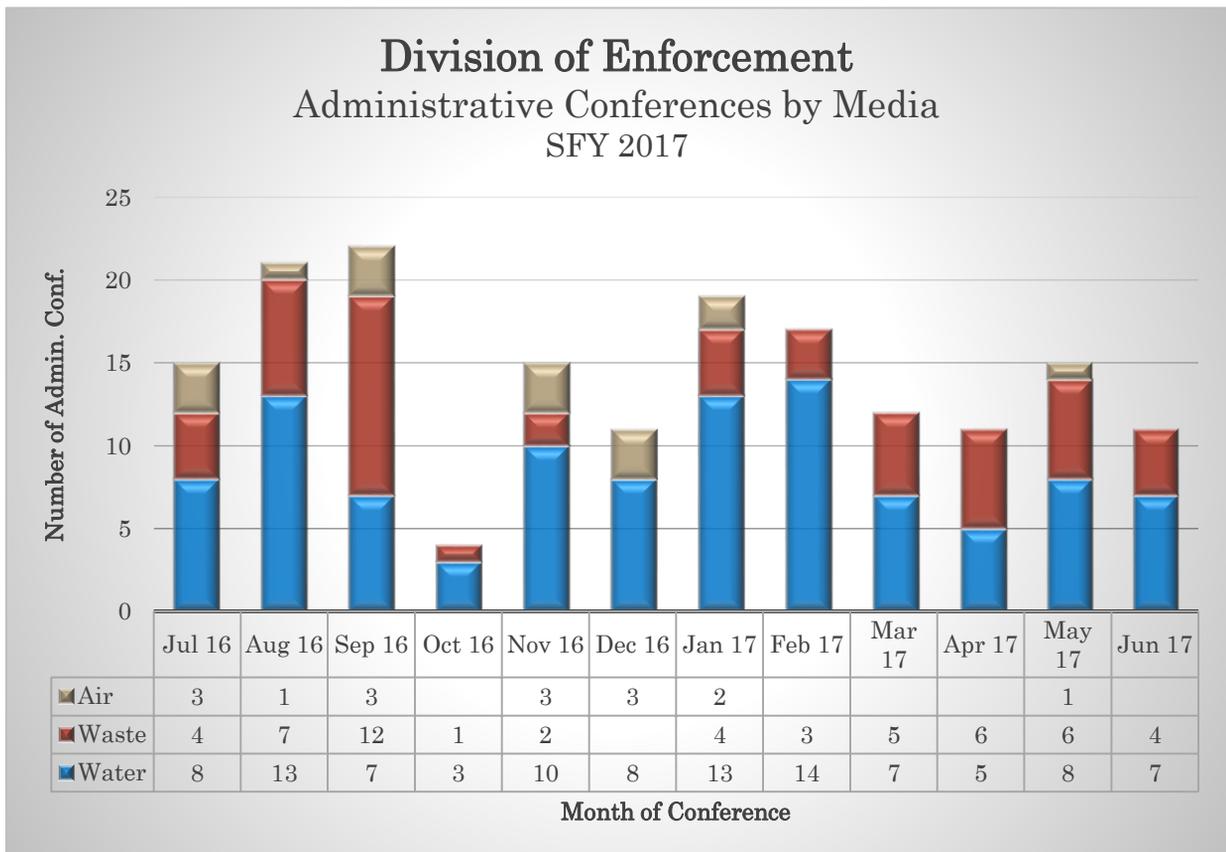


Figure 8

# 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 2017, DENF reached 161 Agreements-in-Principle, an average of 13 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 102 Demand Letters in SFY 2017, an average of 9 per month.*

*In SFY 2017, Agreed Orders were used to resolve 92 cases in the Division, an average of 8 per month.*

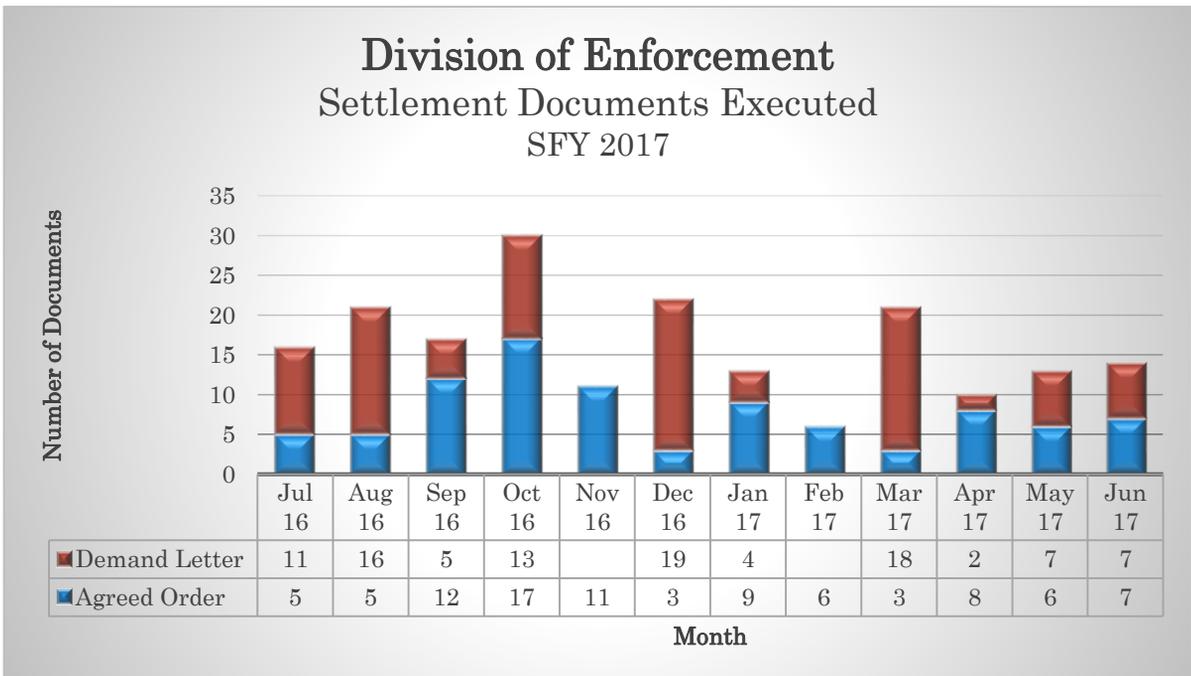


Figure 9

# 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 2017, DENF monitored an average of 226 executed settlement documents each month.*

