



# SFY 2022 ANNUAL REPORT

## KENTUCKY DIVISION OF ENFORCEMENT

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Exists to change behaviors and improve compliance with the Department's regulatory programs. The Division will accomplish its mission by increasing environmental knowledge, providing high-level customer service, and responding timely and appropriately in its actions. The goal of this mission is to protect and enhance the quality of Kentucky's environment and communities.



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# THE DIRECTOR'S NOTE



What a year it has been! All staff began returning to the office in early in SFY 2022, and are currently working a hybrid schedule, three days in the office and two days teleworking. We continue to conduct some meetings and trainings virtually as we have recently had an uptick in COVID 19 cases. Staff continued to work hard and make great strides in this new hybrid schedule.

In November 2021, The Division of Compliance Assistance and the Division of Enforcement joined forces as one division. We faced some challenges and yet so many positive things have come out of that merger. We took two drastically different operations and found that we all have one main goal... that is compliance. Compliance with environmental regulations, small business compliance, having correctly

trained and certified drinking water, wastewater and solid waste operators and returning facilities back to compliance once they are referred to the Civil Enforcement Branch. We have learned to work across branch lines to help staff with issues when they arose. We have gained so many strengths from this merger. We have even moved a few staff around to better utilize their individual talents and to create an improved, more productive agency.

In December 2021, I took on the role of Division Director and filled some vacancies with a few staff some of you maybe familiar with from previous experiences. Mr. Philip Kejzlar was promoted to Assistant Director in March and Mr. Marlon Bascombe was also promoted to Environmental Control Manager of the Compliance and Operations Branch in April. With almost every vacant position filled, staff have begun to excel in their new roles and in turn, strengthen the agency in its entirety. This work is reflected throughout our annual report.

In recent years, the Director's Office has overseen the implementation of US EPA NPDES Significant Non-Compliance (SNC) Initiative. In FFY 2014, Kentucky's SNC rate was 44.4%. In the second quarter of FFY2022, KY has lowered that same rate to only 13.8%! This is a major accomplishment for the Division and an important improvement for the Commonwealth of Kentucky!

# THE DIRECTOR'S NOTE

The Certification and Licensing Branch was still able to administer testing throughout the entire pandemic in SFY 2022, which was an incredible feat of its own! This branch completed two final draft versions for the wastewater treatment and collection manuals. Staff have developed a new facility update eForm that will soon be launched on the Division's webpage.

The Civil Enforcement Branch (CEB) continues to work cases and help facilities achieve compliance through a variety of avenues. In SFY 2022, the Division saw a slight (3.4%) decrease in the number of new cases, with 256 new referrals, compared to 265 the previous year. The wastewater program accounted for the largest number of new referrals to the Division, with 51%. The Branch continued to monitor an average of 263 executed settlements during this fiscal year.

The Compliance and Operations Branch (COB) issued 2,531 Notices of Violation, 153 more than SFY 2021 and 388 more than SFY 2019. COB continues to make great strides in environmental compliance.

This fiscal year, the Environmental Assistance Branch completely restructured and revamped the KY EXCEL program. With the Brownfield Instructure Bill, our Brownfield Program completed a major outreach operation during this fiscal year. This outreach consisted by visiting 9 out of the 15 Area Development Districts (ADDs) in Kentucky. Staff also held one virtual workshop and have been in phone contact with the remaining 4 ADDs.

SFY 2022 had many challenges and tribulations, but our staff rose to the occasion and have greatly succeeded in many avenues.

*Natalie P. Bruner*

Director, Division of Enforcement

# INTRODUCTION

On November 1, 2021, the Energy and Environment Cabinet made a modification to the Kentucky Department for Environmental Protection's (KDEP) structure. The Division of Compliance Assistance and the Division of Enforcement joined forces as one division. This newly joined division combined the staff of both previous divisions and all activities previously included in the compliance assistance and enforcement branches. The Division of Enforcement exists to change behaviors and improve compliance with the Department's regulatory programs. The Division will accomplish its mission by increasing environmental knowledge, providing high-level customer service, and responding timely and appropriately in its actions. The goal of this mission is to protect and enhance the quality of Kentucky's environment and communities.

The new Division of Enforcement consists of 5 units: the Director's Office, the Certification and Licensing Branch, the Civil Enforcement Branch, the Compliance and Operations Branch, and the Environmental Assistance 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 Certification and Licensing Branch provides certification training, continuing education and licensing for the operators of drinking water, wastewater and solid waste facilities in Kentucky. The services of the Certification and Licensing Branch ensure operators have the skills and knowledge needed to perform the duties of their positions and protect Kentucky's environment and public health.

# INTRODUCTION CONT.

The Civil Enforcement Branch negotiates civil settlements and ensures any necessary remedial measures for violations cited by the KDEP are addressed. These cases include all KDEP 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: accounts payable, supplies, inventory, training, and travel.

The Environmental Assistance Branch houses three programs that provide services to the public that increase environmental knowledge and encourage behavioral changes. The Environmental Compliance Assistance Program helps entities understand and comply with environmental regulations. The KY Brownfield Program helps communities revive properties that are abandoned, unused, or underused due to known or suspected contamination cleaned up and back into productive use. The KY EXCEL program educates and assists Kentucky's businesses and citizens become better stewards of the environment.



# DIRECTOR'S OFFICE

The Director's Office consists of the Division Director, the Assistant Director, and an Environmental Scientist 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.

## DIRECTOR'S OFFICE

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.



*The Director's Office has overseen the implementation of U.S. EPA's NPDES Significant Non-Compliance National Compliance Initiative. Kentucky has been able to reduce its SNC rate from 44.4% in the second quarter for FFY2014 to 13.8% in the second quarter of FFY2022.*

## DIRECTOR'S OFFICE STAFF

### Director

Natalie Bruner

### Assistant Director

Philip Kejzlar

### Environmental Scientist Consultant Senior

Mark Cleland

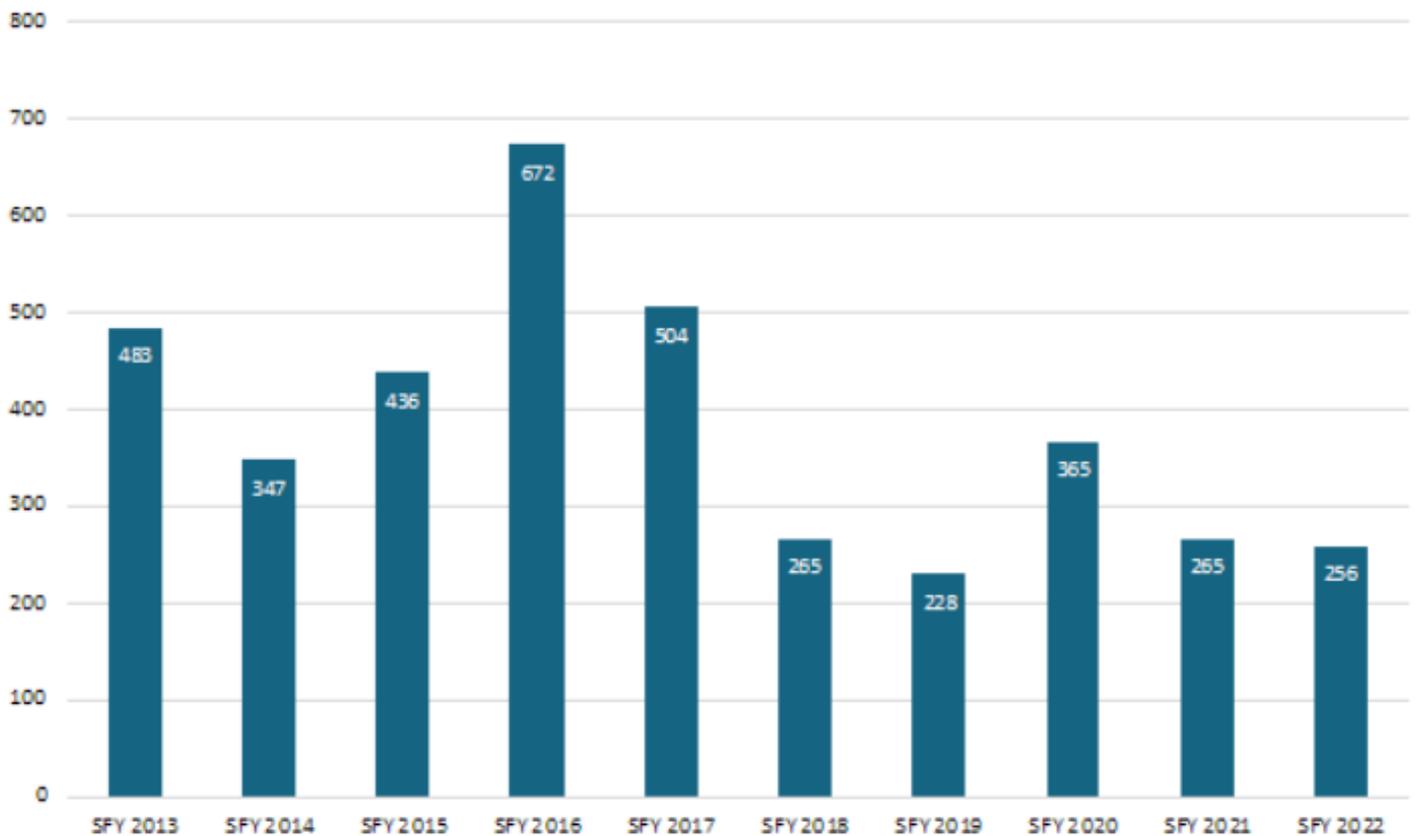
## CASE REFERRAL DATA

The Division of Enforcement receives new cases in the form of referrals. In SFY (State Fiscal Year) 2022, 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 256 new case referrals in SFY 2022. This was a decrease of 3.4%, as compared to the number of new case referrals in SFY 2021 (265). Over the past ten years, the Division has received, on average, 382 new cases annually

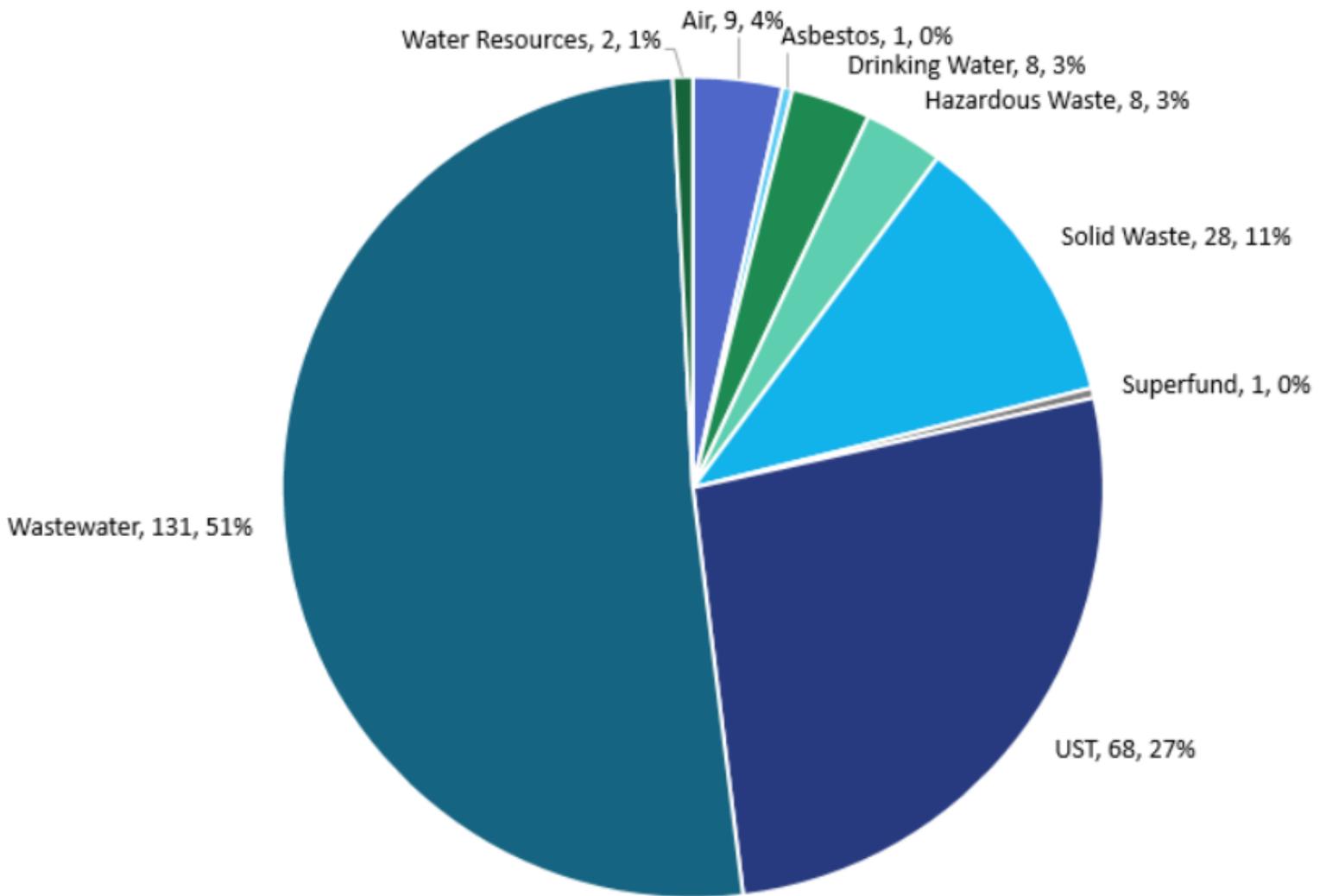
NEW CASES SFY 13—SFY 22



## CASE REFERRALS BY PROGRAM

The Division of Enforcement received case referrals from nine different program areas in SFY 2022. Of those referrals, the highest number involved the wastewater program with 131 referrals (51%), followed by the UST program with 68 (27%).

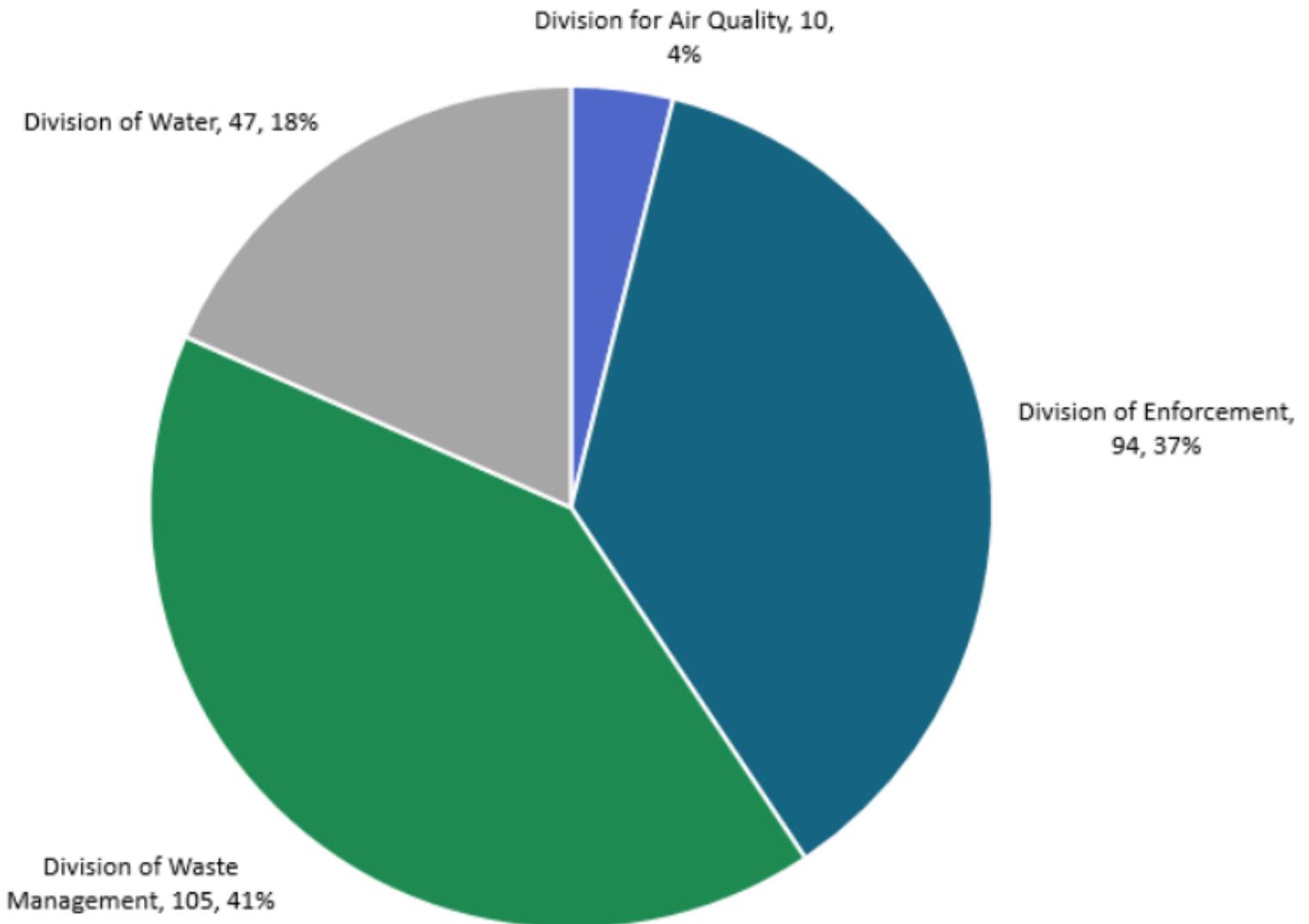
CASE REFERRALS BY PROGRAM



## 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 2022. The Division of Waste Management had the most referrals with 105 (41%). Referrals from the Division's Compliance and Operations Branch accounted for the second most, with 94 (37%).

