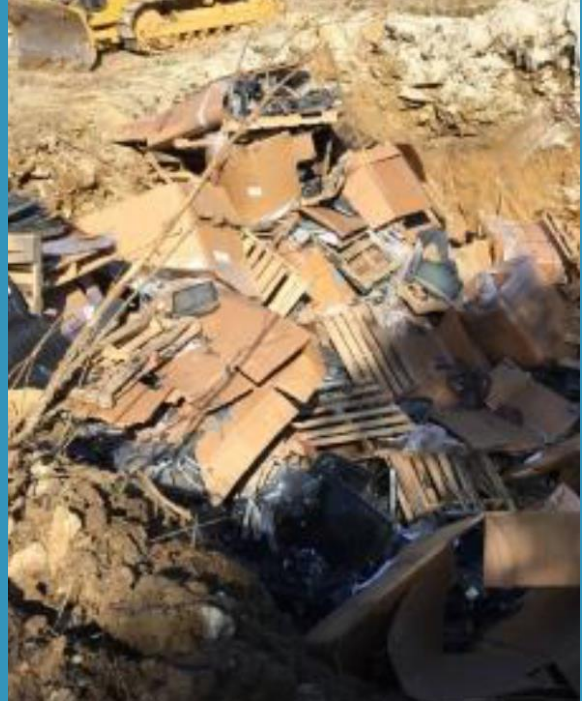


Commonwealth of Kentucky
Energy and Environment Cabinet
Department for Environmental Protection
Division of Enforcement
dep-enforcement.ky.gov



**KENTUCKY DIVISION OF ENFORCEMENT
ANNUAL REPORT
STATE FISCAL YEAR 2018**



Table of Contents

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



Selected Figures

1.	Division Organizational Chart	6
2.	New Cases, SFY 2010 – SFY 2018	8
3.	Case Referrals by Program, SFY 2018	9
4.	Case Referrals by Division, SFY 2018	10
5.	New Division for Air Quality Cases by Regional Office, SFY 2018	11
6.	New Division of Waste Management Cases by Regional Office, SFY 2018	12
7.	New Division of Water Cases by Regional Office, SFY 2018	13
8.	Administrative Conference Conducted by Media, SFY 2018	15
9.	Settlement Documents Executed, SFY 2018	17
10.	Number of Cases Monitoring by Month, SFY 2018	18
11.	Average Number of Days to Executed Settlement, For Cases Referred SFY 2008 – SFY 2018	20
12.	Penalties Collected by State Fiscal Year, SFY 2009 – SFY 2018	22
13.	Settlement Documents Executed Annually by Type, SFY 2009 – SFY 2018	23
14.	Cases Closed Annually by Program, SFY 2009 – SFY 2018	24
15.	Notices of Violation Issued by Review Type, SFY 2018	28
16.	Compliance and Operations Branch Case Referrals by Type, SFY 2018	29
17.	Compliance Notifications Issued by Division, SFY 2018	31
18.	Compliance Notifications Issued by Activity Type, SFY 2018	32
19.	Compliance Notifications Issued by Program, SFY 2018	33

Message from the Director's Office

SFY 2018 was filled with many challenges and opportunities for the Division of Enforcement. The Coal Water Quality Initiative was still prominent in its impact on the Division's total work load in both its branches. As in previous years, the wastewater program accounted for the largest number of new referrals to the Division, with 56%. However, in SFY 2018, the Division began to see an increase in the number of Major/Minor, specifically municipal, Kentucky Pollution Discharge Elimination System (KPDES) permit referrals, as a percentage of total referrals from Discharge Monitoring Report (DMR) reviews. The Division continues to see a steady decline in the number of referrals from the UST program, with only 33 new referrals in SFY 2018, compared to 82 in SFY 2017 and 159 in SFY 2016. The dynamic changes in the type of referrals the Division receives only increases the need to cross train and develop staff over multiple program types. Although the total number of enforcement case referrals continued to decrease in SFY 2018, the number of cases resolved through negotiated settlements and civil penalties collected were consistent with the averages over the past years.