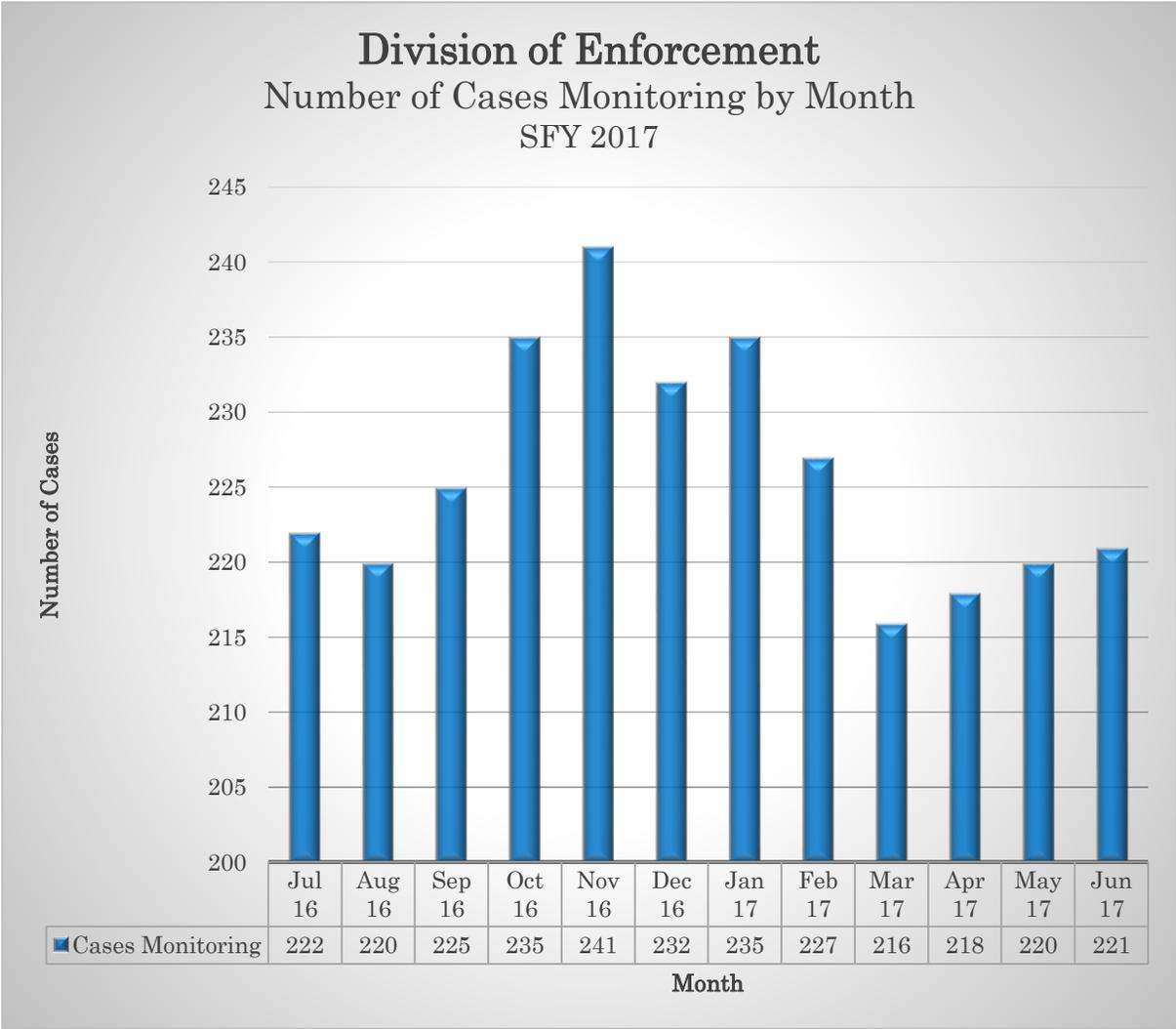


Figure 10

# Civil Enforcement Branch

**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 2017, The Division referred 62 enforcement cases to the Cabinet's Office of General Counsel for further enforcement action, an average of 5 per month.*

*In SFY 2017, DENF resolved a total of 18 cases through the Office of General Counsel (15 Agreed Orders, 2 Secretary's Order, and 1 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.

# Civil Enforcement Branch

**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 191 days to issue a Demand Letter, 322 days to execute an Agreed Order, 830 days to execute an OGC Agreed Order, and 802 days to execute a Secretary's Order.*