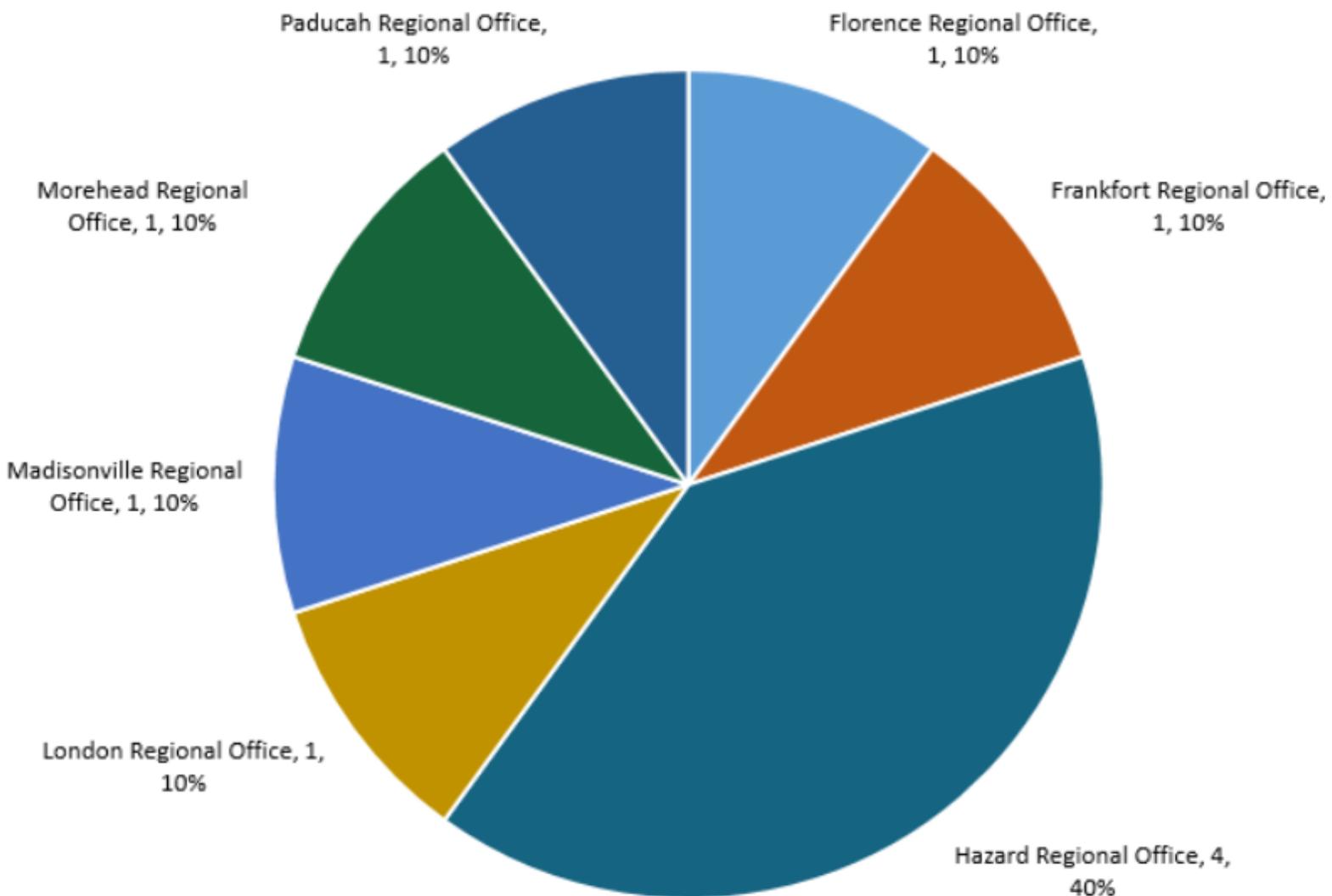
CASE REFERRALS BY DIVISION



## CASE REFERRALS FROM THE DIVISION FOR AIR QUALITY

The Division of Enforcement received 10 new case referrals from the Division for Air Quality in SFY 2022. Of the 10 referrals, the highest numbers came from the Hazard Regional Offices with four (40%), followed by Florence, Frankfort, London, Madisonville, Morehead and Paducah Regional Offices who all had one (10%) per office.

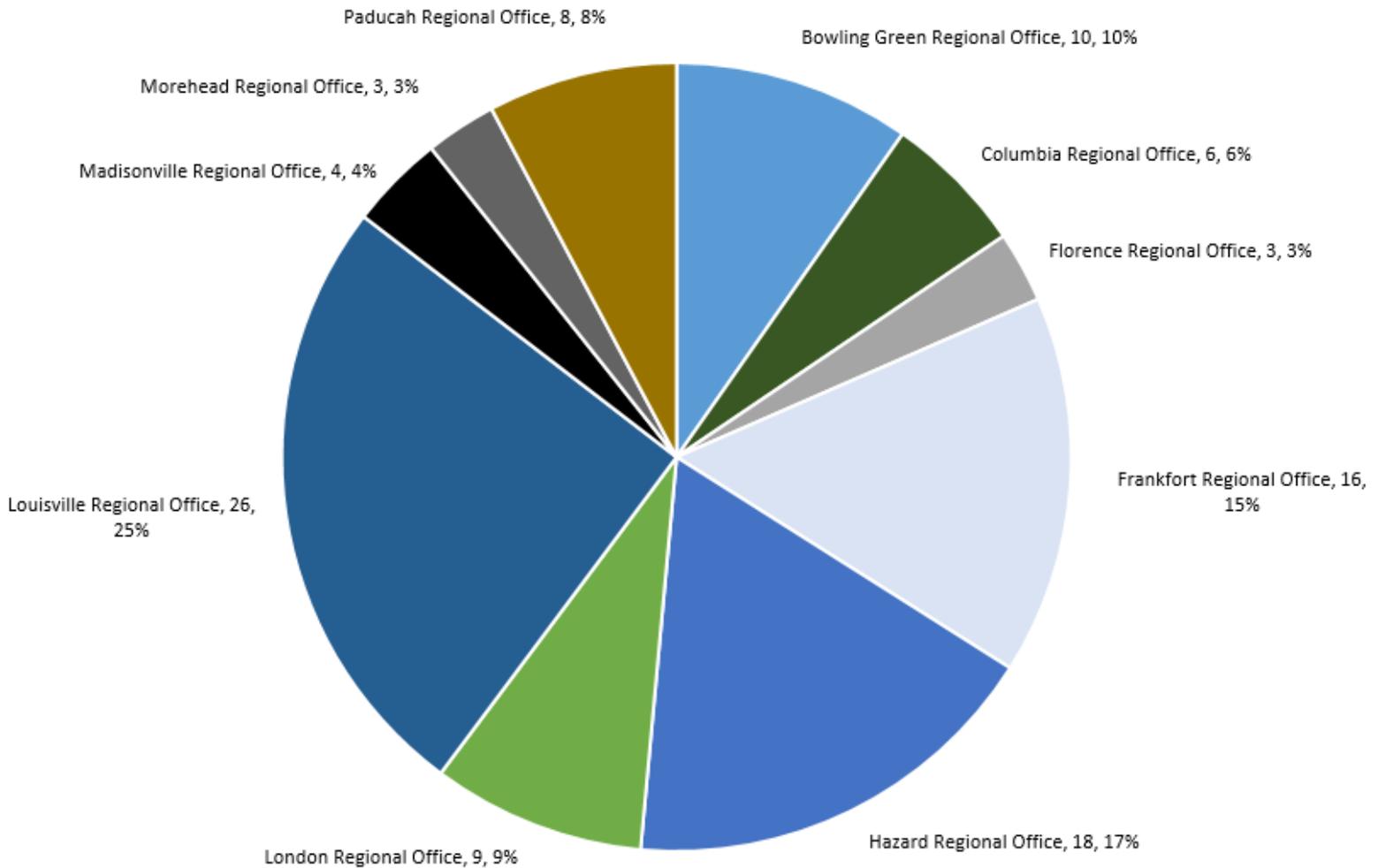
DAQ NEW CASES BY REGIONAL OFFICE



## CASE REFERRALS FROM THE DIVISION OF WASTE MANAGEMENT

The Division of Enforcement received 103 new case referrals from the Division of Waste Management in SFY 2022. Of the 103 referrals, the highest number came from the Louisville Regional Office with 26 (25%), followed by the Hazard Regional Offices with 18 (17%).

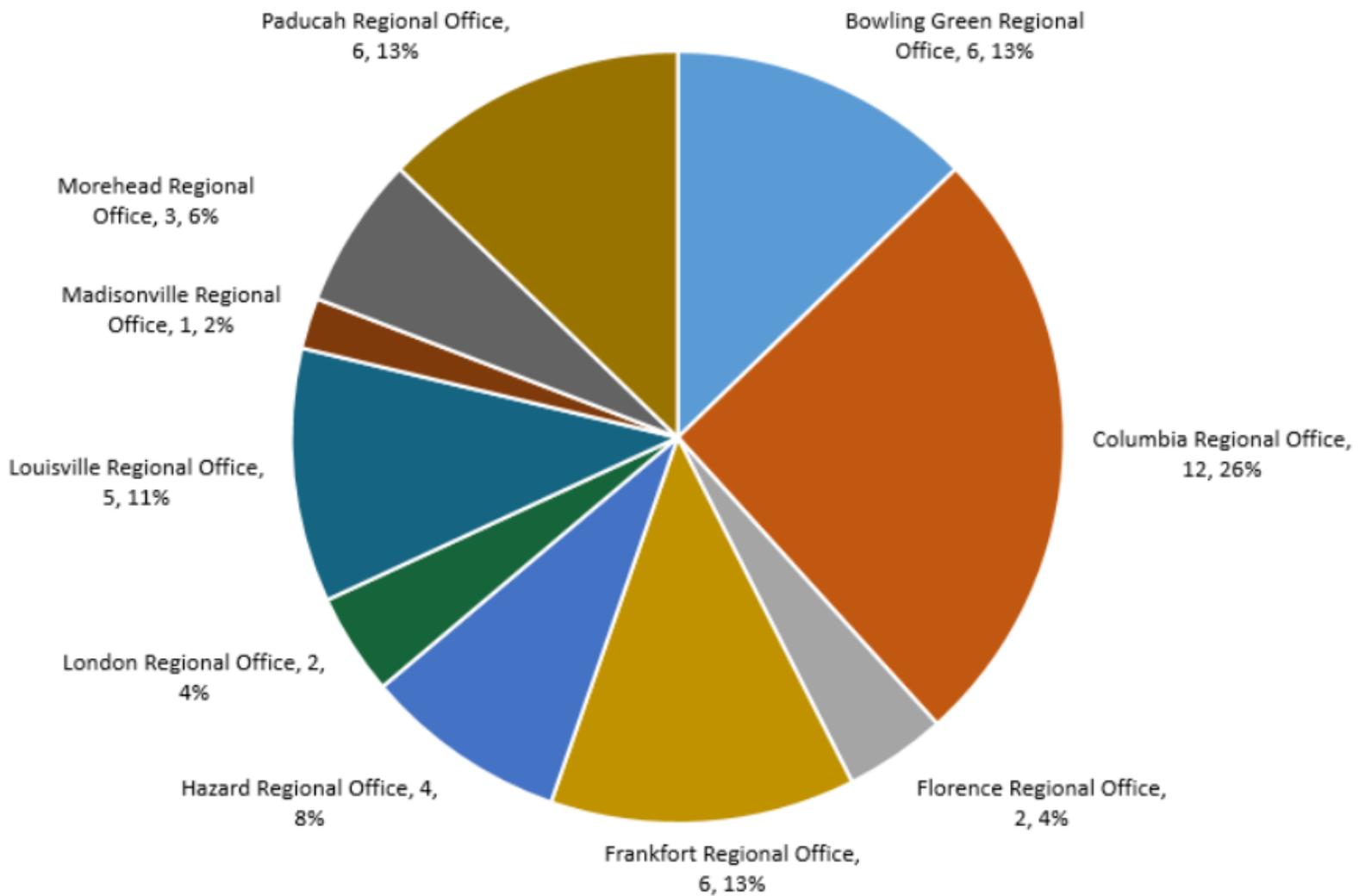
### DWM NEW CASES BY REGIONAL OFFICE



## CASE REFERRALS FROM THE DIVISION OF WATER

The Division of Enforcement received 47 new case referrals from the Division of Water in SFY 2022. Of the 47 referrals, the highest numbers came from the Columbia Regional Office with 12 referrals (26%), followed by the Bowling Green, Frankfort and Paducah office with six (13%).

DOW NEW CASES BY REGIONAL OFFICE





# CIVIL ENFORCEMENT BRANCH

The Civil Enforcement Branch (CEB) receives case referrals from all 3 media divisions within the Department for Environmental Protection: the Division for Air Quality, the Division for Waste Management and the Division of Water. CEB also receives referrals from the Emergency Response Team (ERT), central office programs and the Division's Compliance and Operation Branch for Discharge Monitoring Report (DMR) violations.

## CIVIL ENFORCEMENT BRANCH

When an Environmental Scientist 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 scientist, and contacting the regulated entity. The Environmental Scientist 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 Environmental Scientist schedules an administrative conference with the responsible party to discuss the steps necessary to resolve the violations and return the entity to compliance.



*The Civil Enforcement Branch closed a UST case that brought an \$85,000 civil penalty. This was one of the largest UST settlements in the history of the Division of Enforcement.*

### CIVIL ENFORCEMENT BRANCH STAFF

#### Environmental Control Manager

Justin Schul

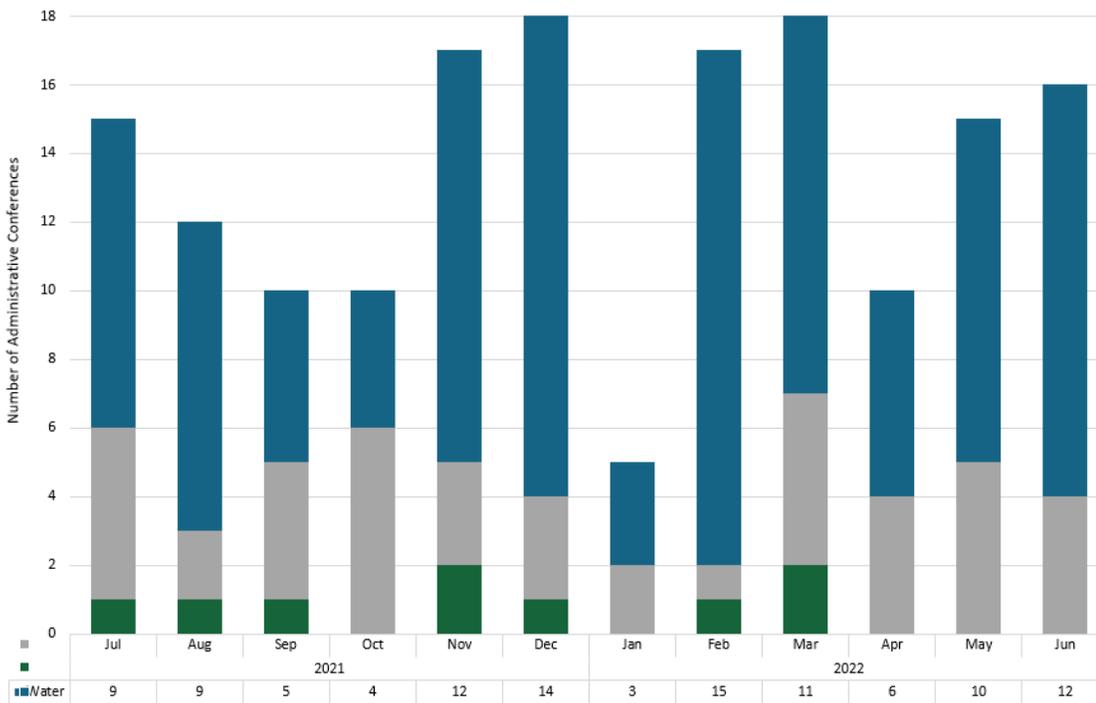
#### Environmental Scientists

Alexis Sulfridge	Tim Harrod
Major Ballard	Amber Hawkins
Beth Clemons	Tevis Woolery
Chris Davis	Don Hansel
Blake Ellis	Nick Fields

## THE ADMINISTRATIVE CONFERENCE

These conferences allow the KDEP representatives and the regulated entity to discuss the facts of the case. The Environmental Scientist 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 Environmental Scientist may 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.

### ADMINISTRATIVE CONFERENCES BY MEDIA

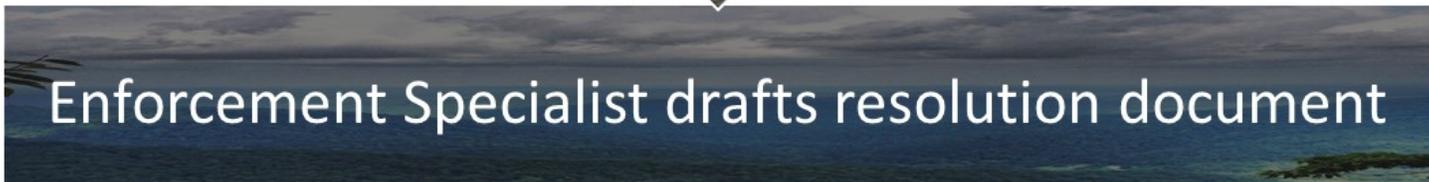


Conducted 163 Administrative Conferences in SFY 2022

## AGREEMENT-IN-PRINCIPLE

If negotiations are successful and the Division reaches an agreement on the terms of settlement with a responsible party, the Environmental Scientist will draft a written document to formalize the agreement. The Environmental Scientist routes the settlement document, which contains remedial measures and the assessed civil penalties, for approval by Cabinet attorneys and management.

*In SFY 2022, DENF reached 126 Agreements-in-Principle, an average of 11 per month.*



Demand letter is routed for signature by Enforcement Director, or	Agreed order is routed for approval by Enforcement Director, Program Division Director, and Office of General Counsel
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## DEMAND LETTERS

Demand letters are unilateral agreements, are often used when the regulated entity has already returned 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 violation of executed Agreed Orders.

## AGREED ORDERS

Agreed Orders are bi-lateral agreements and are used for more complex settlements. 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 are enforceable in Franklin Circuit Court.