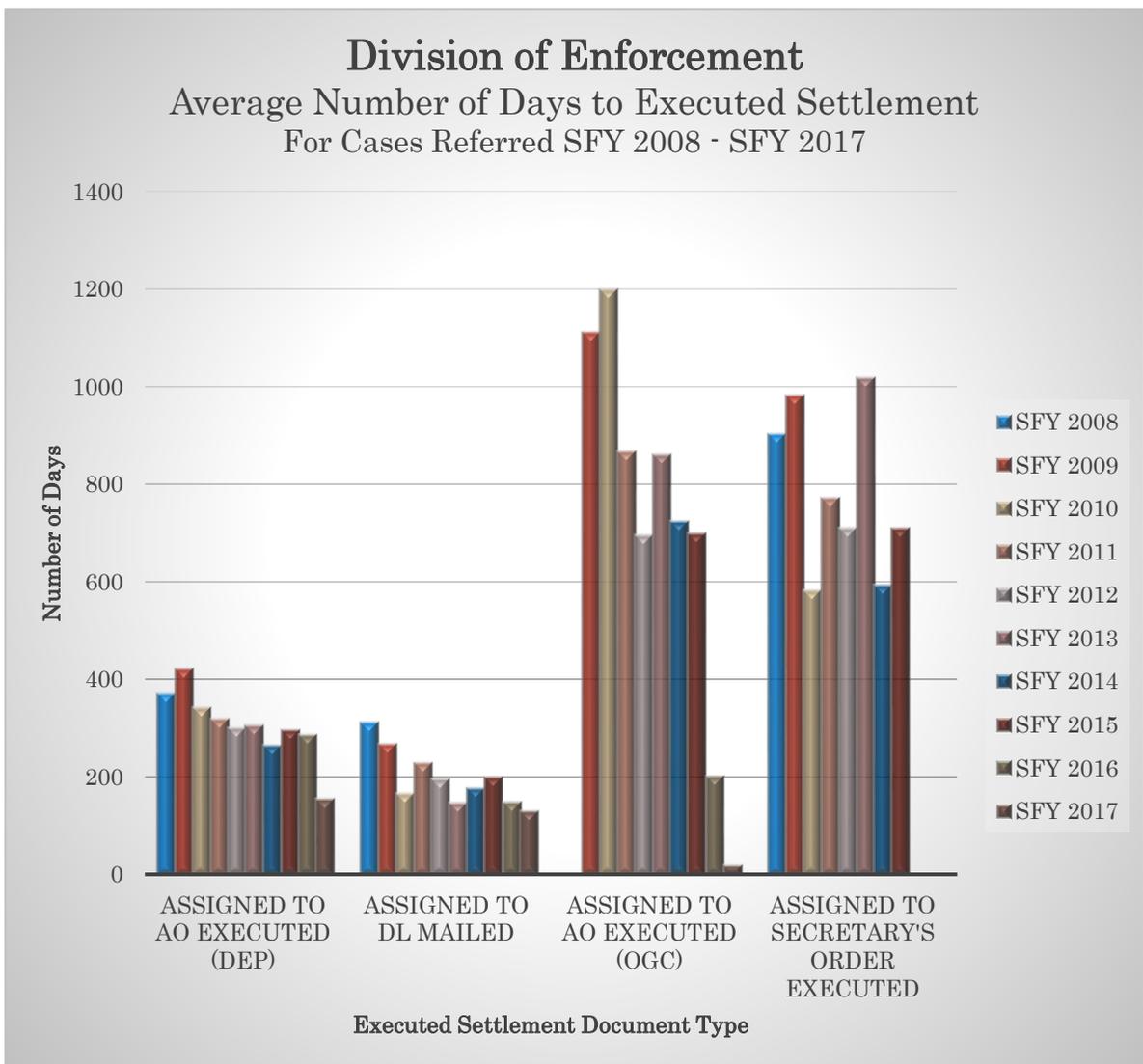


Figure 11

# 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 2017, 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 2017, the Division of Enforcement collected \$1,816,765.81 in civil and stipulated penalties. \$1,124,059.89 of penalties collected involved cases from the Water media.*

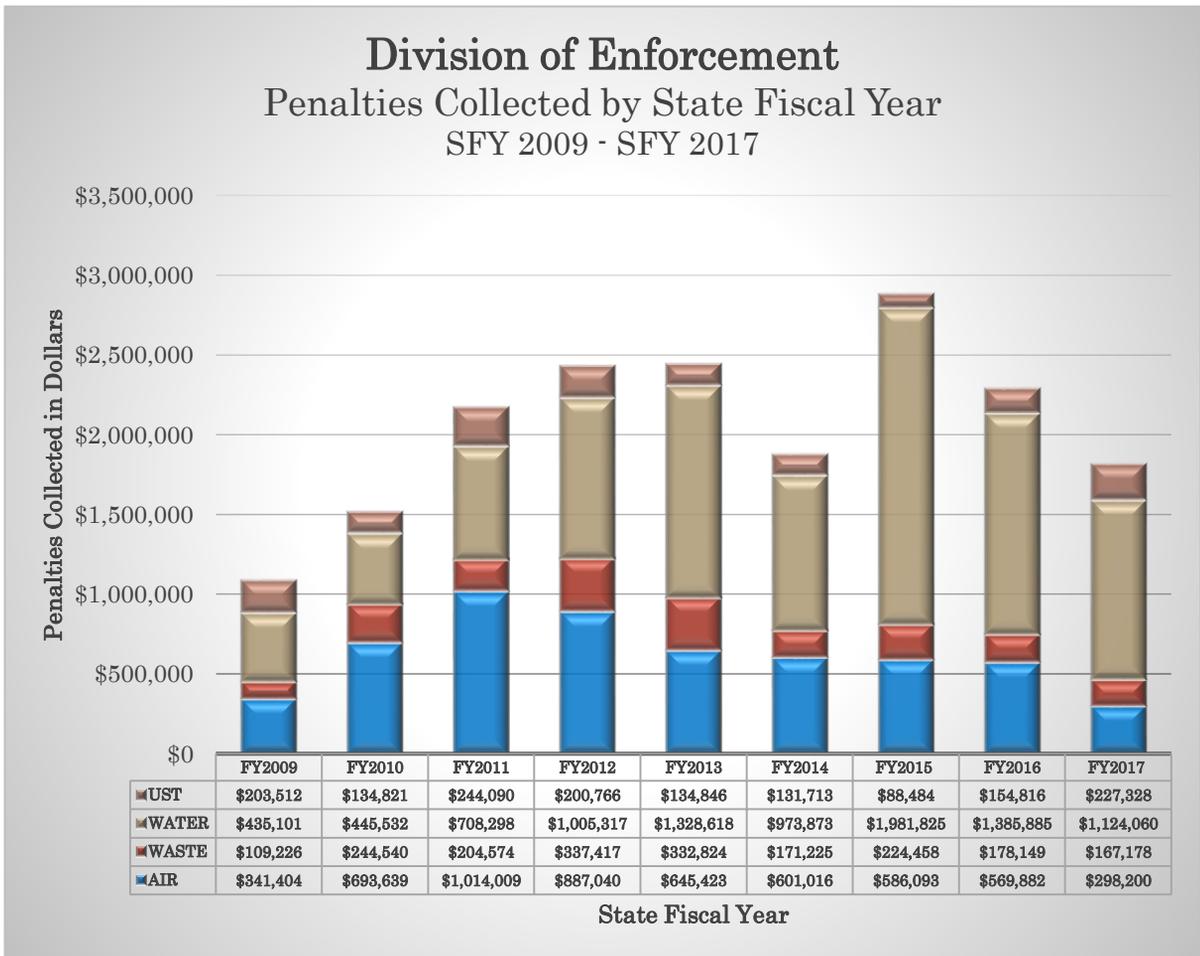


Figure 12

# Civil Enforcement Branch

**Total Settlement Documents:** In SFY 2017, 212 settlement documents were executed. 194 of the settlements were negotiated in the Division of Enforcement, and 18 of the settlements came from cases that were referred to the Office of General Counsel.