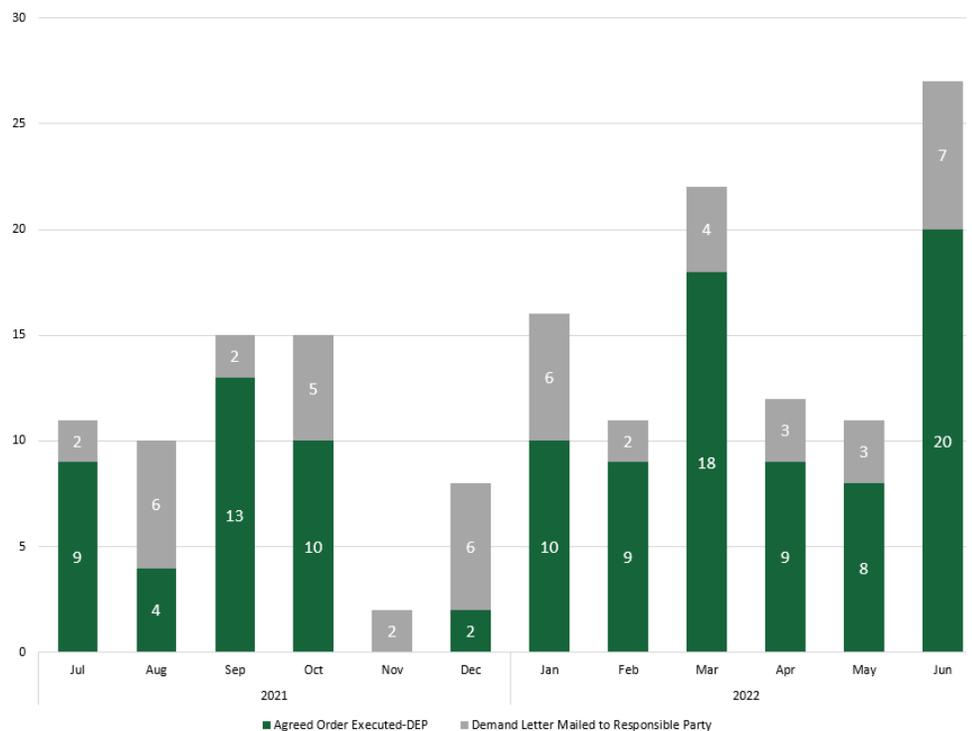


58 Demand letters sent in SFY 2022



Agreed Orders were used to resolve 112 cases in the Division

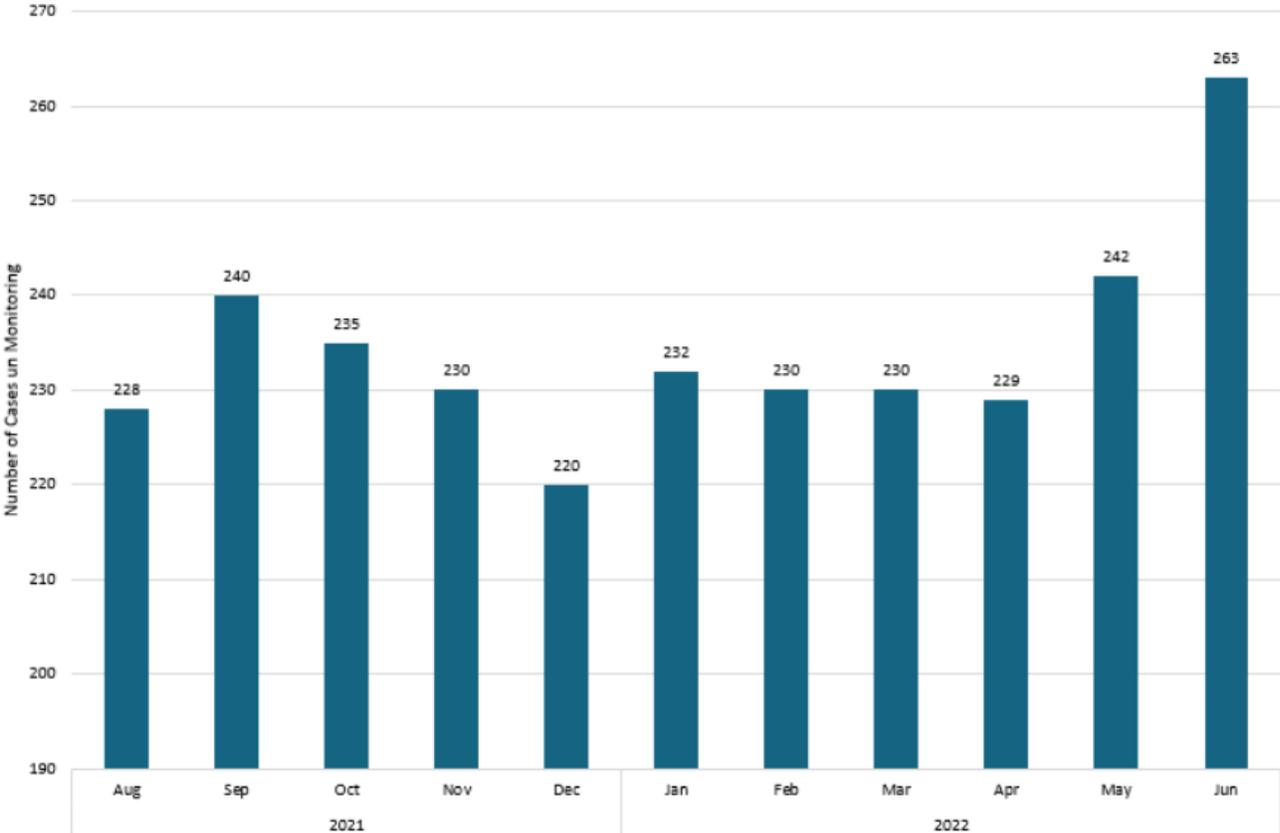
### SETTLEMENT DOCUMENTS EXECUTED



## MONITORING

The Environmental Scientist assigned to a case is responsible for monitoring compliance with executed Demand Letters, Agreed Orders, or Secretary’s Orders. The Environmental Scientist will close a case upon compliance with the executed agreement and approval of Division management. 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.

NUMBER OF CASES IN MONITORING BY MONTH



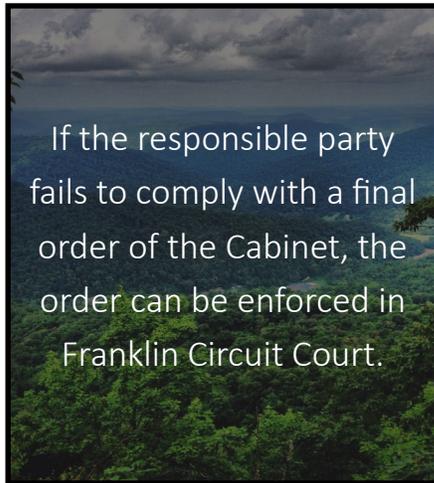
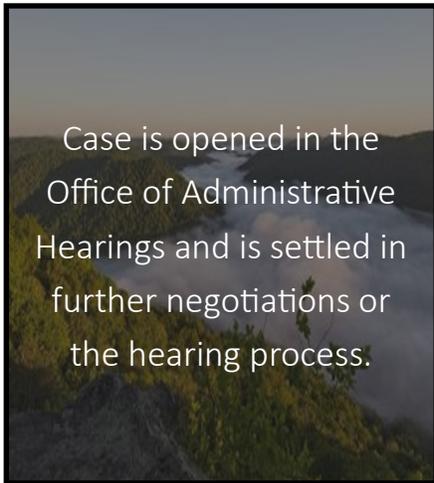
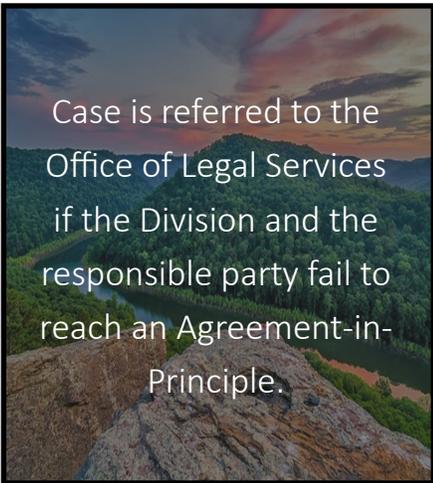
In SFY 2022, DENF monitored an average of 234 executed settlement documents each month.

## 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 multitude 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 2022, The Division referred 17 enforcement cases to the Cabinet’s Office of Legal Services for further enforcement action, an average of 1 per month.



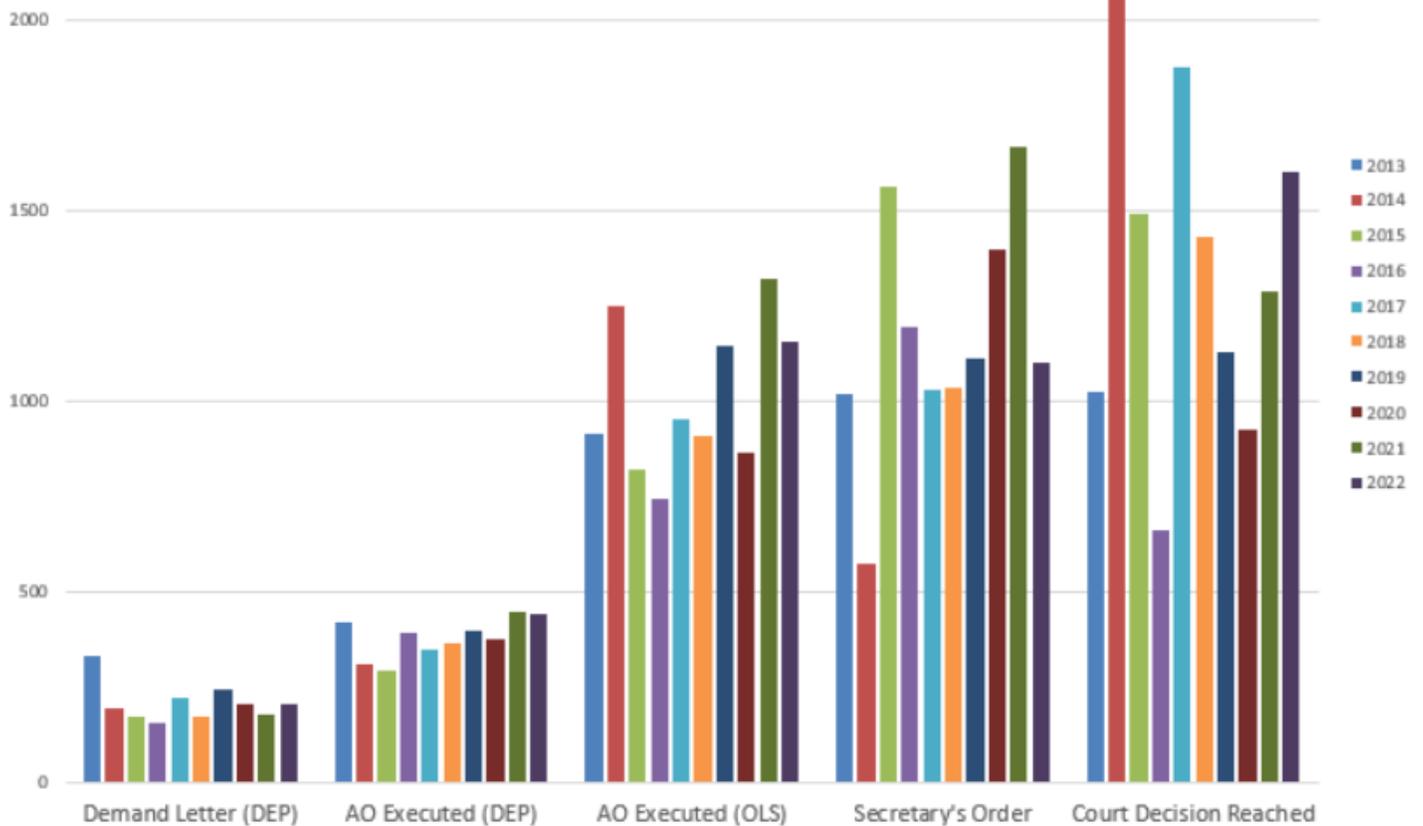
In SFY 2022, DENF resolved a total of 18 cases through the Office of Legal Services (12 Agreed Orders, 3 Secretary’s Order, and 3 Franklin Circuit Court Decision).

## 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 203 days to issue a Demand Letter, 378 days to execute an Agreed Order, 994 days to execute an OLS Agreed Order, and 1155 days to execute a Secretary’s Order, and 1357 days for a Court Decision to be reached.*

AVERAGE # OF DAYS FROM CASE ASSIGNED TO



## ENVIRONMENTAL PROTECTION AGENCY (U.S. EPA)

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 2022, five enforcement cases are being worked with EPA as the lead agency. There are currently several Consent Decree being monitored for compliance, where Kentucky's Department for Environmental Protection and the United States Environmental Protection Agency have taken a joint action.*

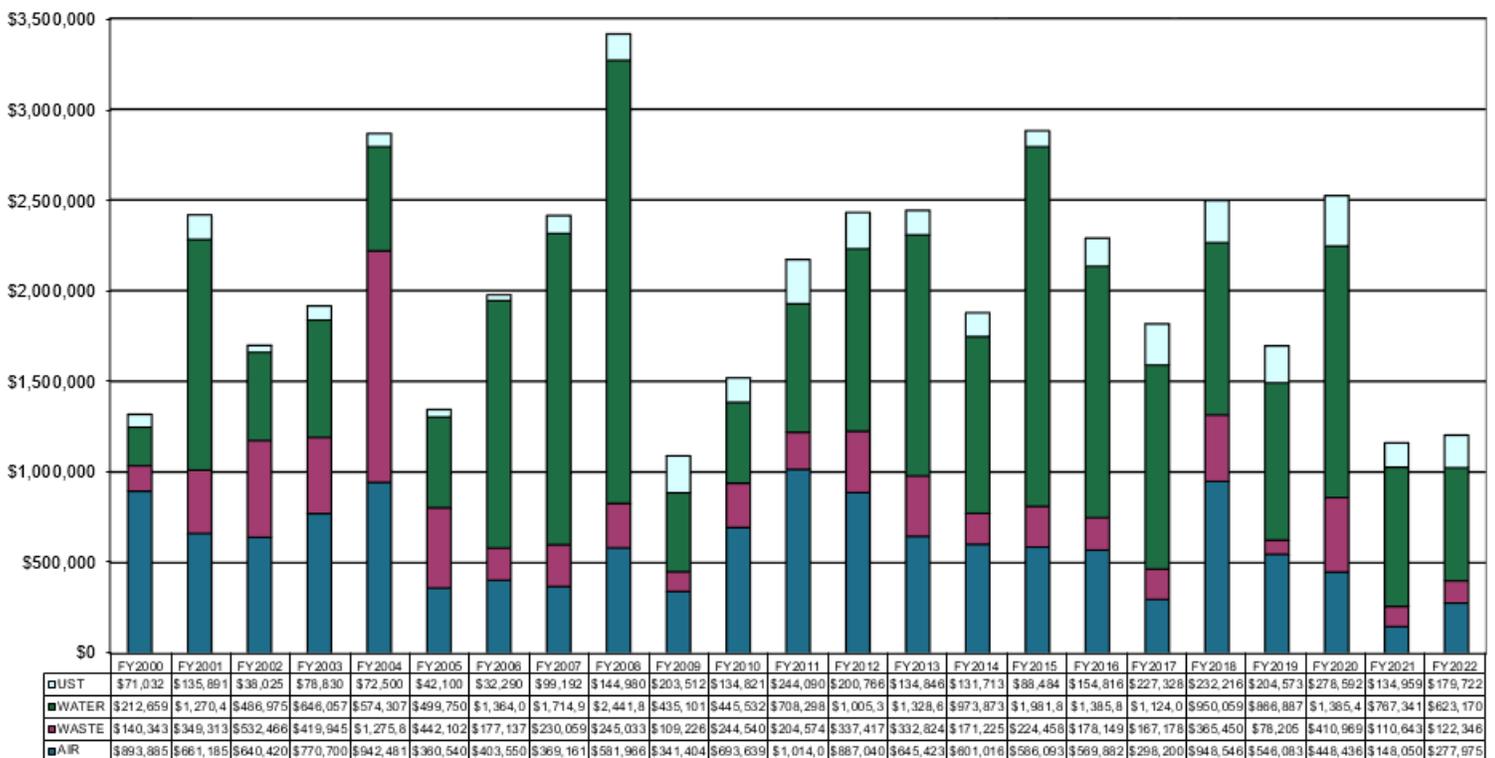
## PENALTIES COLLECTED

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 2022, the Division of Enforcement collected \$1,182,408.25 in civil and stipulated penalties. \$726,178.28 of penalties collected involved cases from the Water media.

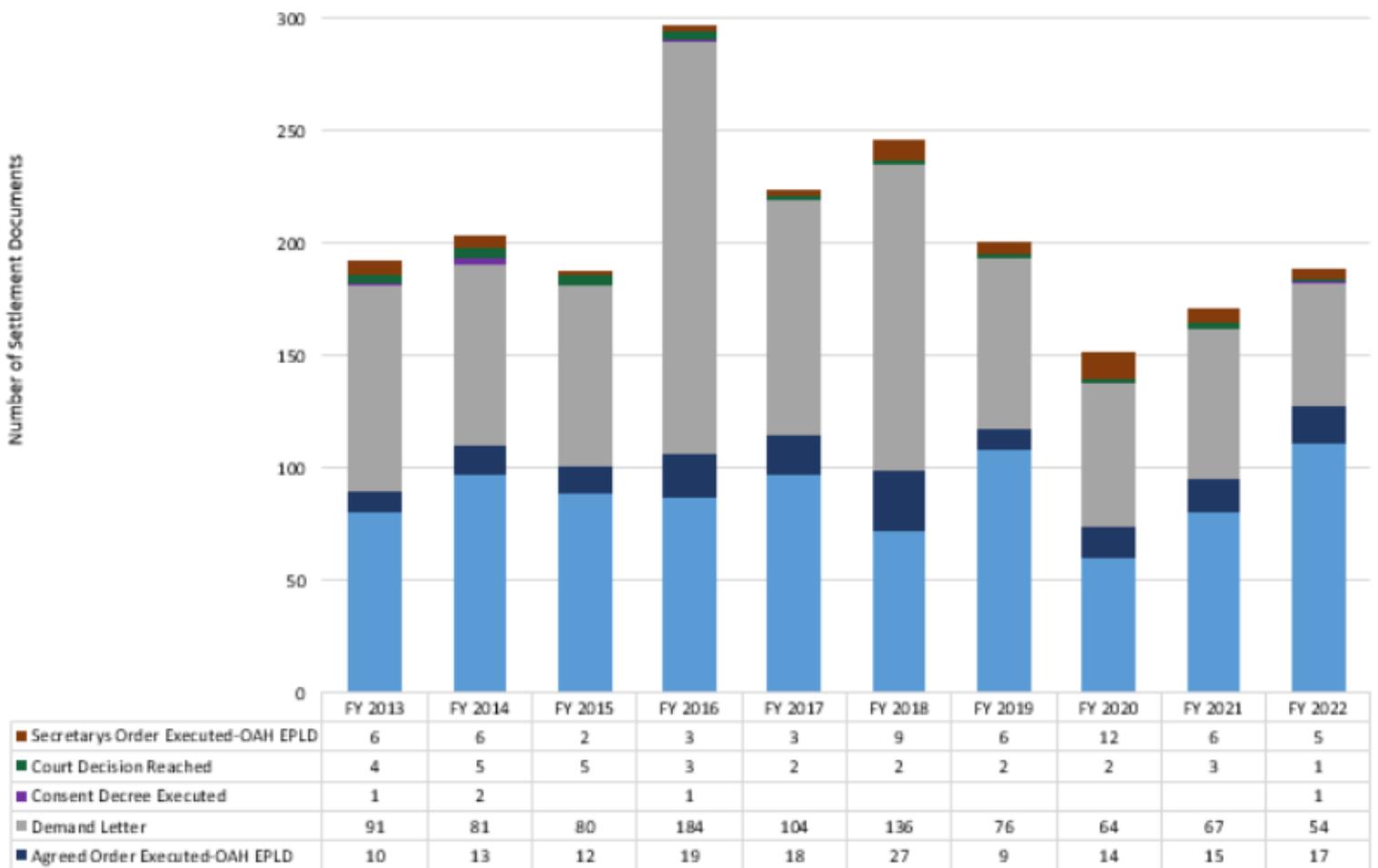
CIVIL PENALTY COLLECTIONS DATA BY FISCAL YEAR



## TOTAL SETTLEMENT DOCUMENTS

In SFY 2022, 189 settlement documents were executed. Of the settlements, 166 were negotiated in the Division of Enforcement, and 23 of the settlements came from cases that were referred to the Office of Legal Services.

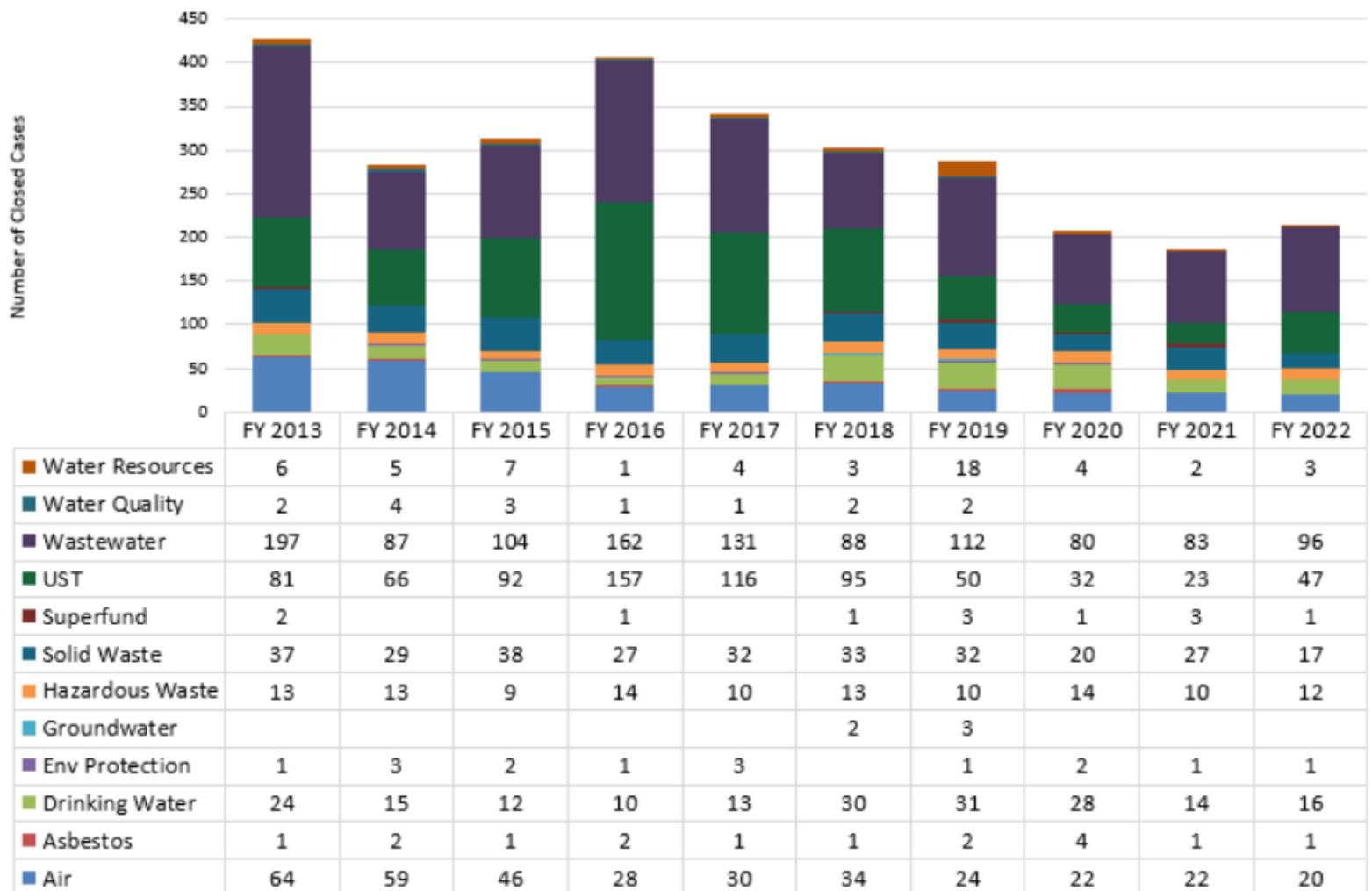
### SETTLEMENT DOCUMENTS EXECUTED ANNUALLY BY TYPE



## CLOSED CASES

From SFY 2013 to SFY 2022, an average of 297 cases have been closed annually. The Division of Enforcement closed a total of 214 enforcement cases in SFY 2022.

### CASES CLOSED ANNUALLY BY PROGRAM





# COMPLIANCE AND OPERATIONS BRANCH

The Compliance and Operations Branch (COB) is tasked with compliance monitoring and compliance determination of Kentucky Pollutant Discharge Elimination System (KPDES) permits. COB performs Discharge Monitoring Report compliance reviews on an annual or semi annual basis for coal facilities within the Commonwealth of Kentucky. Using DMR Compliance Automation, COB performs compliance reviews for all major municipal, sanitary, and industrial facilities on a quarterly basis.

## COMPLIANCE AND OPERATIONS BRANCH

COB also issues Notices of Violations for violations for central office programs and assists those programs with enforcement case referrals when appropriate. In addition, COB assists the other divisions within the Department of Environmental Protection to attain compliance with their statues and regulations through the Permit Program referrals.

The primary duty of an Environmental Scientist 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).



*DENF/COB implemented DMR Compliance Automation for the KYR00 general permit for Stormwater Runoff Associated with Industrial Activity in November 2021.*

### COMPLIANCE AND OPERATIONS BRANCH STAFF

#### Branch Manager

Marlon Bascombe

#### Administration

Dana Back

#### Environmental Scientist

Amanda Breseman

Michelle Rice

Lori Conway

Richard Seiler

Linda Metts

Donald Polly

## COMPLIANCE AND OPERATIONS BRANCH (COB)

In SFY 2022, 97% 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 quarterly basis to ensure compliance with the KPDES Permit.

Three percent (3%) of the NOVs issued by the COB in SFY 2022 were for violations referred by Central Office Programs from the Division of Waste Management and the Division of Water. Violations were referred from Pretreatment, Whole Effluent Toxicity (WET), Water Withdrawal and Water Resources Programs.

If a regulated entity fails to comply with the remedial measures contained in an 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 2,396 Notices of Violation and sent 192 Enforcement Referrals to CEB in SFY 2022.

## 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 Environmental Scientist 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 Scientist researches KPDES Permits, DMRs, SMCRA Permits, facility maps, and bench and lab analysis sheets to determine violations. The Scientist also coordinates with DOW and DNR staff, as well as the regulated entities. In SFY 2022, the Branch reviewed coal companies for the monitoring period of calendar year 2020 and 2021. Many of those violations have resulted in referrals to the Civil Enforcement Branch for formal enforcement action.



*In SFY 2022, Coal Compliance Reviews have resulted in 611 Notices of Violation being issued and 19 referrals to the Civil Enforcement Branch.*

## MAJOR AND MINOR WASTEWATER COMPLIANCE REVIEWS

For municipalities, wastewater 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 are 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 three months. Since the start of DMR Automation, the Minor individual permit reviews are conducted quarterly. In the review of both Major and Minor facilities, the Environmental Scientist researches KPDES permits, DMRs, Inspection Reports from the Program Regional Offices, and past enforcement actions to determine compliance. The Scientist also develops and monitors facility-specific remedial measures when issuing NOVs. 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 an NOV or have Significant Non-Compliance (SNC) violations or other violation patterns may be referred to the Civil Enforcement Branch for formal enforcement action.



*In SFY 2022, Major/Minor Compliance Reviews have resulted in 1,721 Notices of Violation issued and 72 referrals to the Civil Enforcement Branch.*

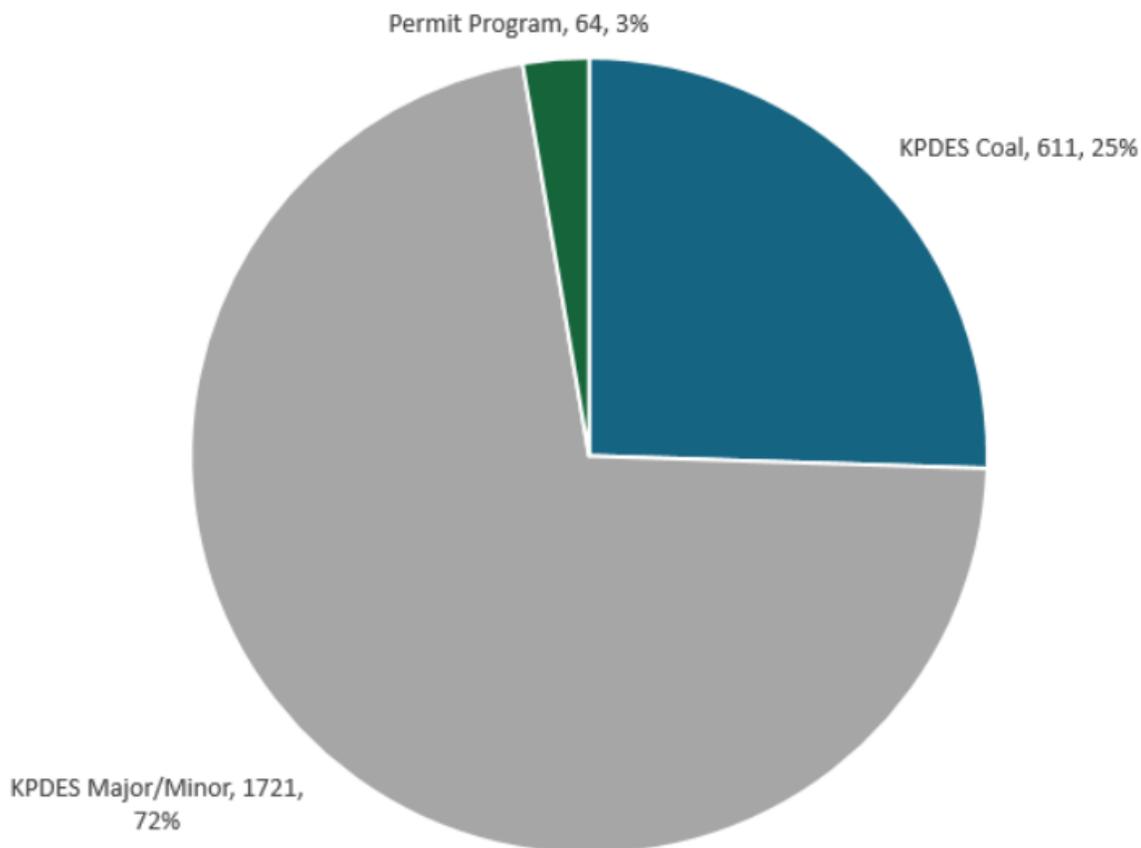
## PERMIT PROGRAM COMPLIANCE REVIEWS

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



In SFY 2022, Permit Program Compliance Reviews have resulted in 64 Notices of Violation issued and 2 referral to the Civil Enforcement Branch.

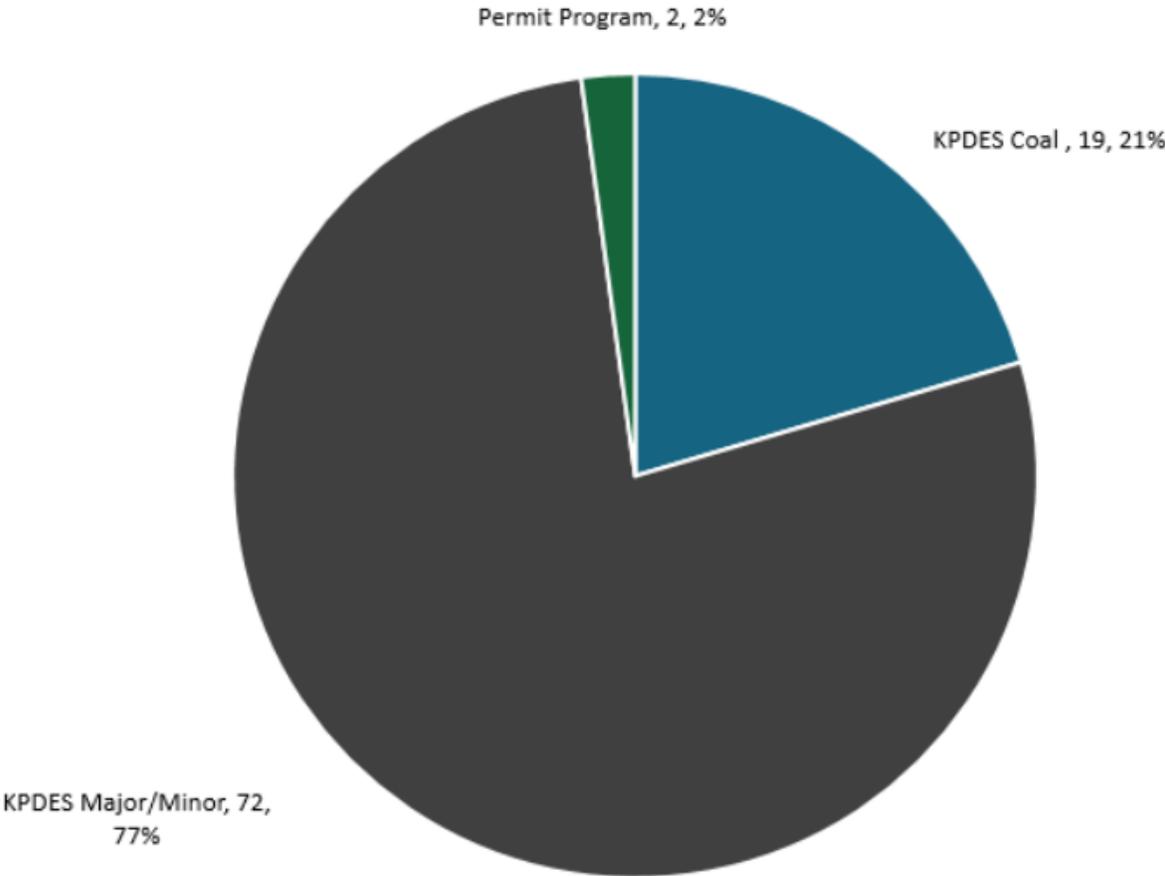
### NOTIFICATIONS (NOVS/LOWS) ISSUED BY REVIEW TYPE



## REFERRALS TO THE CIVIL ENFORCEMENT BRANCH

In SFY 2022, the Compliance and Operation Branch sent 93 referrals to the Civil Enforcement Branch. Each referral then becomes a case, or is consolidated into a larger case, and is assigned to an Environmental Scientist in the Civil Enforcement Branch. During the formal enforcement process, Compliance and Operations Branch staff complete up-to-date compliance reviews and serve as technical experts for the Division during case settlement negotiations. The Environmental Scientist will coordinate with Compliance and Operations Branch staff, the Director’s and Commissioner’s Office staff, the Office of Legal Services attorneys, and company representatives until final resolution is reached.

CASE REFERRALS BY REVIEW TYPE



## 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.



Logged and processed 416 incoming correspondences



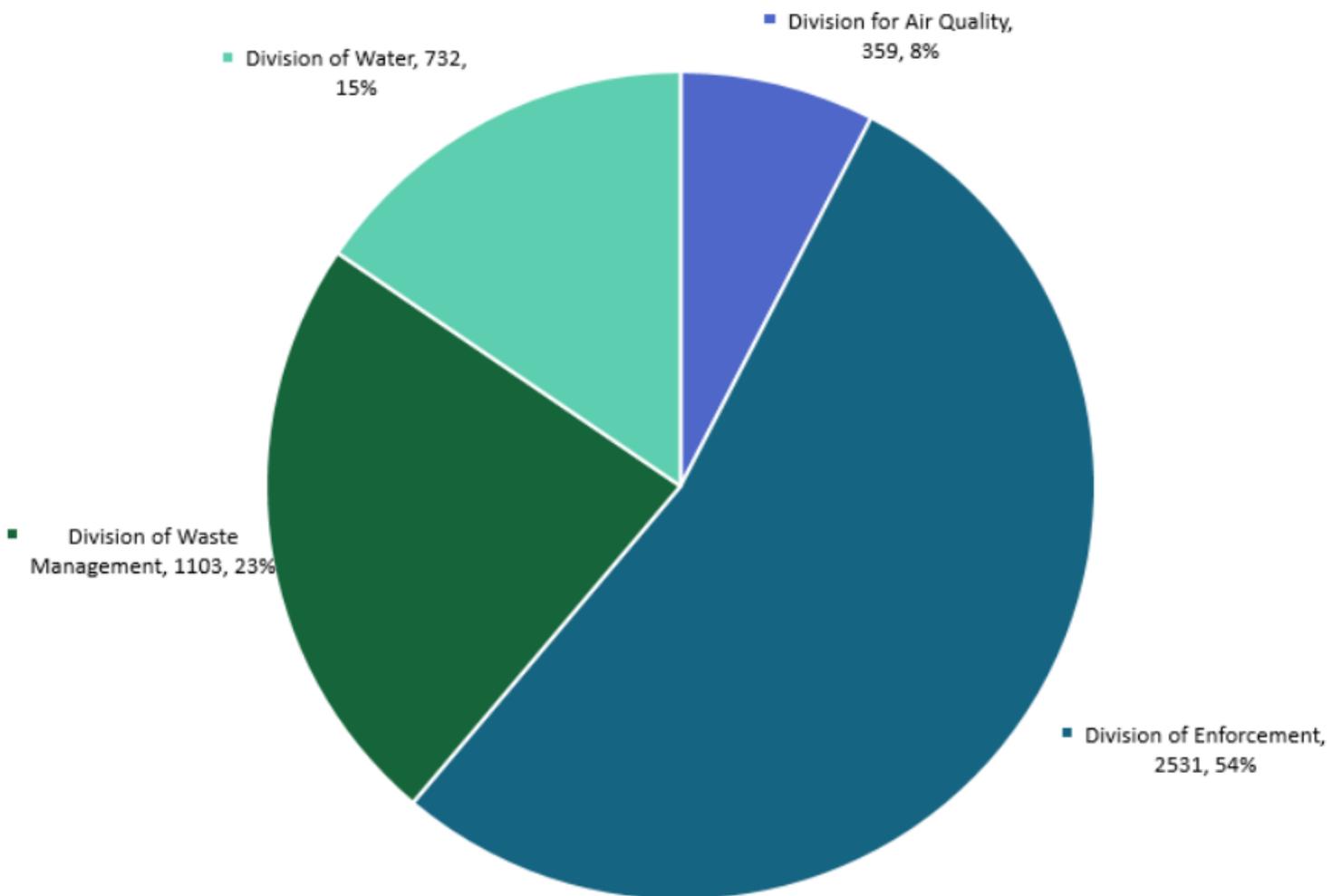
Logged and processed 277 penalty payments that totaled \$800,634.00



## NOTICES OF VIOLATION ISSUED BY DIVISION

The Department as a whole issued 4,725 compliance notifications, in the form of Notices of Violation and Letters of Warning, in SFY 2022. Notices of Violation from the Division of Enforcement made up 54% of all notices issued.