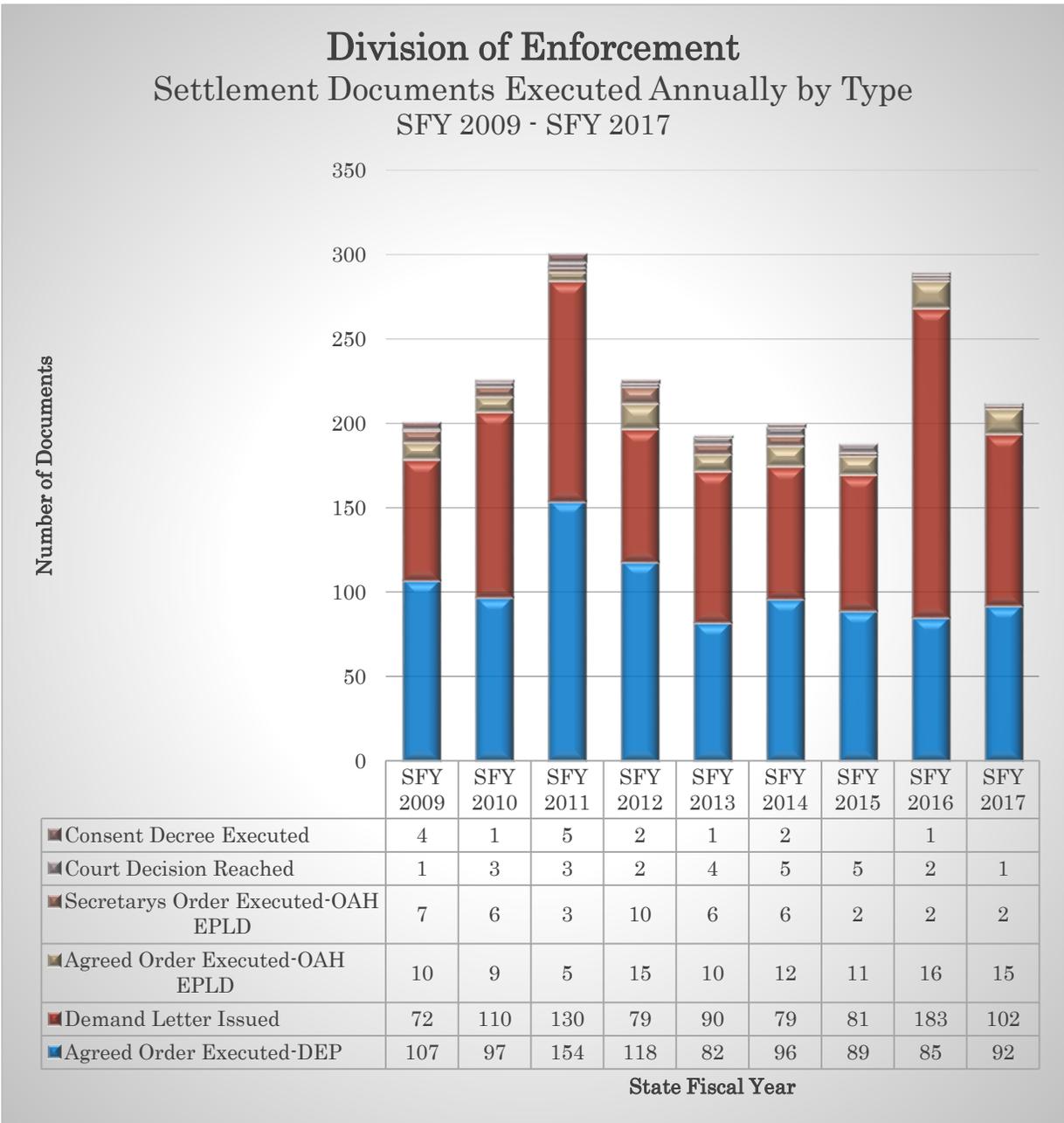


Figure 13

# Civil Enforcement Branch

**Closed Cases:** From SFY 2009 to SFY 2017, an average of 339 cases have been closed annually. The Division of Enforcement closed a total of 227 enforcement cases in SFY 2017.