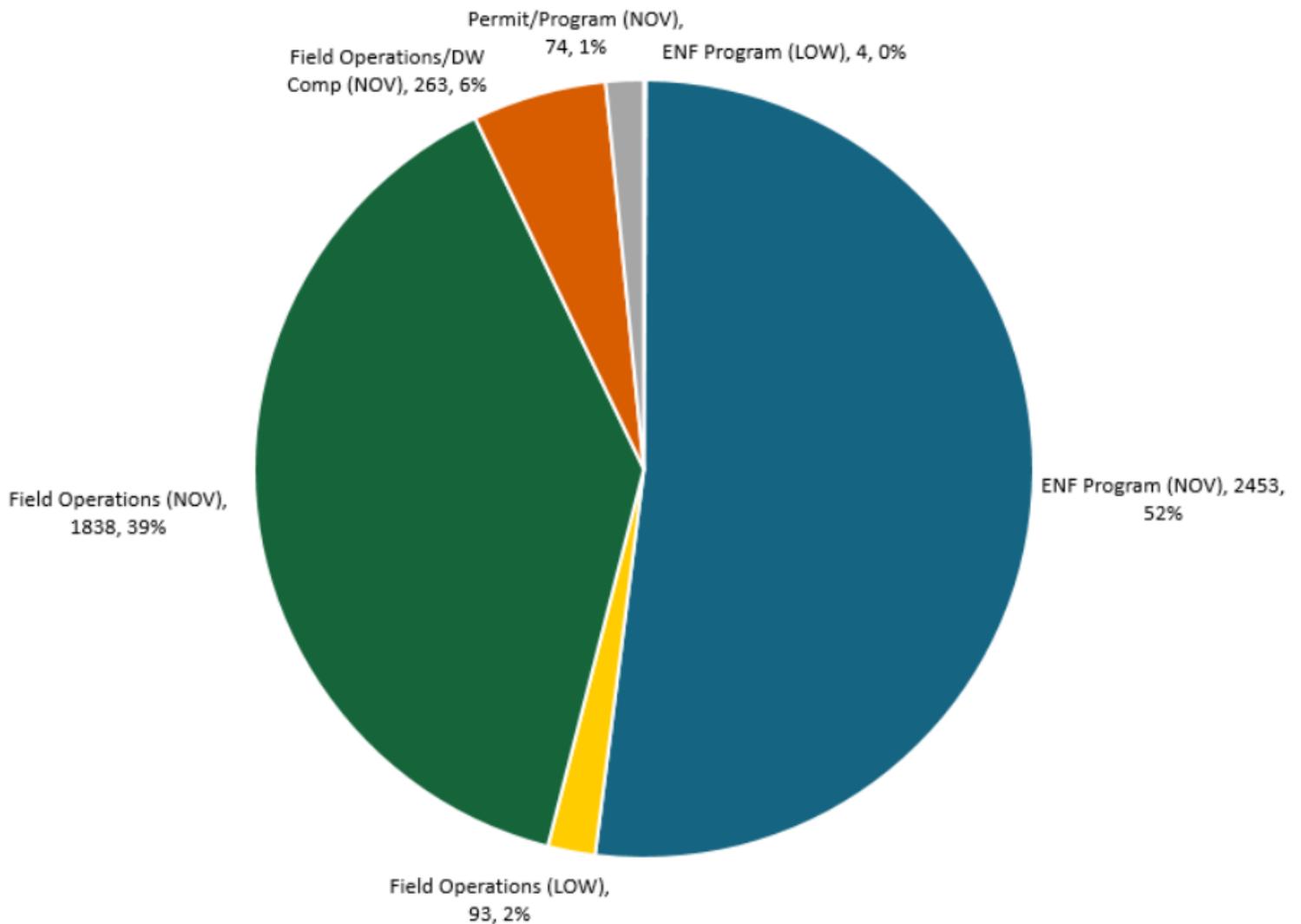
COMPLIANCE NOTIFICATIONS ISSUED BY DIVISION



## COMPLIANCE NOTIFICATIONS ISSUED BY ACTIVITY TYPE

In SFY 2022, 52% of the Notices of Violation and Letters of Warning issued came from the Division of Enforcement ENF Program. The second highest contribution was from Field Operations with 39%.

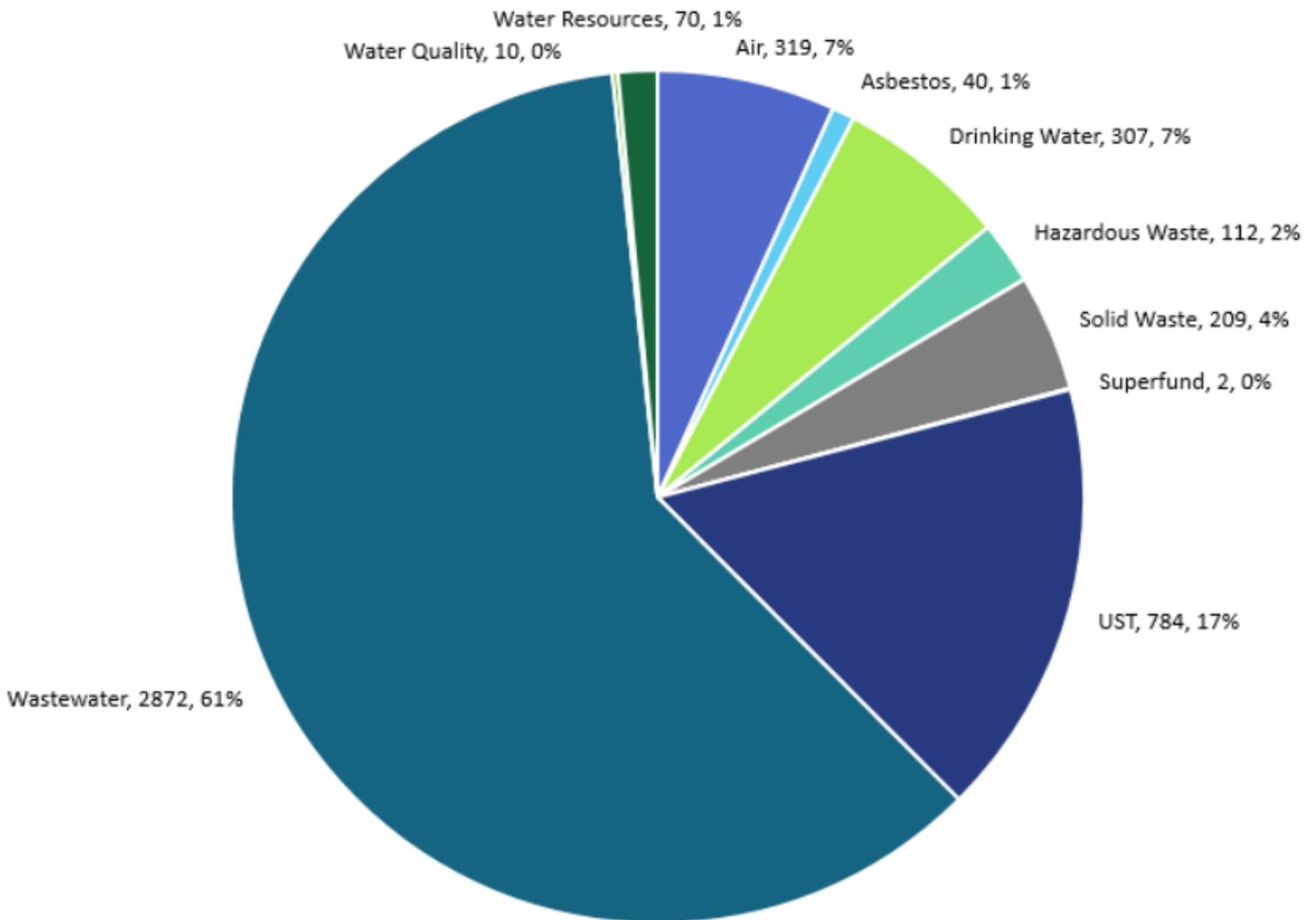
COMPLIANCE NOTIFICATIONS ISSUED BY ACTIVITY TYPE



## COMPLIANCE NOTIFICATIONS ISSUED BY PROGRAM

In SFY 2022, the largest number of notifications issued by KDEP was in the Wastewater program with 2,872 (61%), followed by the UST program with 784 (17%), and the Air program with 319 (7%).

COMPLIANCE NOTIFICATIONS ISSUED BY PROGRAM





# CERTIFICATION AND LICENSING BRANCH

Having access to safe drinking water is something that most of us take for granted. In other parts of the world, safe drinking water is rare. Wastewater treatment is not a daily concern in our busy lives. As late as the mid 20th century, disease was rampant because little was known about the correct way to handle wastewater.

The Operator Certification Program provides certification training, continuing education and, licensing for the operators of drinking water, wastewater, and solid waste facilities in Kentucky. The services of the Certification and Licensing Branch ensure operators have the skills and knowledge needed to perform the duties of their positions and protect Kentucky's environment and the public.



## OPERATOR CERTIFICATION PROGRAM

The staff of the Certification and Licensing Branch spend thousands of hours processing and reviewing applications submitted from drinking water, wastewater, and solid waste operators to ensure they meet the education and experience standards required for their level of certification. The training staff typically spend weeks on the road providing certification and CEU trainings. With the continued pandemic, the program had to cease training and testing events for a time. Staff continued sending online training presentations to operators at no cost. The program devised and implemented a safe and socially distanced testing protocol to continue testing as well as provided proctored online testing for those who could not leave their system due to staffing issues.



*The Operator Certification Branch staff was able to tour the Franklin County Drinking Water Treatment Plant.*

## OPERATOR CERTIFICATION STAFF

### Manager

Jessica Wilhoite

### Environmental Scientist

BJ Bland

John Walker

### Administration

Veronica Roland

Katie Mauer

Chelsey Jenkins

Lyndsi Hersch



## CERTIFICATION

During SFY22, the Operator Certification Program received and processed 928 applications from operators seeking to take a certification exam. The program administered 723 exams that resulted in the issuance of 159 new or upgraded wastewater licenses, 204 new or upgraded drinking water licenses, and 16 new solid waste licenses. The drinking water program had a pass rate of 56%, the wastewater program had a pass rate of 62%, and the solid waste program had a pass rate of 83%.

## RENEWAL

All operators are required to renew their licenses every two years. The drinking water renewal cycle took place during the past fiscal year. The operator certification program administrative staff sent postcards to more than 3,395 certified operators reminding them of the renewal cycle, training opportunities, and testing events. The program issued 2,246 wallet cards for wastewater and drinking water certification.





## TRAINING

The Operator Certification and Licensing Branch provides training for the Commonwealth’s drinking water, wastewater, and solid waste operators. Both certification classes and continuing education classes are offered across the state. Topics include new technologies, permits, regulatory requirements, and issues related to water and wastewater treatment, and distribution and solid waste management.

For safety reasons due to the pandemic, in-person training continued to be at a standstill with the exception of two training events. The program continued to provide free online training which is emailed to operators. The program completed 125 training videos with 6,390+ views.





## BOARD SUPPORT

Serving in an advisory capacity, the Kentucky Board of Certification of Water Treatment and Distribution System Operators and the Kentucky Board of Certification of Wastewater System Operators assist the agency in the implementation of the operator certification program. The board reviews applications, reciprocity requests, proposed regulation revisions, and operator disciplinary action requests.

The Operator Certification Program and the Kentucky Water Resource Research Institute at the University of Kentucky started a project to revise the operator certification manuals. The Boards of Certification work with the division and UK in determining appropriate content for the manuals. The Wastewater Treatment and Collection manuals are in their final review along with the corresponding certification examinations. The Distribution manual is now in the process of being written.

### WASTEWATER BOARD MEMBERS

Larry Grubbs | Chairman

Robin Strader | Vice Chairman

David Pedigo | Industrial Operator Rep

Jason Marion | University Rep

Alan Todd | Management Rep

Greg Goode | Cabinet Rep

### DRINKING WATER BOARD MEMBERS

Lonnie Banks | Chairman

Alan Todd | Vice Chairman

Jason Marion | University Rep

Greg Goode | Cabinet Rep

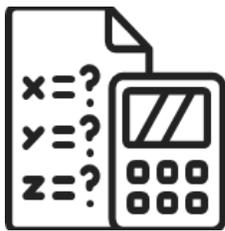


## APPLICATIONS RECEIVED



928

## TESTING EVENTS



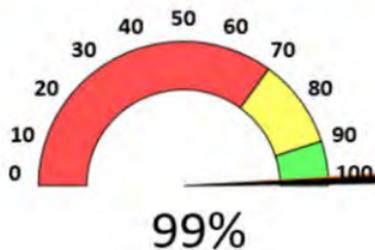
28

## EXAM ATTENDEES



723

## ATTENDEE TRAINING SATISFACTION

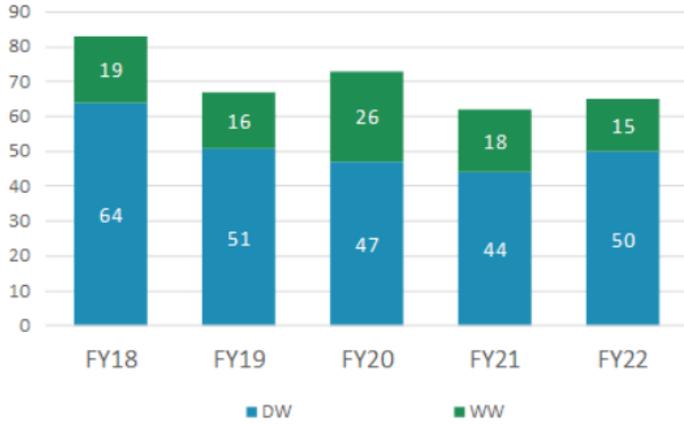


## Pass Rate

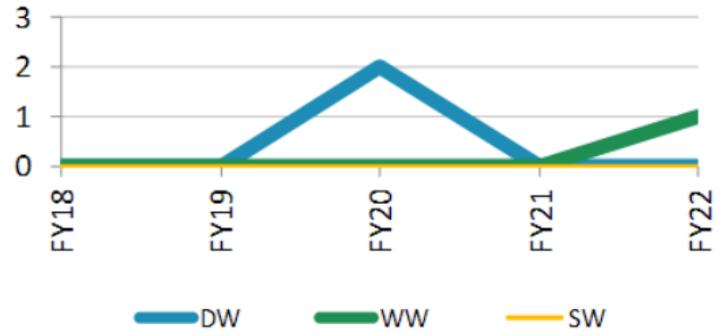
Overall Pass Rate	60%
WW Treatment 4	50%
WW Treatment 3	64%
WW Treatment 2	60%
WW Treatment 1	55%
WW Treatment 1-OIT	100%
WW Treatment Limited	33%
WW Collection 4	83%
WW Collection 3	78%
WW Collection 2	73%
WW Collection 1	67%
Compost Operator	100%
Landfill Operator	100%
Landfill Manager	80%
DW Distribution 4	62%
DW Distribution 2	58%
DW Distribution 2-OIT	0%
DW Distribution 1	62%
DW Distribution 1-OIT	33%
DW Groundwater 3	100%
DW Groundwater 2	100%
DW Groundwater 1	100%
DW Treatment 4	56%
DW Treatment 3	58%
DW Treatment 3-OIT	100%
DW Treatment 2	59%
DW Treatment 1	44%
DW Treatment 1-OIT	100%
Bottled Water	100%



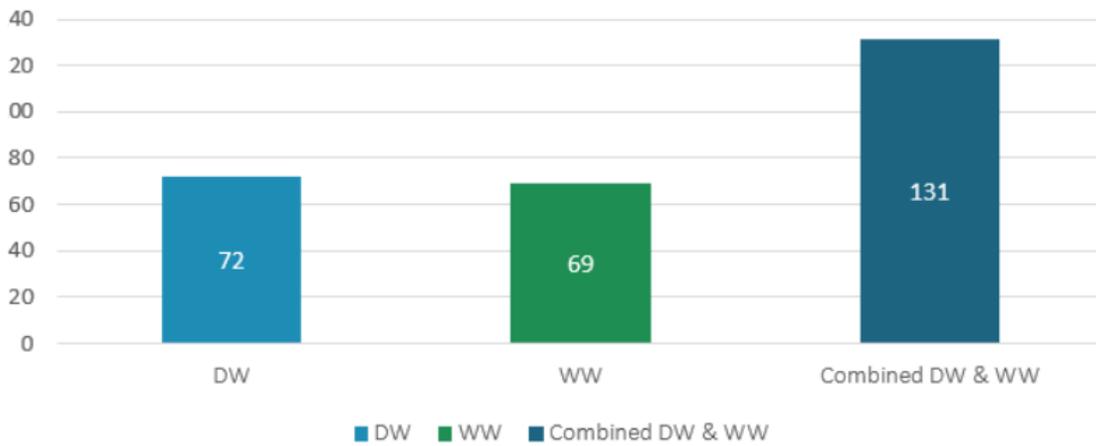
### BOARD REVIEW CLASS 4 APPLICATIONS



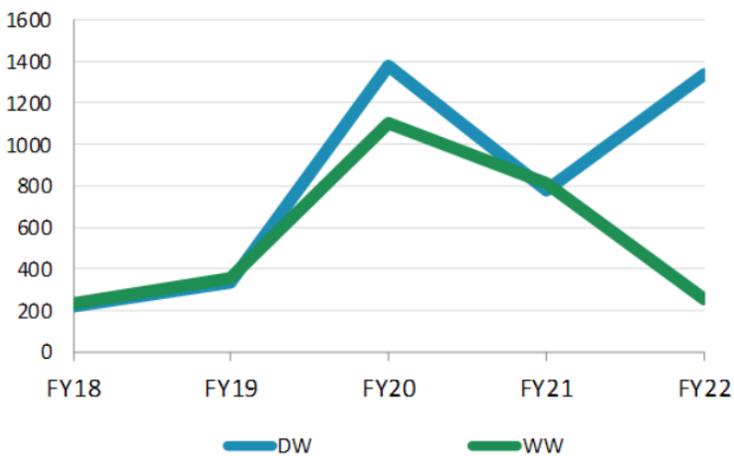
### OPERATOR DISCIPLINARY ACTION REVIEWS



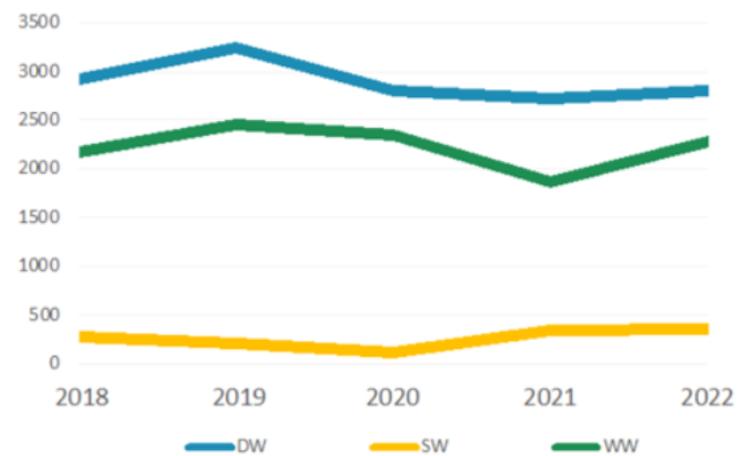
### TRAINING REQUEST REVIEWED



### APPROVED CERTIFICATION HOURS

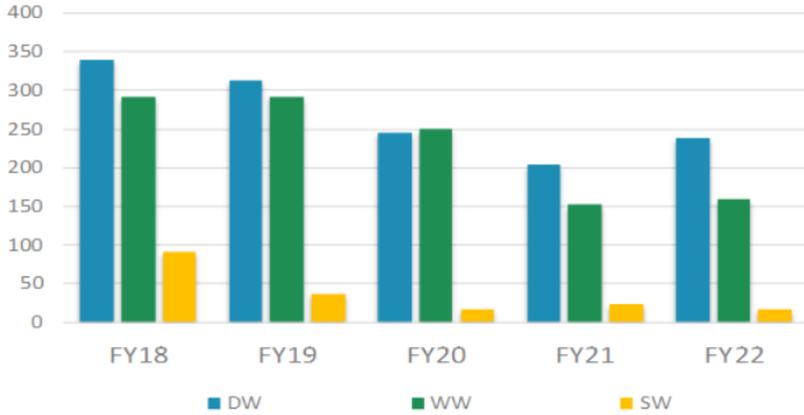


### ACTIVE LICENSE





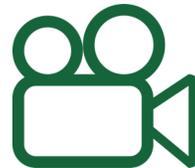
## NEW AND UPGRADED LICENSES



## TRAINING VIDEOS



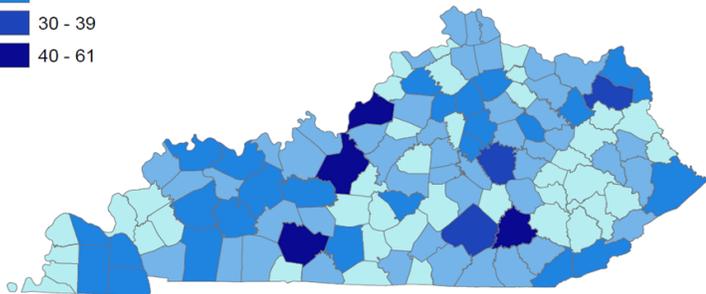
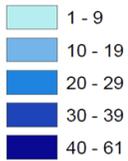
6,390 views