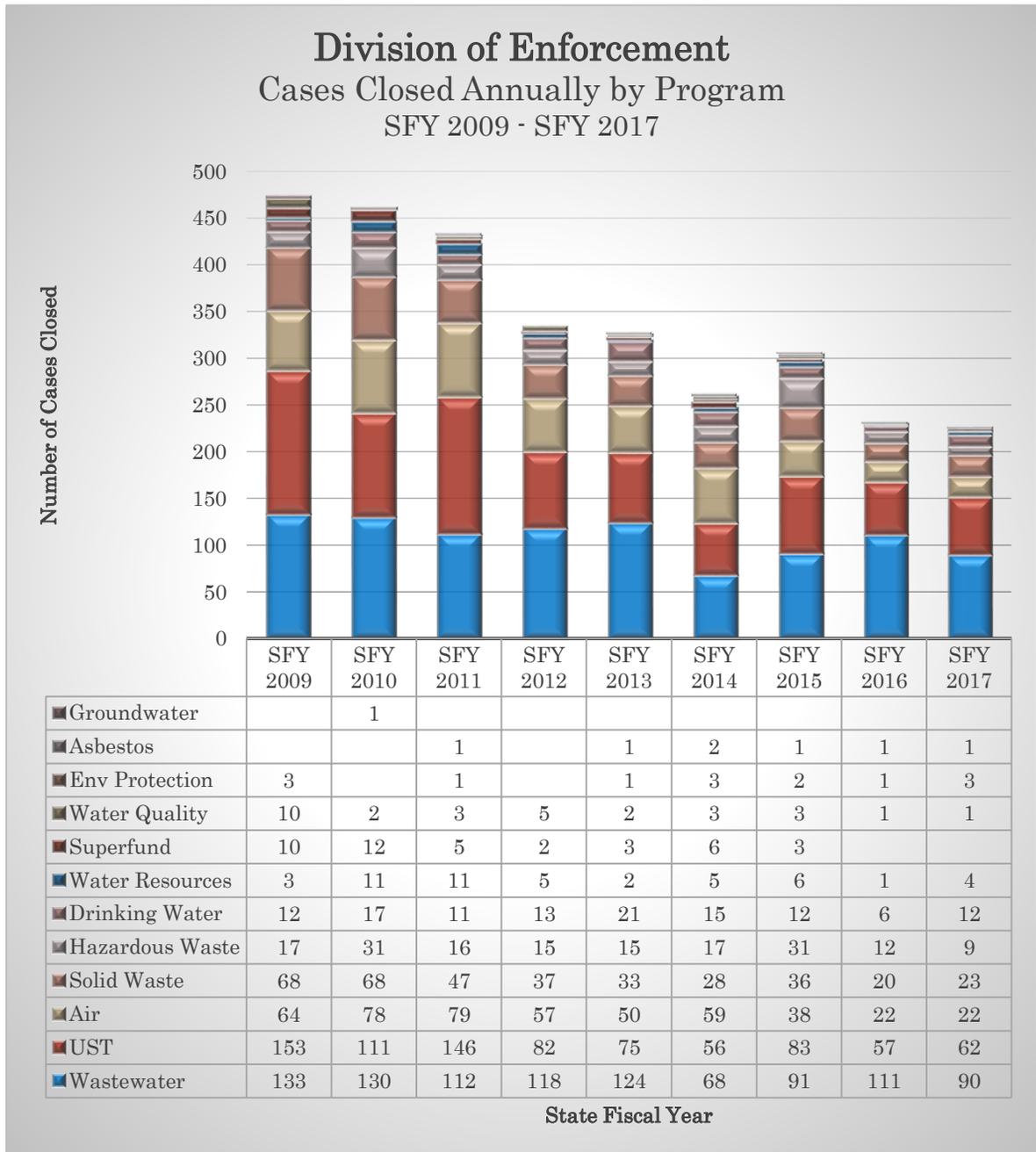


Figure 14

# 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 2017, ninety-one percent (91%) 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 2017 were of coal facilities and municipal and non-municipal major/minor wastewater facilities.

Nine percent (9%) of the NOVs issued by the COB in SFY 2017 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 1,253 Notices of Violation and sent 209 Enforcement Referrals to CEB in SFY 2017.*

# 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 2017, the Branch reviewed coal companies for the monitoring period of calendar year 2016. Many of those violations have resulted in referrals to the Civil Enforcement Branch for formal enforcement action.

*In SFY 2017, Coal Compliance Reviews have resulted in 738 Notice of Violation issued and 165 referrals to the Civil Enforcement Branch.*



# Compliance & Operations 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 NOVs. 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 2017 Major/Minor Compliance Reviews have resulted in 397 Notices of Violation issued and 37 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 2017, Permit Program Compliance Reviews have resulted in 118 Notices of Violation issued and 7 referrals to the Civil Enforcement Branch.*