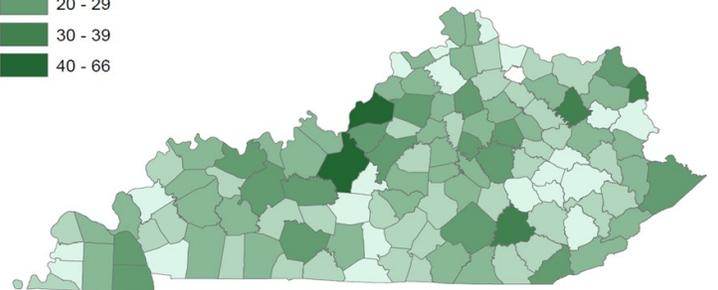
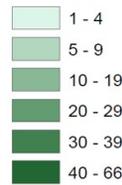
125 videos

## KENTUCKY OPERATOR AVAILABILITY

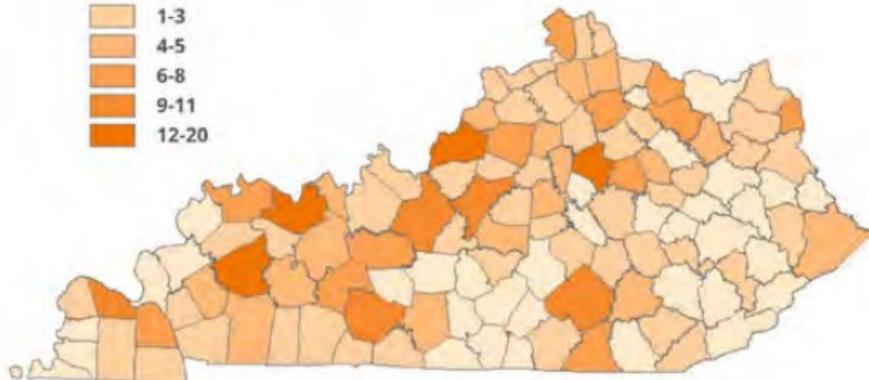
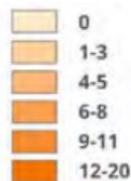
### DRINKING WATER



### WASTEWATER



### SOLID WASTE





# ENVIRONMENTAL ASSISTANCE BRANCH

Understanding and complying with complicated environmental regulations can be difficult, especially for someone who is unfamiliar with federal or state requirements. Often, small businesses do not have the financial means to have an environmental specialist available to interpret these laws. The Environmental Compliance Assistance Program (ECAP) realizes that small businesses sometimes need assistance, and it has the tools and services necessary to provide that assistance to businesses and specific industries across Kentucky. There is no charge for ECAP's services. The driver for the program is the desire to help small businesses in the Commonwealth comply with their environmental obligations and be successful.



## ENVIRONMENTAL COMPLIANCE ASSISTANCE PROGRAM

Compliance with environmental regulations can often be overwhelming and complicated, especially for smaller businesses without dedicated environmental staff. The Environmental Compliance Assistance Program (ECAP) is available to assist with questions and issues regarding compliance with Kentucky's air, water, and waste requirements. ECAP staff is available to assist any facility or individual, but specializes in providing assistance to small businesses. In addition to answering technical questions, ECAP provides detailed one-on-one assistance for small businesses through on-site assessments and air permit application assistance. ECAP staff also provide trainings and tools to help improve compliance with Kentucky's environmental requirements.



## ENVIRONMENTAL COMPLIANCE ASSISTANCE PROGRAM STAFF

### Manager

Derek Bozzell

### Environmental Scientist

Erich Cleaver

Emily Oostveen

Allison Hall

### Environmental Assistance Training Workshops

*ECAP provides opportunities to stay up to date on regulations and requirements.*



## ASSISTANCE

ECAP helps regulated entities from assisting with simple phone calls concerning environmental regulations to in-depth assistance requests. The program is comprised of technical assistance specialists who, on a daily basis, provide technical information on a broad range of environmental topics to the public, regulated entities, and state agencies.



Fielded 915  
assistance  
requests



Responded  
to 67 small  
business  
assistance  
request



Offered 54  
detailed  
assurances

## INCENTIVES

One of the many incentives of the program is the ability to work with facilities and help troubleshoot problems.

Some of the types of assistance provided include: free compliance site visits, small business air quality permit application assistance, and development of tools and resources to enhance facility operations.

Another positive aspect of the program is the ability to use enforcement discretion and work proactively with clients to identify and correct compliance issues. Often times, there can be a hesitancy by the regulated community to come forward with knowledge of environmental compliance issues. This hesitancy is brought on by the fear of civil enforcement action. However, ECAP's enforcement discretion policy allows clients to utilize the self-audit privilege to self-disclose environmental violations. The correction of these issues may assist the facility in avoiding violations and costly penalties.



## REGULATIONS

ECAP helps entities understand and comply with environmental regulations in a variety of multimedia areas. The program focuses on assisting these entities in understanding Kentucky's and the U.S. Environmental Protection Agency's regulations and requirements.

Throughout the year, ECAP provides a number of compliance education related services to assist in creating a better understanding of regulatory requirements. A large part of this assistance focuses on air quality related topics as part of the Clean Air Act's Title V requirement to assist small businesses.

## TOOL DEVELOPMENT

The goal of ECAP is to ensure awareness and understanding of environmental requirements, including permitting requirements. Environmental permits may be required by federal, state and local governments to minimize the impacts that businesses and construction have on human health and the environment. The specific regulations and permits that could apply to a facility may vary depending on location, types of activities, and the facility's potential to emit pollutants. To help facilities better understand their compliance requirements, ECAP regularly develops and publishes fact sheets and guidance documents.

During the year, ECAP staff has reviewed many existing factsheets and documents to ensure they are up-to-date with regulations, including resources on Agriculture Water Quality Plans, proper handling of distillers' grains, dry cleaner compliance, and poultry and livestock disposal requirements. Staff also made sure video offerings were up-to-date, including three videos relating to air quality permit reporting.



## TRAINING EVENTS

ECAP is still operating under COVID restrictions and not holding in-person training events. During FY22, the program successfully pivoted to, holding a successful virtual compliance workshop for the concrete industry.

All of the program's usual beginner-level presentations covering air quality, water quality, and waste management permits and topics are being converted into videos. The change to free online videos that are available at any time should make the information ECAP normally provides available to a broader audience. Currently, six videos are posted and available for the public to view at any time and others are being finalized.

## TRAINING OUTCOMES

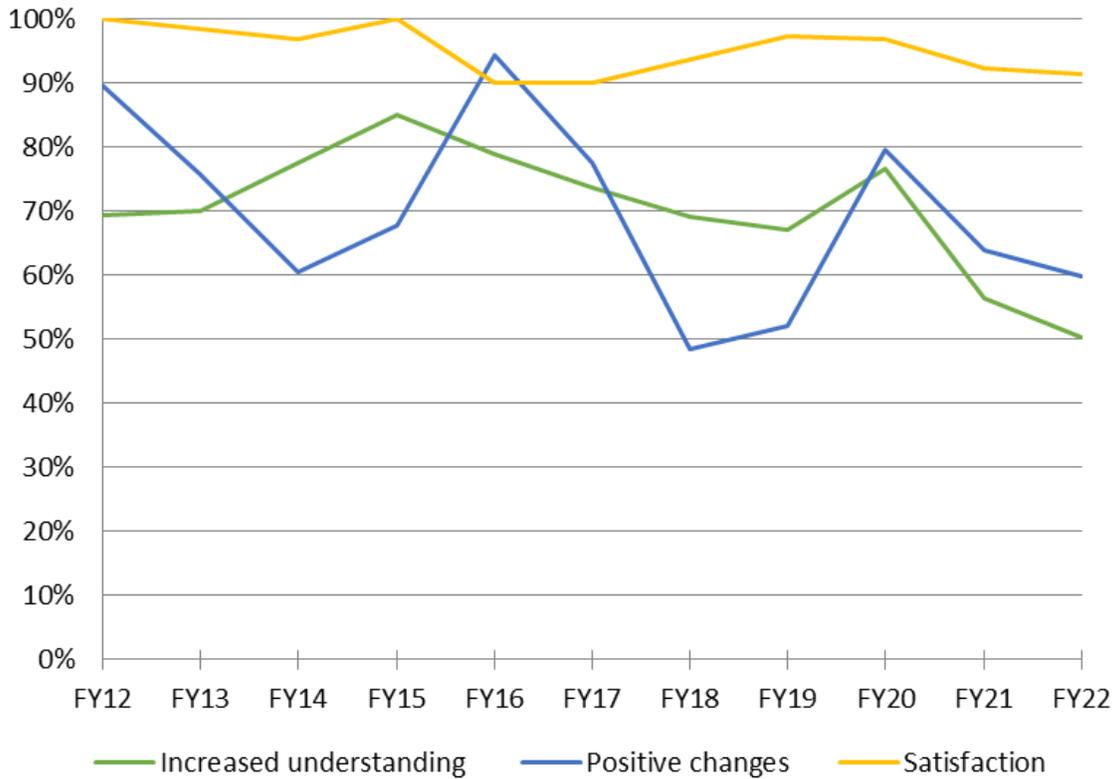
Though ECAP was only able to conduct 1 training event this Fiscal Year, the two-hour class trained 19 individuals with a reported 100% satisfaction rate.

## UPCOMING PRIORITIES

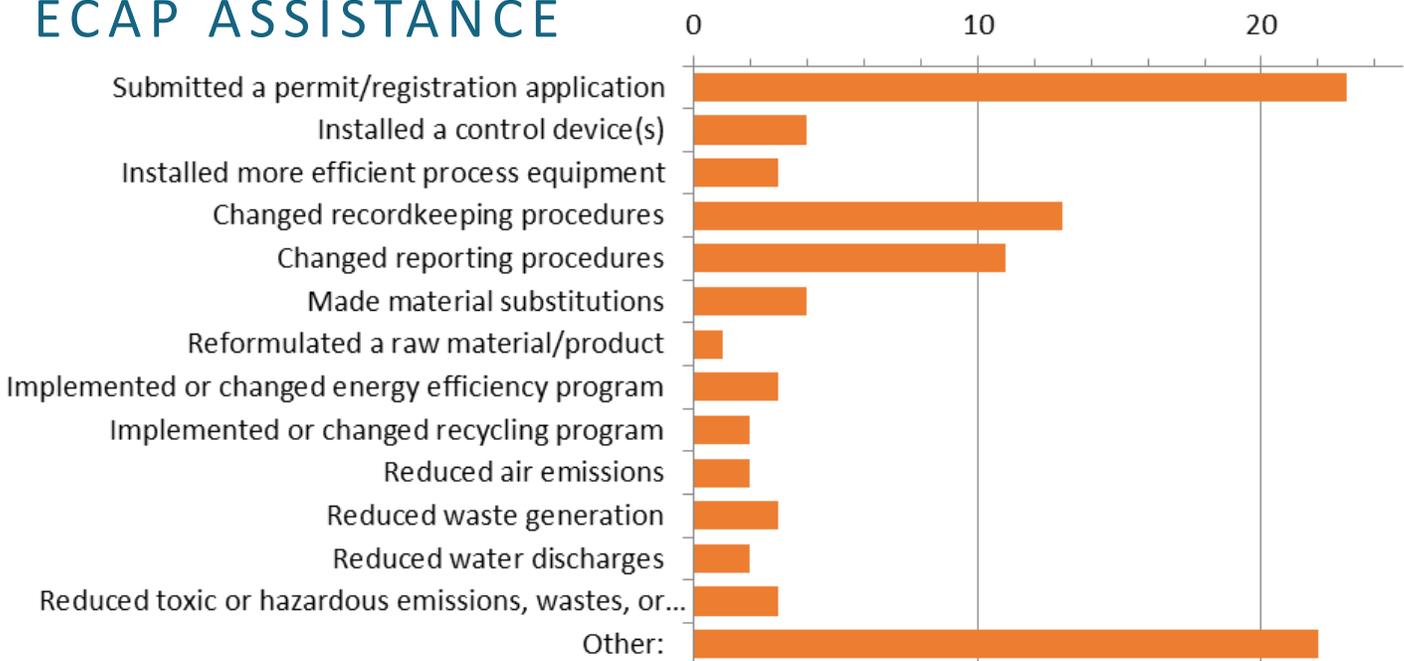
In the coming year, the Environmental Compliance Assistance Program hopes to continue to bolster the outreach portion of its duties. ECAP staff are reviewing existing guidance documents to ensure they are up to date with all current regulations and requirements. Staff continue to develop new documents covering current topics and regulation changes.