**Division of Enforcement**  
Compliance and Operations Branch  
Notices of Violation Issued by Review Type  
SFY 2017

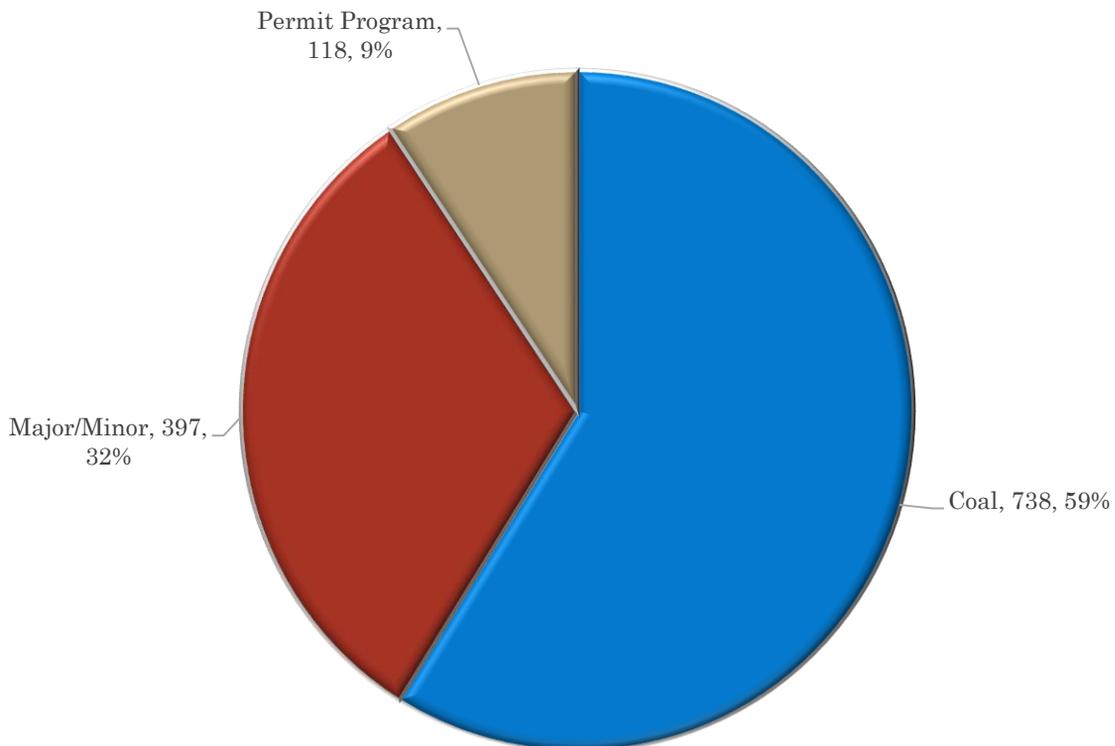


Figure 15

# Compliance & Operations Branch

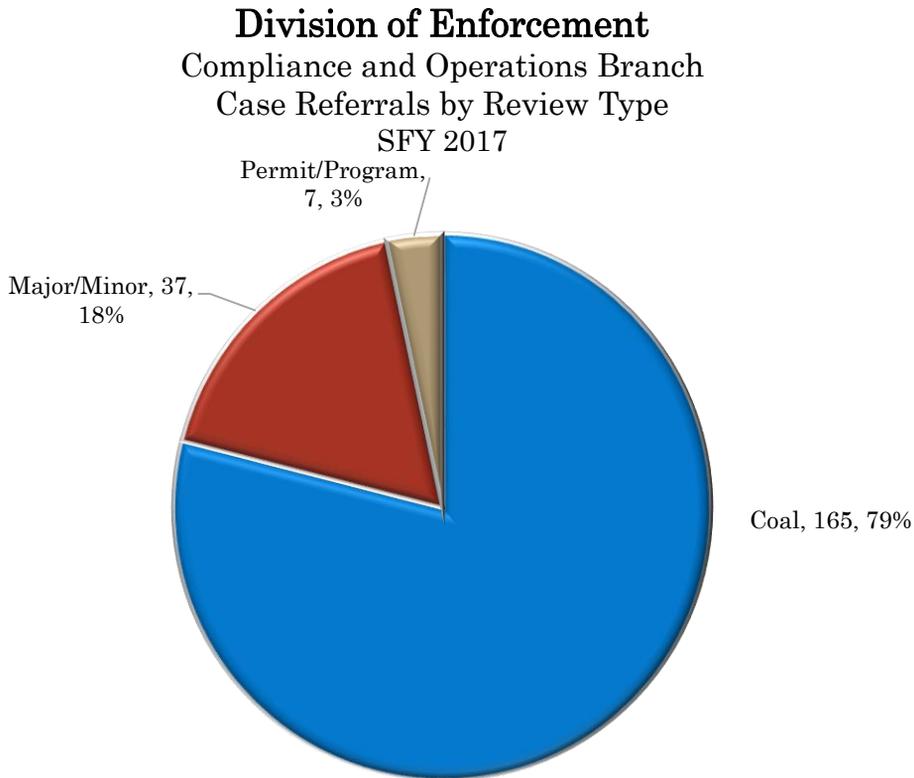


Figure 16

**Referrals to the Civil Enforcement Branch:** In SFY 2017, the Compliance and Operation Branch sent 209 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.

# 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 2017, Administrative Support Staff logged and processed 708 incoming correspondences and 430 penalty payments.*



<https://www.pinterest.com/pin/454230312389641395/>

# Compliance Notification Data

**Notices of Violation Issued by Division:** The Department as a whole issued 4,589 compliance notifications, in the form of Notices of Violation and Letters of Warning, in SFY 2017. Notices of Violation from the Division of Enforcement made up roughly 27% of all Notices issued.

## Kentucky Department for Environmental Protection Compliance Notifications Issued by Division SFY 2017

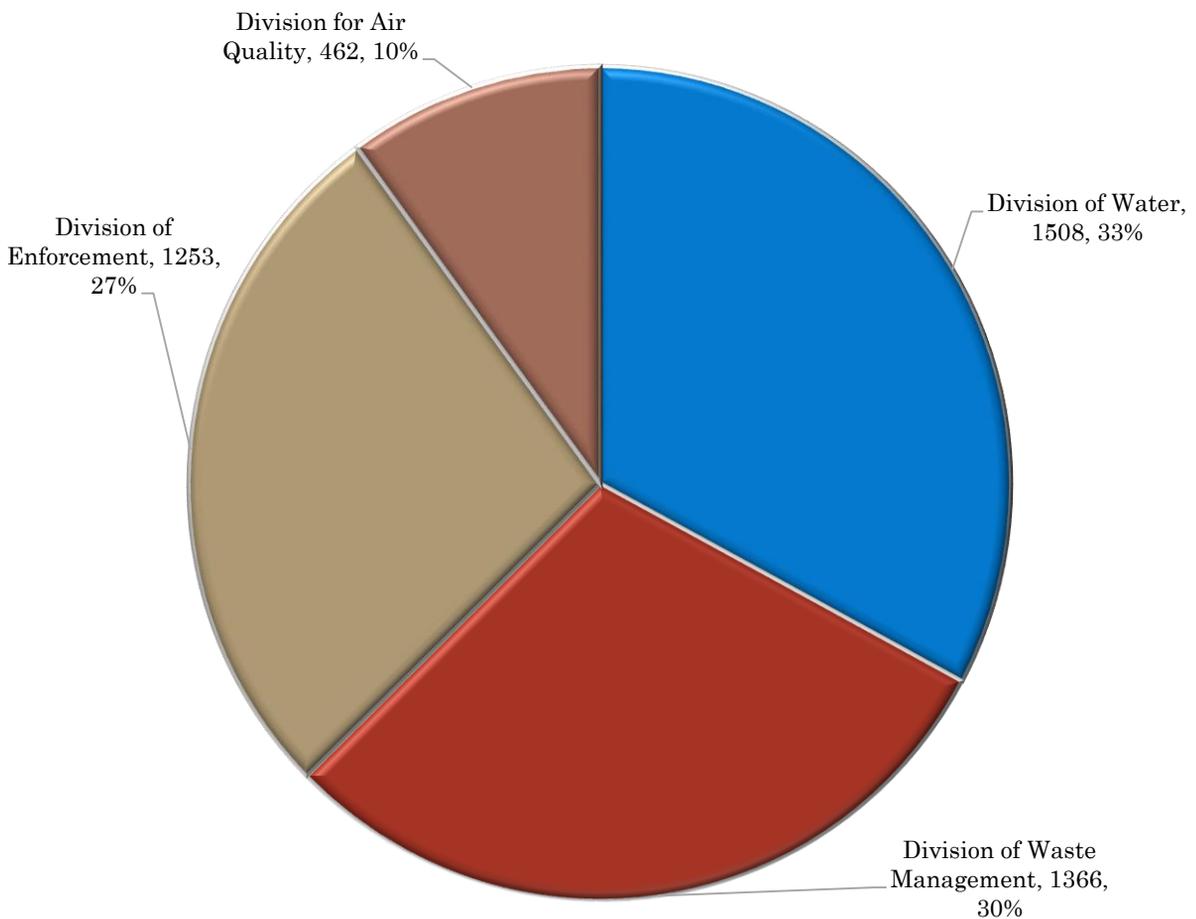


Figure 17

# Compliance Notification Data

**Compliance Notifications Issued by Activity Type:** 58% of the Notices of Violation and Letters of Warning issued in SFY 2017 came from the Field Operations Branches. The second highest contribution was from the Compliance and Operations Branch of the Division of Enforcement.

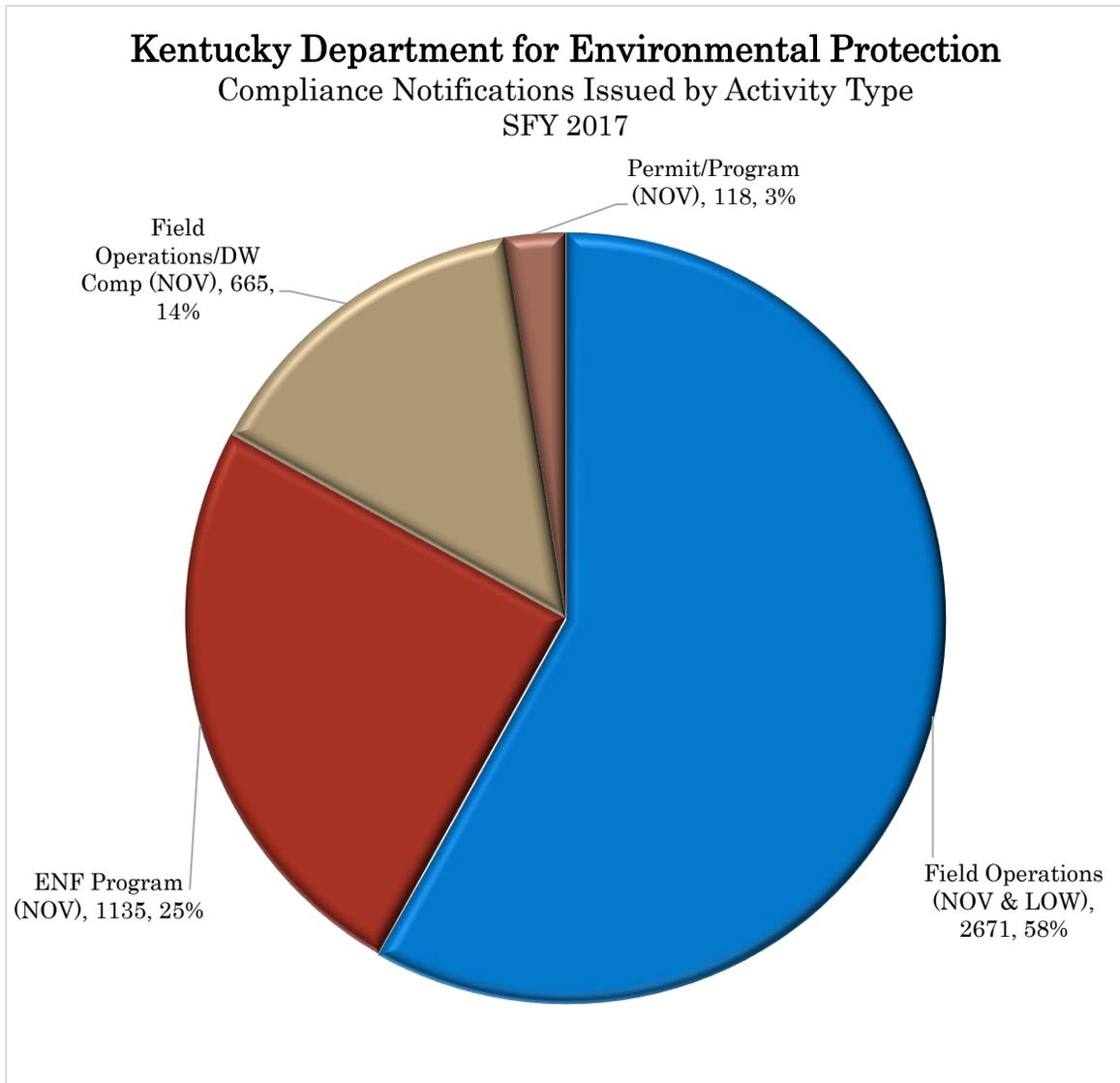


Figure 18

# Compliance Notification Data

**Compliance Notifications Issued by Program:** In SFY 2017, the largest number of notifications issued by KDEP was in the Wastewater program with 1,983 (43%), followed by the UST program with 975 (21%), and the Drinking Water program with 704 (15%).