## REPORTED CLIENT OUTCOMES FOLLOWING ECAP ASSISTANCE

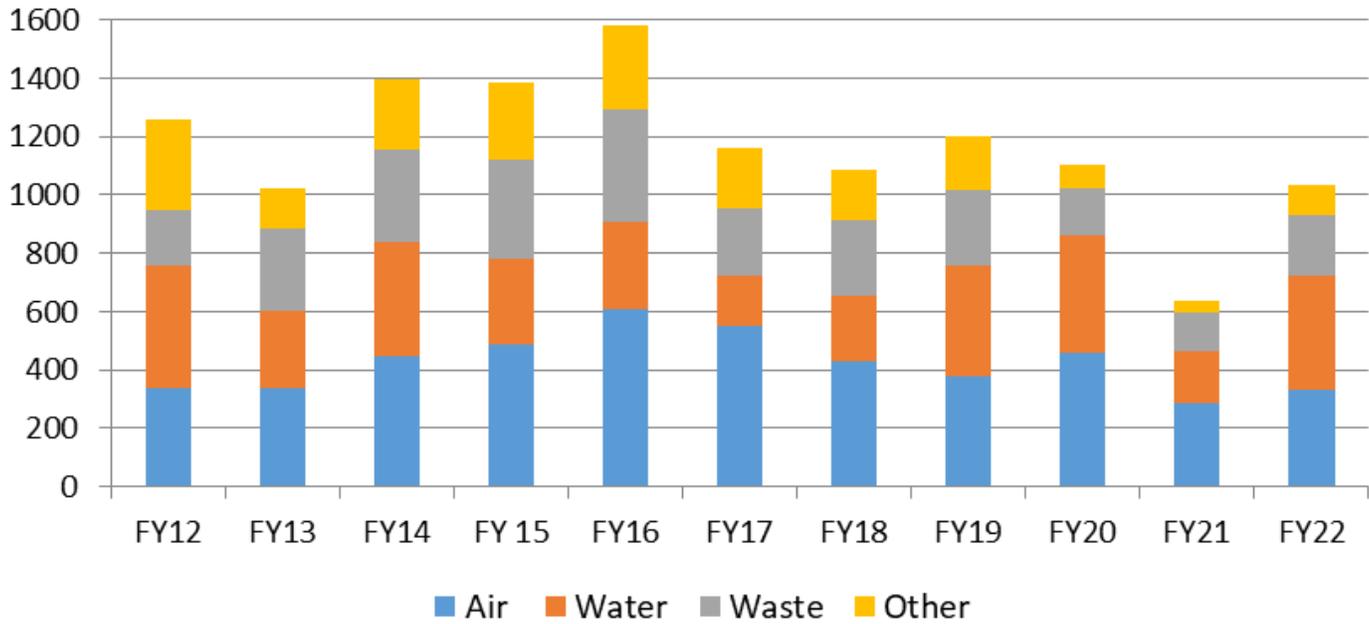


## REPORTED CLIENT BEHAVIOR CHANGES AFTER ECAP ASSISTANCE



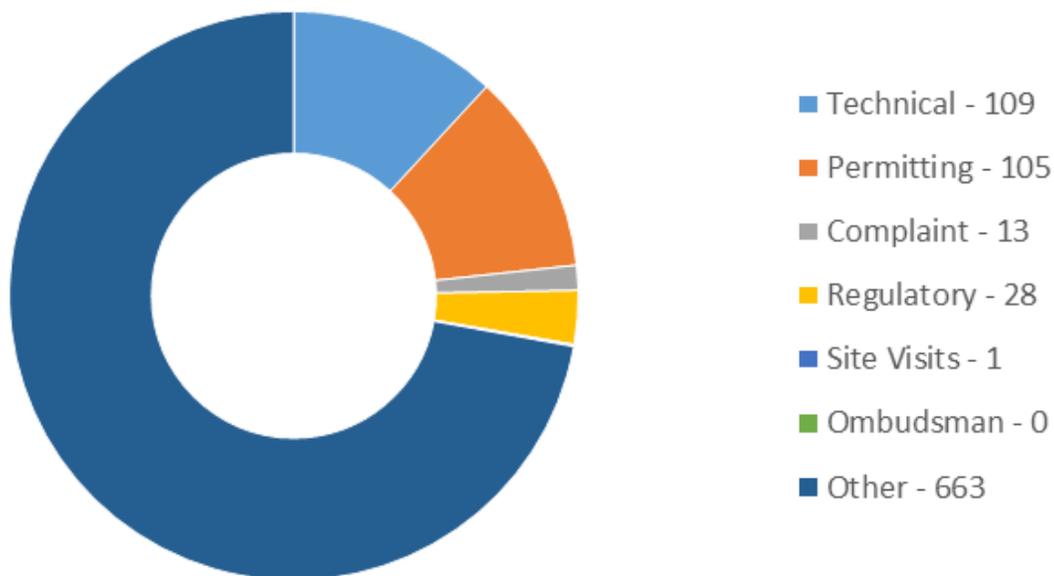


## ASSISTANCE REQUEST BY MEDIA



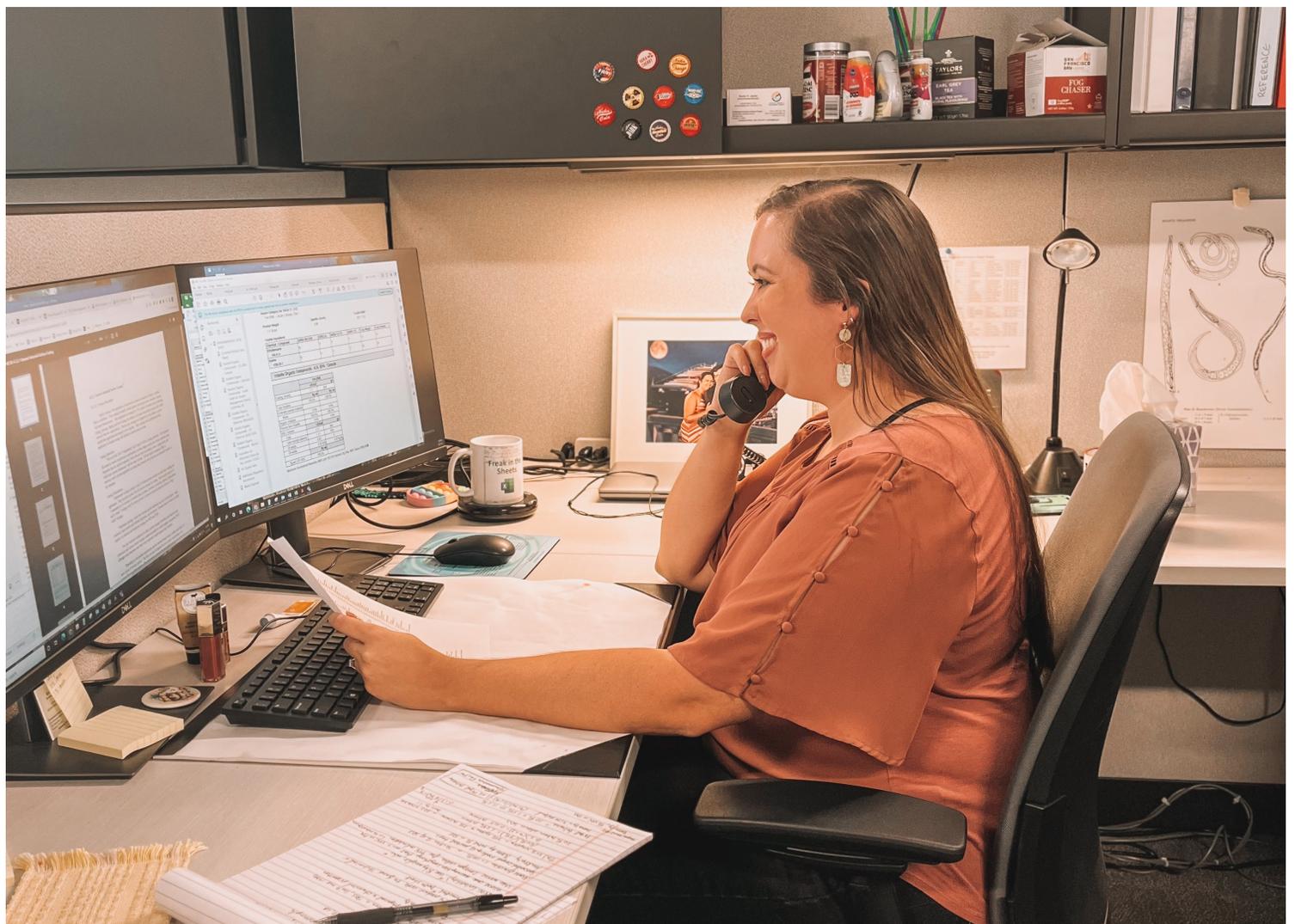
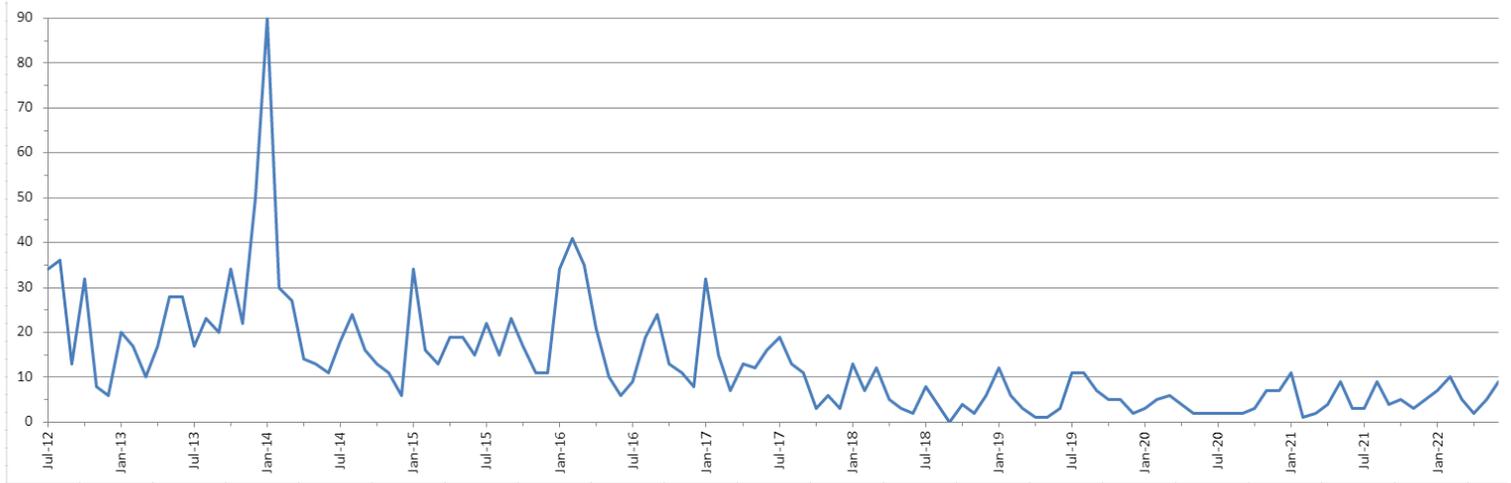
## TYPE OF ASSISTANCE REQUESTS

Total: 919 Requests





## SMALL BUSINESS REQUESTS





# KY EXCEL ENVIRONMENTAL ASSISTANCE BRANCH

DENF has created programs that go beyond operator certification and environmental compliance assistance. KY EXCEL is Kentucky’s voluntary environmental leadership program, which recognizes those who do more than is required to protect and conserve the Commonwealth’s land, air and water resources.

By actively engaging and recognizing citizens, businesses, and organizations at all levels, KY EXCEL creates a community of like-minded individuals who can work together, exchange resources, and provide encouragement .



## KENTUCKY EXCELLENCE IN ENVIRONMENTAL LEADERSHIP (KY EXCEL)

KY EXCEL is the Kentucky Department for Environmental Protection’s environmental leadership program. In 2005, groundwork for KY EXCEL was laid by cabinet staff meeting with citizens and companies and reviewing other environmental leadership programs. With the foundation set, KY EXCEL launched on Jan. 17, 2006.

As a program, KY EXCEL uses a circular economy approach to facilitate environmental leadership and recognize environmental stewards. KY EXCEL offers a home for all of Kentucky's environmental stewards and an avenue to develop environmental leaders. For those who are already on the path to stewardship, KY EXCEL provides a place to explore environmental issues, engage in environmentally beneficial projects and network with other like-minded individuals. For those new to environmental stewardship, KY EXCEL provides information, resources and ideas to encourage environmental leadership development.



### KY EXCEL STAFF

#### Manager

Derek Bozell

#### PROGRAM

Robyn Whitted

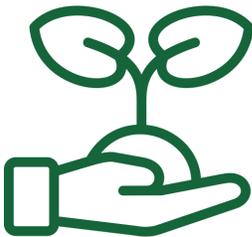
*KY EXCEL Program Coordinator, Robyn Whitted, speaks with students from Shepherdsville Elementary School*



## FACILITATING ENVIRONMENTAL LEADERSHIP

Environmental leadership refers to not only complying with environmental regulations, but going above and beyond environmental compliance. To facilitate environmental leadership throughout the Commonwealth, KY EXCEL provides the following services:

- Assistance with developing voluntary environmental goals and the implementation and evaluation of projects.
- Coordination with other Department services, such as compliance assistance.
- Virtual or on-site staff consultation and research assistance to help with environmental leadership efforts and brainstorm solutions to implement better environmental stewardship practices.
- Educational and networking events



45 Environmental Leadership Assistance Requests



65 Coordination with other Department Services



11 Educational Presentation and Networking Events



## RECOGNIZING ENVIRONMENTAL LEADERS

KY EXCEL also encourages environmental leadership by providing avenues for recognition through KY EXCEL membership. From beginners to environmental stewardship experts, KY EXCEL's membership program not only provides recognition but is a community filled with information, resources, and ideas to encourage development of environmental leaders throughout the Commonwealth. Whether the steward is an individual, household, farm, organization, community, local government, or business, there is a level for all and annual membership is free for all!

## REWARDING EXCELLENCE

Outstanding efforts by KY EXCEL members are recognized through both the Beacon Awards, and the DEP's Environmental Excellence Award program. Members of all levels and achievements are welcome to attend the KY EXCEL Open House, which allows them to highlight their own projects, while talking to new members or potential members.





## MEMBERSHIP – HISTORICAL OVERVIEW

When KY EXCEL was first formed in 2006, different membership levels were established for regulated (i.e. entities who have an air, water, waste permit from the Department for Environmental Protection) and nonregulated members. Through discussion with companies, it was determined that even though a company may not have a 100 percent compliance history, the company might still be taking positive steps to protect Kentucky's environment. There was a desire to have a place for these companies in the program. Based on this, a tiered system was created for members which are regulated by DEP; Master, Leader, Partner. The Master level is open to DEP regulated members who have a sustained history of environmental compliance. The Partner and Leader levels are available to DEP regulated entities who might have some environmental concerns and have a desire to protect the environment while working to improve their compliance.

Realizing entities and individuals which are not regulated by DEP may wish to be members of KY EXCEL, the Advocate level was developed. Advocate level members can be anyone (e.g. households, communities, local governments, non-DEP regulated businesses, schools, and advocacy groups). In 2016 KY EXCEL's fifth membership level was developed, Farm. The Farm level is open to all individuals and entities that owned at least five acres of land and farm crops or livestock or are an advocacy group for farmers/agriculture.



## CHANGES TO MEMBERSHIP

Over the past fiscal year, KY EXCEL memberships were streamlined from 5 different types of membership to just three. This was done by consolidating all members (i.e. both regulated and non-regulated entities) into the same tiered membership levels: Bronze, Silver and Gold.

Membership is free and applying is simple. At any time, applicants can submit a completed membership application with the appropriate attachments. Our staff is available to discuss the level of membership that is right for applicant and to assist them through the application process. Membership is annual and must be renewed every year by December 31st.

For a list of membership benefits: [Click this text](#)

BRONZE	<ul style="list-style-type: none"> <li>• 1 or more annual goal(s)</li> <li>• Annually complete an Environmental Leadership Self-Assessment</li> </ul>
SILVER	<ul style="list-style-type: none"> <li>• 3 or more annual goals</li> <li>• Annual complete an Environmental Leadership Self-Assessment: score of 50 or higher</li> </ul>
GOLD	<ul style="list-style-type: none"> <li>• 5 or more annual goals; one of which must be environmental education/outreach</li> <li>• Annually complete an Environmental Leadership Self-Assessment; score of 75 or higher</li> <li>• Have an Environmental Management Plan (EMP)</li> <li>• Pass a 3 year compliance history check</li> </ul>



## MEMBERSHIP CRITERIA EXPLAINED

### GOAL:

A goal may be tailored to meet a member's unique needs and situation. However, each goal must benefit the environment and be voluntary (i.e. not required by law or regulation).

Additionally, each goal must be specific, measurable, achievable, relevant and time-bound (SMART). Members are required to provide a report on each proposed goal one year after each goal was approved by KY EXCEL Staff.

### ENVIRONMENTAL LEADERSHIP SELF-ASSESSMENT:

This is a workbook designed by KY EXCEL staff to assist both established and up-and-coming environmental stewards to be proactive and routinely assess their environmental leadership efforts (e.g. environmental management planning, environmental compliance and environmental stewardship).

### ENVIRONMENTAL MANAGEMENT PLAN:

An EMP describes the processes an organization or individual follows to minimize risks to the environment and reduce an entity's (or an individual's) ecological footprint. EMPs can vary in complexity yet all should include the following basic elements: Environmental Policy, Planning, Implementation and Operation, Checking and Corrective Action, Management Review, and Commitment to Improvement



## MAJOR ACCOMPLISHMENTS

- Awarded six KY EXCEL Beacon Awards. Short videos were developed to highlight each award winner.
- Coordinated and held a three part virtual KY EXCEL Webinar Series focused on carbon footprint reduction for the automotive industry and its supply chain.
- Developed more than 10 online educational resources that included videos and guides designed to assist both KY EXCEL members and the general public with environmental leadership related practices.
- Over the past year, KY EXCEL members have:
  - Managed more than 1,000 acres of green space
  - Conserved more than 2 million gallons of water
  - Saved more than 1 million kilowatts of electricity
  - Prevented more than 32 million tons of pollution
  - Educated more than 62,000 people
  - Participated in more than 169 river sweep and litter pickups
  - Saved more than \$2,000,000

A list of all current KY EXCEL members can be found by [clicking this text](#).



## BEACON AWARDS

Through the KY EXCEL Beacon Awards, the program recognizes exemplary efforts and activities which were provided in the KY EXCEL Member Reports submitted in December of 2021.

<i>Category</i>	<i>Description</i>
CONSERVATION	Protect natural habitat, specific wildlife species or restore/improve a natural resource. This includes, but is not limited to, exotic species management, land preservation and wildlife management.
ENVIRONMENTAL EDUCATION	Promote a better understanding of Kentucky's environment. This includes, but is not limited to, community education, education support, outreach and service learning.
PERFORMANCE IMPROVEMENT	Promote improvements in the ability of a regulated entity to comply with Kentucky's environmental requirements. This includes, but is not limited to, technical assistance, research and development and mentoring.
POLLUTION PREVENTION	Reduce, eliminate, or prevent pollution at its source prior to recycling, treatment or disposal. This includes but is not limited to in-process beneficial reuse, green engineering, green supply chain, resource efficiency, and source reduction.
RESTORATION	Improve degraded resources. This includes, but is not limited to contamination, natural resources, offsets and restoration support.
WASTE REDUCTION	Reduce the amount of waste that would otherwise be disposed in a landfill. This includes, but is not limited to, beneficial reuse and recycling.



## BEACON AWARDS

Normally one award is awarded for each award category during the annual KY EXCELebration. Unfortunately, the 2022 KY EXCELebration was canceled due to public health concerns. Instead short videos were developed to highlight each award winner.

<i>Category</i>	<i>Goal</i>	<i>Member Name</i>	<i>Membership Type</i>
CONSERVATION	Planting Trees on Zeon Chemical’s Louisville Kentucky Campus	Zeon Chemical L.P.	Bronze
ENVIRONMENTAL EDUCATION	Justice Elementary Self-Sustainability and Tomato Education	Sekisui S-Lec, America	Gold
PERFORMANCE IMPROVEMENT	Ammonia Refrigeration Chiller A (Utilities Department )	J.M. Smucker	Silver
POLLUTION PREVENTION	Plastics Sludge and Carbon Dioxide Reduction	Toyota Motor Manufacturing Kentucky	Gold
RESTORATION	Elkhorn Dam Removal	Jim Beam Frankfort	Silver
WASTE REDUCTION	Glass Recycling Opportunities	Maker’s Mark Distillery	Gold

Congratulations to all Award Winners!



## TRAINING AND EDUCATION

Due to COVID 19, no in-person training or educational events were held. Instead, KY EXCEL staff developed multiple online pollution prevention educational resources which are accessible to KY EXCEL members and the general public. These resources can be accessed by [clicking this text](#).

## UPCOMING PRIORITIES

The KY EXCEL program is a community filled with information, resources, and ideas to encourage environmental leadership development while also providing a place for KY EXCEL members to explore environmental issues, engage in environmentally beneficial projects, and network with like-minded individuals.

In order to ensure all these objective are met, the KY EXCEL staff is prioritizing:

- The coordination of virtual workshop and networking events for FY 2023
- Creating learning modules and educational online resources
- Exploring new avenues to increase KY EXCEL member recognition
- Developing partnerships to increase the facilitation of environmental leadership
- Pursue training for KY EXCEL Staff and gain additional KY EXCEL Member feedback to increase the quality of services currently being provided





# BROWNFIELDS ENVIRONMENTAL ASSISTANCE BRANCH

The Kentucky Brownfield Program strives to improve the state’s overall environmental and economic health by helping communities identify, remediate, and redevelop brownfields. Brownfields are abandoned or underutilized properties where reuse is complicated by real or perceived contamination. These properties often attract vandalism and crime that can further degrade the environment and depress a community. Recognizing the impact of brownfields and the need to bring these properties back into productive use, the program focuses on providing technical and financial assistance to local governments, nonprofits, and quasi-governmental agencies.

## KENTUCKY BROWNFIELD PROGRAM

Since 2012, program services have promoted redevelopment by offering free environmental assessments, liability protections, and funding to eligible entities across the state. In SFY 2022, the interest in brownfield redevelopment increased considerably due to the passage of the Bipartisan Infrastructure Law (BIL). To address the growing interest, the program expanded its staff, enhanced its outreach efforts, and increased the number of site assessments conducted for potentially contaminated properties. Program staff plan to carry out and add to these accomplishments throughout the next five years as increased funding becomes available through the new infrastructure law.



*Amanda LeFevre participates at the ground breaking ceremony for KY Steam Heritage Council in Irvine, KY.*

### BROWNFIELD STAFF

#### Manager

Derek Bozell

#### Environmental

#### Scientist

Lynn True

Eric Eisiminger



## EDUCATION AND OUTREACH

Late last year, the Bipartisan Infrastructure Law allocated \$1.5 billion in new funding toward revitalizing brownfields. In preparation for the increase in funding, program staff set out to develop an educational campaign for the coming year. In January, an additional staff member was hired to help develop the campaign and conduct outreach sessions. By March, program staff began offering a series of outreach sessions focusing on how communities could utilize BIL funding to assess and clean up brownfields in their area. The initial sessions were conducted at four regional locations across the state. At the time of this report, program staff had provided in-person presentations and/or virtual presentations for nearly every Area Development District (ADD) in the state. In addition, a renewed collaboration with the Department for Local Government was initiated in an effort to help disseminate information to local officials.

While ongoing outreach efforts include the program's newsletter, Kentucky Brownfield Bulletin, webpages, and social networking platforms, the program pursued new initiatives as well. Most notably, the program sought partnerships with U of L's Center for Environmental Policy and Management and UK's Community and Economic Development Initiative of Kentucky (CEDIK) to help implement activities such as developing inventories and writing grants.



## GRANT WRITING WORKSHOPS

Each year, program staff offer grant writing workshops to local officials, community leaders, nonprofit members, and anyone else with an interest in pursuing an EPA Brownfield Grant. Whether a community is urban or rural, the new federal infrastructure funding will be available to help revitalize and redevelop brownfields in some of our most underserved communities. In order to reach out to all communities across the state, workshops were scheduled in Ashland, Hopkinsville, Frankfort, and Lexington. Grant workshops provided helpful hints for writing proposals and offered insight for how to prepare and submit a successful grant application.

## BROWNFIELDS, ABANDONED AND DILAPIDATED (BAD) BUILDING PROJECT

As part of a long-term goal to promote community-led revitalization projects, the program continued to collaborate with West Virginia's BAD Buildings Project. The project, made available through an EPA Small Technical Assistance Grant, will provide a Brownfields Redevelopment Plan for Cumberland County. The Plan, to be completed by October 2022, will include an inventory and prioritization of brownfield sites in the City of Burkesville. An additional outcome of project will be the use of collaborative trainings and the final Redevelopment Plan as a model for how other Kentucky communities can launch their own redevelopment projects.



## TARGETED BROWNFIELD ASSESSMENTS

Environmental Site Assessments (ESA) are a pivotal part of the brownfield program. Through the Targeted Brownfield Assessment Program, Phase I ESA's were conducted at six brownfield sites during SFY 22. The sites were located in Elkhorn, Hardinsburg, Owensboro, Jenkins, Corbin, and Maysville. In addition, Phase II ESA's were recommended and initiated at several of these sites.

## CLEANER COMMONWEALTH FUND

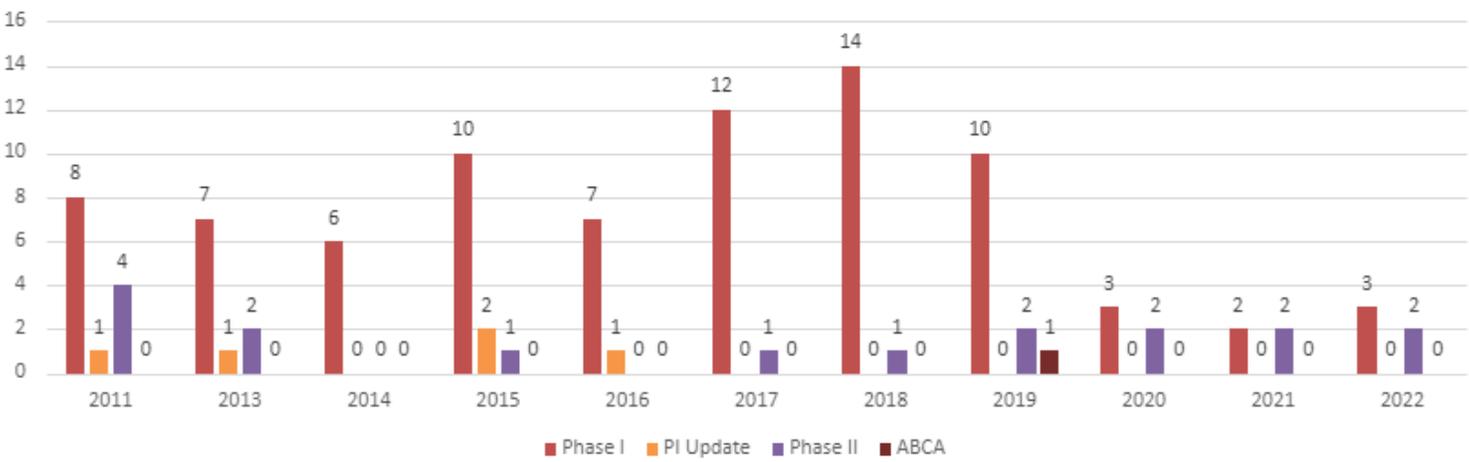
Kentucky's Cleaner Commonwealth Fund (CCF), which was established through a US EPA Brownfield Revolving Loan Fund grant, continues to be successful. The Louisville Waterfront Botanical Garden Project, spearheaded by Botanica, Inc. and The Yard in Irvine, KY, led by KY Steam Heritage, began reimbursements this year. As reimbursements from loan recipients and supplemental funding from EPA provide continual funding for Kentucky communities, program staff will actively seek sites to evaluate for financial assistance in the coming year.

## REGIONAL AND NATIONAL ORGANIZATIONS

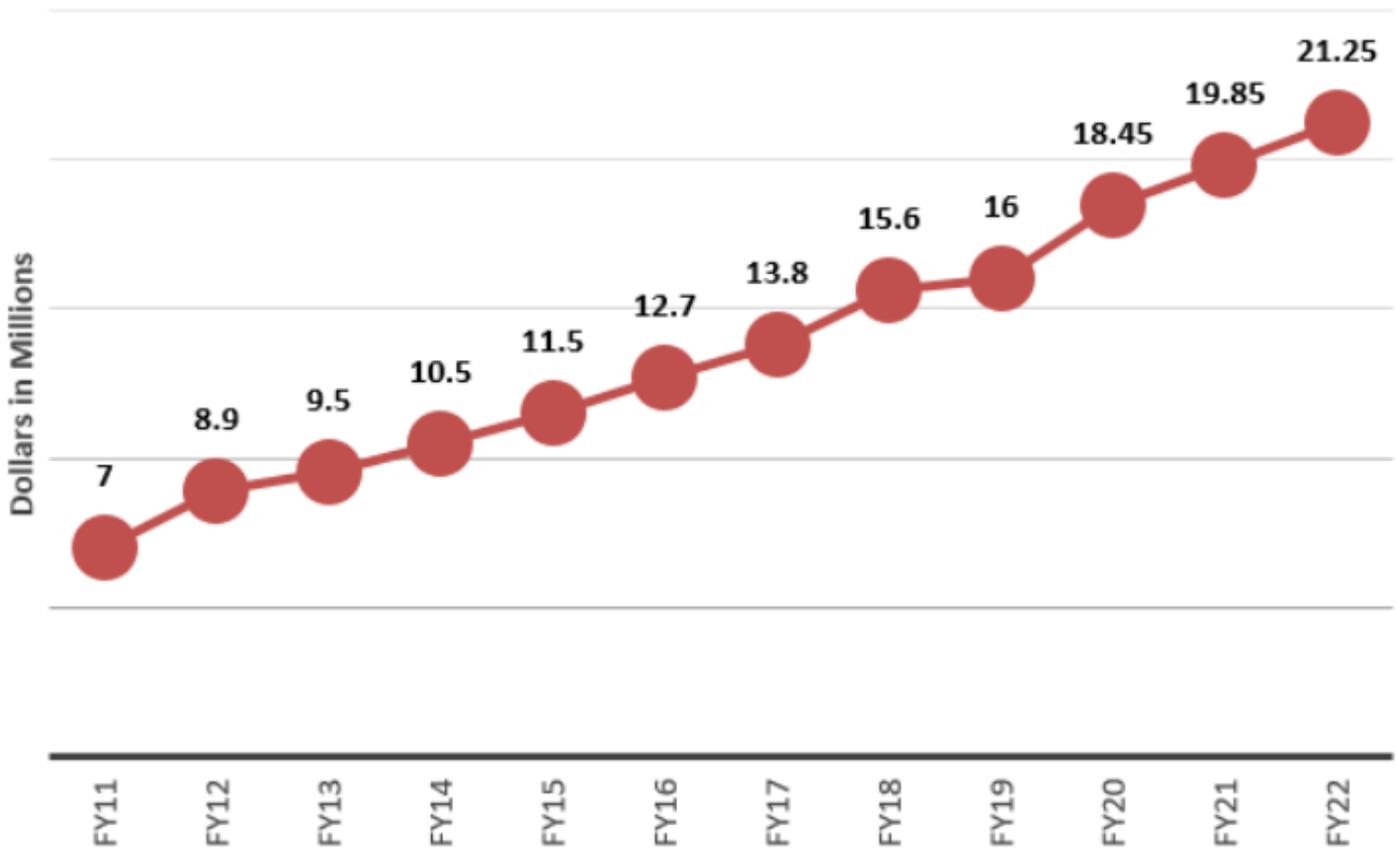
Kentucky's brownfield staff continued to be involved with regional and national agencies and organizations, including the Association of State and Territorial Solid Waste Management Officials (ASTSWMO), the Central Appalachian Brownfield Innovation Network (CABIN), the International City and County Managers Association (ICMA), and EPA's Region 4, Office of Brownfields and Land Redevelopment. These professional relationships are a significant resource for the Brownfield Program in terms of maintaining program goals and fulfilling new requirements.



## TARGETED BROWNFIELD ASSESSMENTS

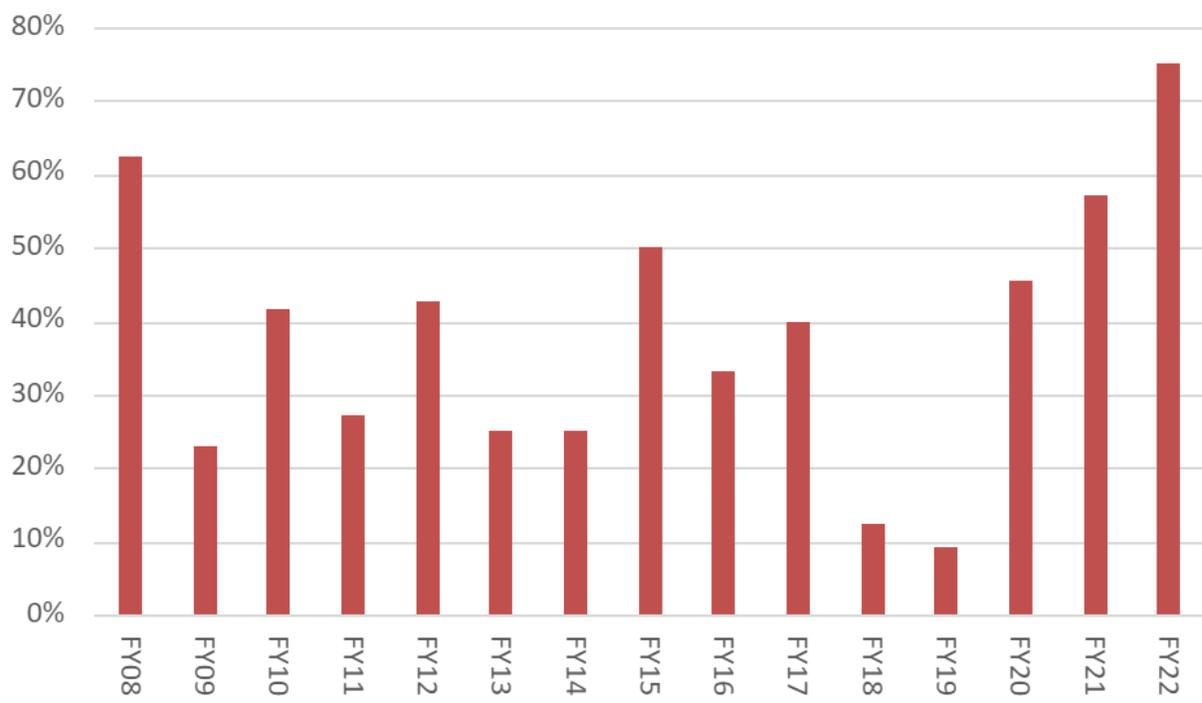


## CUMULATIVE GRANT FUNDING

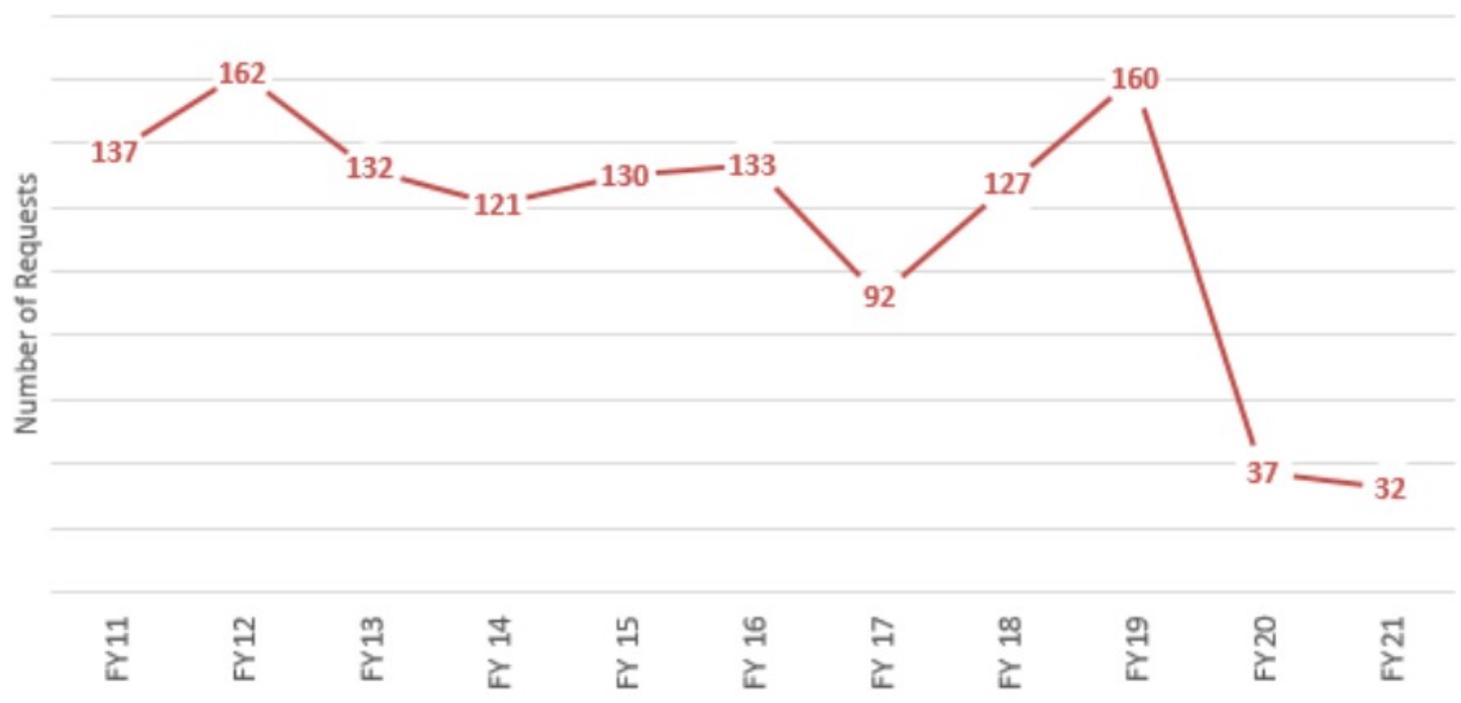




## EPA BROWNFIELDS GRANTS SUCCESS RATE



## HELP DESK REQUESTS





# GREAT WORK BETTER RESULTS

The Division of Enforcement works hard every day to ensure that the Commonwealth is not only economically viable, but naturally beautiful. A team of experienced, dedicated staff uses a wide variety of skills to ensure there is compliance with the Department's regulatory programs by increasing environmental knowledge, providing high-level customer service, and responding timely and appropriately in its actions. Over the SFY 2022 they have seen numerous accomplishments, all of which are deserving of praise and attention. However, the select few included highlight the best of the best-achievements that will continue to contribute to Kentucky for many years to come.

## MAYFIELD WASTEWATER TREATMENT PLANT

Mayfield WWTP was referred for enforcement action in the beginning of 2021 for violations including permit parameter exceedances of Total Recoverable Copper and Total Ammonia Nitrogen as well as failing to comply with the permit's monitoring and reporting requirements. Before a resolution was processed, the facility was hit by a tornado that ripped through Mayfield on December 10, 2021. Significant damage was done not only to the treatment plant, but to the town as a whole.

The Secretary of the Energy and Environment Cabinet waived all civil penalties associated with this case (and other affected facilities in the Commonwealth) to allow the city to direct as much funding as possible to the rehabilitation of the facility. Mayfield WWTP is currently under an Agreed Order and is implementing a Corrective Action Plan to repair the facility and return to compliance with their KPDES permit limits.

## AGC FLAT GLASS

AGC Flat Glass is located in Richmond, Madison County. They produce flat glass, which is used in automobile windshields, architectural windows, appliances, and decorative glass among other use types. The facility incurred Production of Significant Deterioration violations for Sulfur Dioxide and Nitrogen Oxides at emission point 02 from 2016 through 2019. During this time, there were 170 Sulfur Dioxide violations, 195 Nitrogen Oxides violations, and 16,249 six-minute average opacity violations. The facility entered into an agreed order on December 18, 2019. A Corrective Action Plan (CAP) was submitted pursuant to the order on January 6, 2020. The CAP involved shutting down and inspecting the system, and performing repairs. The order required a civil penalty of \$175,000, which was paid on December 18, 2019. The case was closed on June 27, 2022.

## FLOWERS BAKERY OF LONDON LLC

Flowers Bakery is located in London, Laurel County. They manufacture items such as Nature's Own and Wonder bread, Tasty Kakes, Sunbeam, and others. They hold KDPEs permit KYR003643 for storm water discharges and have five outfalls (001-005) which discharge to an unnamed creek. Significant algae blooms and degradation were noted in the creek. Sampling indicated that Flowers Bakery was impacting the stream. There was also visual evidence of unreported releases and grease in discharge pipes. The facility's rooftop also contributed to problems, where the ventilation system deposited food waste on the roof which discharged through drains. The facility failed to submit Discharge Monitoring Reports into NetDMR for several years. A conference was held on February 18, 2021. Although the facility disagrees that it is the sole source of pollution that contributes to algae in the stream, they have hired an outside consultant to investigate possible sources from their facility and develop corrective actions and improved BMPs. They have already partially addressed some issues (such as the rooftop drains). The facility agreed to pay a \$12,500 penalty, with the Corrective Action Plan due within sixty (60) days of execution of the order. The Agreed Order was executed on October 05, 2021. The facility paid their civil penalty on November 01, 2021, and submitted their CAP on December 06, 2021. The London Regional Office conducted a compliance inspection of the facility after receiving a request to close the Agreed Order. It was noted that housekeeping was adequate, and no visible degradation to the waters of the Commonwealth. All remedial measures have been completed by the facility. The case was closed June 2022.

## DISCHARGE MONITORING REPORT 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 address non-compliance with National Pollutant Discharge Elimination System (NPDES) effluent violations and monitoring and reporting violations 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 October 2018, the Division added the compliance review for DMR monitoring and reporting violations for non-major individual KPDES permits. In August 2019, the Division automated the review of effluent violations for non-major individual KPDES permits.

Beginning March 2020, the Division began running DMR Compliance Automation for the “Other Permits” category, which encompasses general permits except for coal (KYGE4 and KYGW4) and “storm water associated with industrial activities” (KYR00). The Division began running DMR Compliance Automation for “Storm Water Discharges Associated with Industrial Activities” (KYR00) in November 2020. The Division has not yet started running the last group, coal general permits (KYGE4 and KYGW4), but has begun to make plans to start running this remaining permit group.

In Federal Fiscal Year (FFY) 2021, Kentucky had 138 KPDES major individual permits, 1,207 non-major individual KPDES permits, 8,226 general permit coverages, and 96 associated permit records (sub-programs associated with a KPDES permit). Kentucky had 8 major permits (5.8%) in Category I non-compliance, 354 non-major individual permits (29.3%), and 828 general permits (10.1%) in Category 1 non-compliance. The aggregate is 362 of 1,345 individual permits (26.9%) in Category 1 non-compliance. Since FFY 2012, Kentucky has made major strides in addressing KPDES non-compliance.

## DISCHARGE MONITORING REPORT COMPLIANCE AUTOMATION (CONT.)

Kentucky has reduced the number of KPDES permits in Category 1 non-compliance from 2,611 in FFY2012 to 1,190 in FFY2021. Kentucky has been one of the leading states nationally 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.

## eCLEARINGHOUSE REVIEWS

In State Fiscal Year 2022, 3 staff in the division took on the monumental task of completing 686 eClearinghouse reviews. These are called State Assistance Requests (SARs), Federal Assistance Requests (FARs) and National Environmental Policy Act (NEPAs). These reviews look at a variety of different items including: any previous or current enforcement action, any compliance issues, any impacted areas in the proposed project area and if it would further the goals of the Cabinet. The goal is to review these projects for current and potential future environmental impacts. The Commissioner's Office complimented these division staff on their quality, detailed and timely reviews.

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