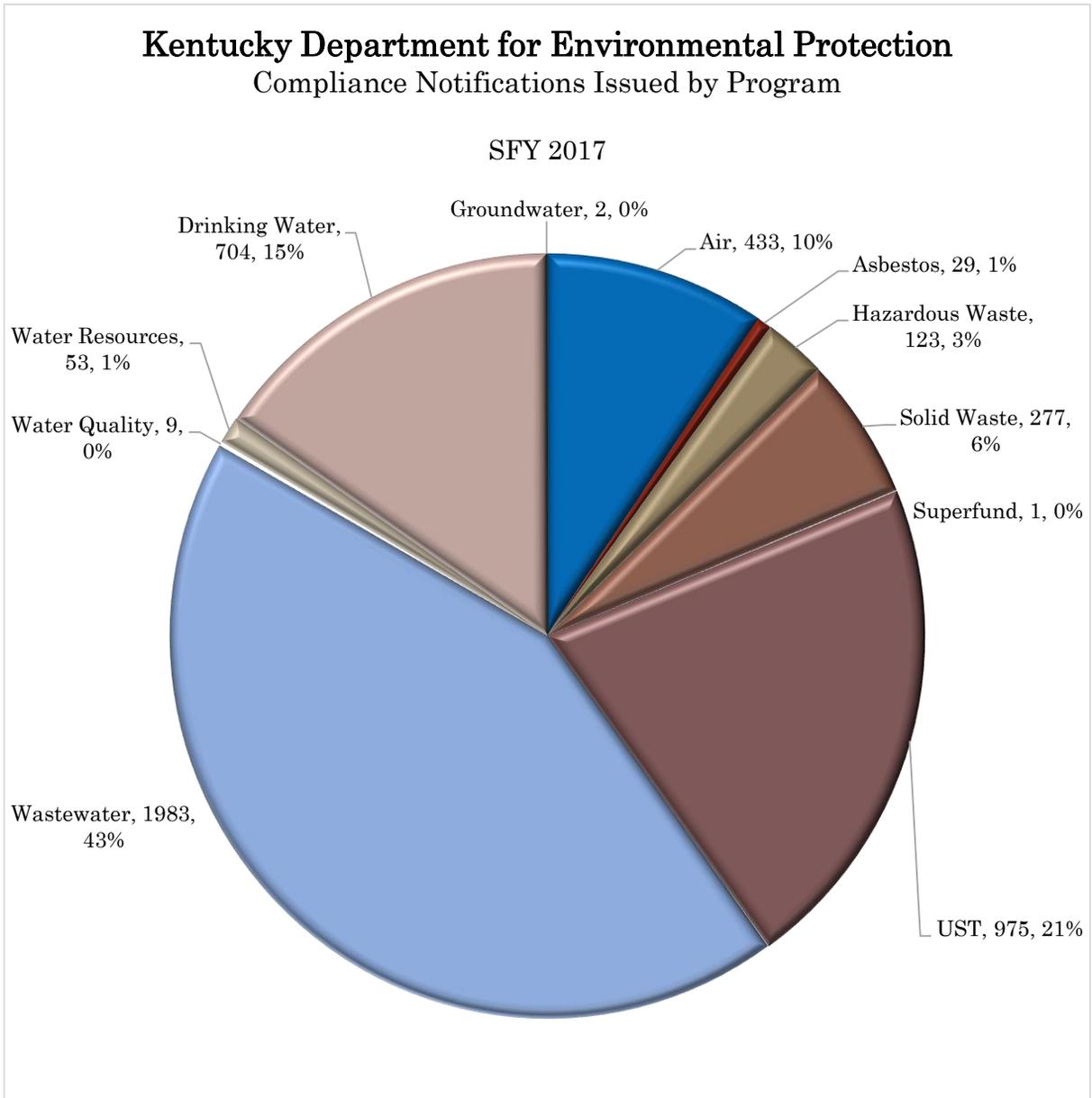


Figure 19

# SFY 2017 Accomplishment

- **Nally & Hamilton** operates numerous coal mine locations in Kentucky. An agreed order was executed on May 2, 2017, addressing 5 instances regarding a release of substandard water into waters of the commonwealth; violations of a water quality mitigation Agreed Order filed on June 26, 2006; and 560 KPDES DMR violations. The Agreed Order requires the company to pay a \$200,000 civil penalty, along with completing a SEP that involves a mine reclamation project valued at \$300,000.
- **Shalimar Investments, LLC** is the owner of two underground storage tank facilities, Valero and Nayb Mart. Both facilities had referrals to the Division of Enforcement, which were generated at different times and by separate field offices. Both cases contained similar violations which included: failing to perform various required system testing; failing to properly operate and maintain tank systems; failing to maintain and submit required reports; and failing to appoint a Designated Compliance Manager (DCM). The Division negotiated the terms of an Agreed Order, which assesses a \$27,000 civil penalty. The Agreed Order also contains performance and stipulated penalties for future violations and failing to comply with the terms of the order.
- **Dow Corning** in Carrolton incurred numerous air quality violations in calendar year 2016. Violations included 3 late compliance demonstrations (over 2 years late), a failed compliance demonstration (hydrochloric acid being the pollutant of concern), leak detection monitoring and repair violations (one leak persisted for over 2 years), and failing to meet the minimum combustion temperature in the thermal oxidizer. An Agreed Order was executed on June 30, 2017, requiring the company to pay a \$50,000 civil penalty and complete a Supplemental Environmental Project (SEP) valued at \$180,000.

# SFY 2017 Accomplishment

- **Jim Beam Brands Co. – Clermont Plant** is a bourbon distillery located in Bullitt County, Kentucky. The Clermont facility makes distilled spirits. The facility's permit, V-13-040, establishes an emission limitation for hydrogen chloride, for Jim Beam's coal fired boiler. Jim Beam uses dry scrubbing via a lime injection system, in which lime is injected directly into flue gas, to remove sulfur dioxide and hydrogen chloride. Jim Beam was cited for exceeding the 12-month rolling hydrogen chloride emissions for November 2014 through April 2015. Three Notices of Violation were issued to Jim Beam. Following the violations, Jim Beam made corrections to the lime injection system and passed follow-up tests. The violations were considered High Priority Violations. The case was settled through a Demand Letter that assessed a \$20,000 civil penalty, and the case was closed on May 22, 2017.
- **The City of Campbellsville** has had reoccurring overflows of untreated wastewater emanating from a manhole located in Miller Park and flowing into an adjacent stream during wet weather events. Additionally, those same weather events are causing bypasses at the wastewater treatment plant (WWTP). The facility has flow exceeding the design capacity, sometimes double, resulting in the actual WWTP overflowing. At the time the case was referred to the Division of Enforcement, the Campbellsville had in excess of 251 documented overflows since 2014, six (6) of which had occurred at the plant. A total of seven Notices of Violation had been issued. On June 1, 2017, the Cabinet entered into an Agreed Order with the city, requiring it to submit a Corrective Action Plan to address Inflow and Infiltration into its collection system; enforce its Sewer Use Ordinance; provide proper operation and maintenance to its WWTP; and pay a civil penalty of \$15,000. Remedial actions are currently ongoing.

# SFY 2017 Accomplishment

- **Discharge Monitoring Report (DMR) Compliance Automation:** Since the beginning of SFY 2016, the Compliance and Operation Branch (COB) and DEP IT staff have been working to build a new system that will efficiently and fairly evaluate compliance with the effluent limits specified in Kentucky Pollution Discharge Elimination Program (KPDES) Permits. This project will, for the first time, give the KYDEP the ability to address non-compliance issues across the entire KPDES universe. This project also moves toward early conformance with U.S. EPA's E-Reporting rule. The DMR Compliance Automation project is currently in the testing phase. The COB has successfully issued Notices of Violation to KPDES major facilities using the system. The COB is currently waiting for U.S. EPA to implement some changes to the way their databases download data. These changes are required before the project can be expanded and fully implemented.
- **Compliance Reviews:** In SFY 2017, the Compliance and Operations Branch continued to work hard completing comprehensive Discharge Monitoring Reports (DMR) reviews of coal companies and wastewater facility in the Commonwealth. With a mix of several new and veteran staff, the Branch issued 1,253 Notices of Violation and sent 209 referrals to the CEB during the course of SFY 2017. 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.

# SFY 2017 Accomplishment

- **Permit Program Violations:** The Compliance and Operations Branch has seen an increase in permit program violation referrals from the media divisions. For SFY 2016, 28 Notices of Violations were issued by one employee in the Branch. 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. In SFY 2017, 118 Notices of Violation were issued by two employees. The violation referrals were from the Division of Waste Management's Hazardous Waste, Solid Waste and Superfund Programs and the Division of Water's Water Quality, Water Resources, Groundwater and Surface Water Permit Programs.
- **Largest Coal Company:** Once again the Compliance and Operation Branch continues to provide excellent reviews of coal discharge monitoring reports. In SFY 2017, the five coal staff within the Branch reviewed the largest coal company in Kentucky. At the time of the review, the coal company owned 309 permits (out of 1,692 permits) in the State of Kentucky. Calendar year 2013-2015 review showed 719 violations, and calendar year 2016 showed 1,401. This resulted in a grand total of 2,120 violations and a referral to the Civil Enforcement Branch.

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