One of the greatest opportunities the Division experienced in SFY 2018 was created through the hiring and development of new staff members. Forty percent (40%) of the Civil Enforcement Branch (CEB) employees, and twenty-five percent (25%) of the Compliance and Operations Branch (COB) employees, had less than one year of experience during SFY 2018. Both branches have done an excellent job developing these motivated and talented new team members, ensuring positive productivity in the Division. The CEB saw a 50% increase in the number of administrative conferences that were conducted in SFY 2018 versus the previous year (257 versus 173). The COB continued to operate with high productivity, issuing 1,247 Notices of Violation (an average of over 100 per month). The Division has relied heavily on its more experienced specialists to help in mentor and develop newer employees, guaranteeing the Division could carry out its role in the Department.

With the close of SFY 2018, the Cabinet has completed its second full year in the 300 Sower Building. The Division is settled in its new space, and the improvements in communication and productivity continue to be evident. The Division continues to seek new ways to improve efficiency and productivity, while continuing to fulfill its mission and service to the Cabinet and citizens of the Commonwealth. The staff and management of the Division look forward to the new fiscal year, and the many challenges and opportunities it will surely bring.

Michael B. Kroeger

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.

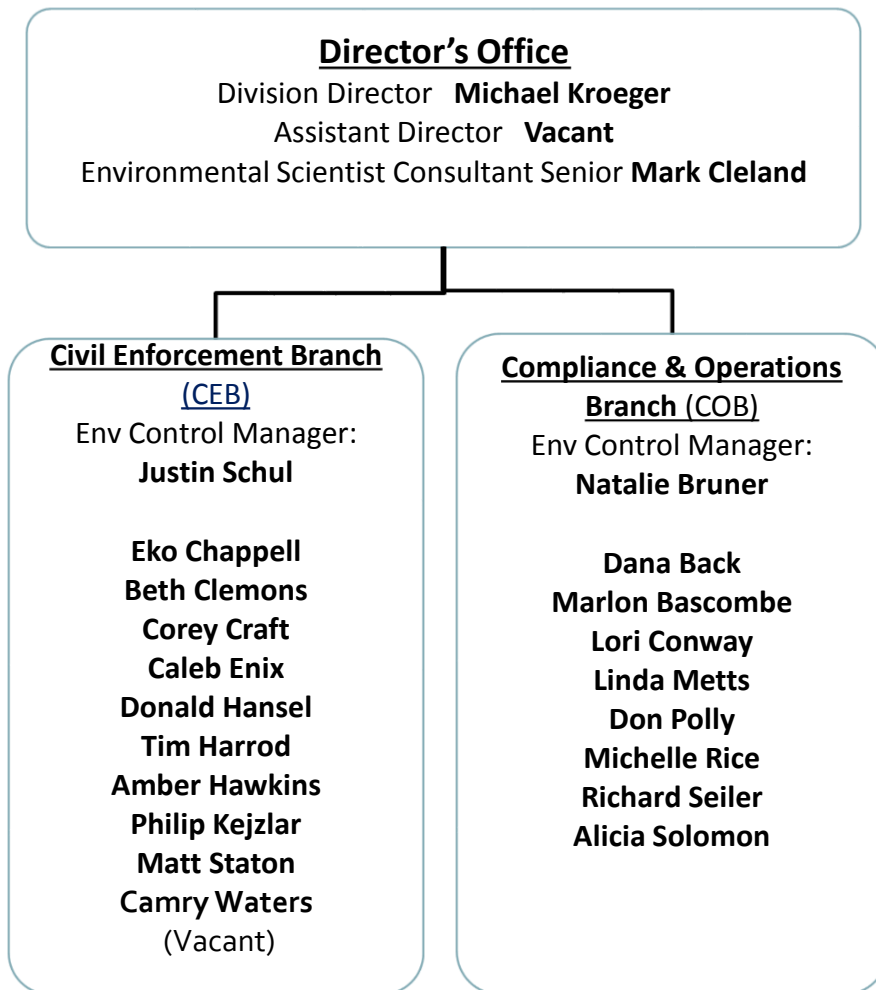


Figure 1

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 to achieve Division goals and objectives.

Case Referral Data

Case Referral Data: The Division of Enforcement receives new cases in the form of referrals. In SFY 2018, 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 266 new case referrals in SFY 2018. This was a decrease by 48%, as compared to the number of new case referrals in SFY 2017 (510). Over the past nine years, the Division has received 448 new cases annually.

Division of Enforcement New Cases SFY 2010 - SFY 2018

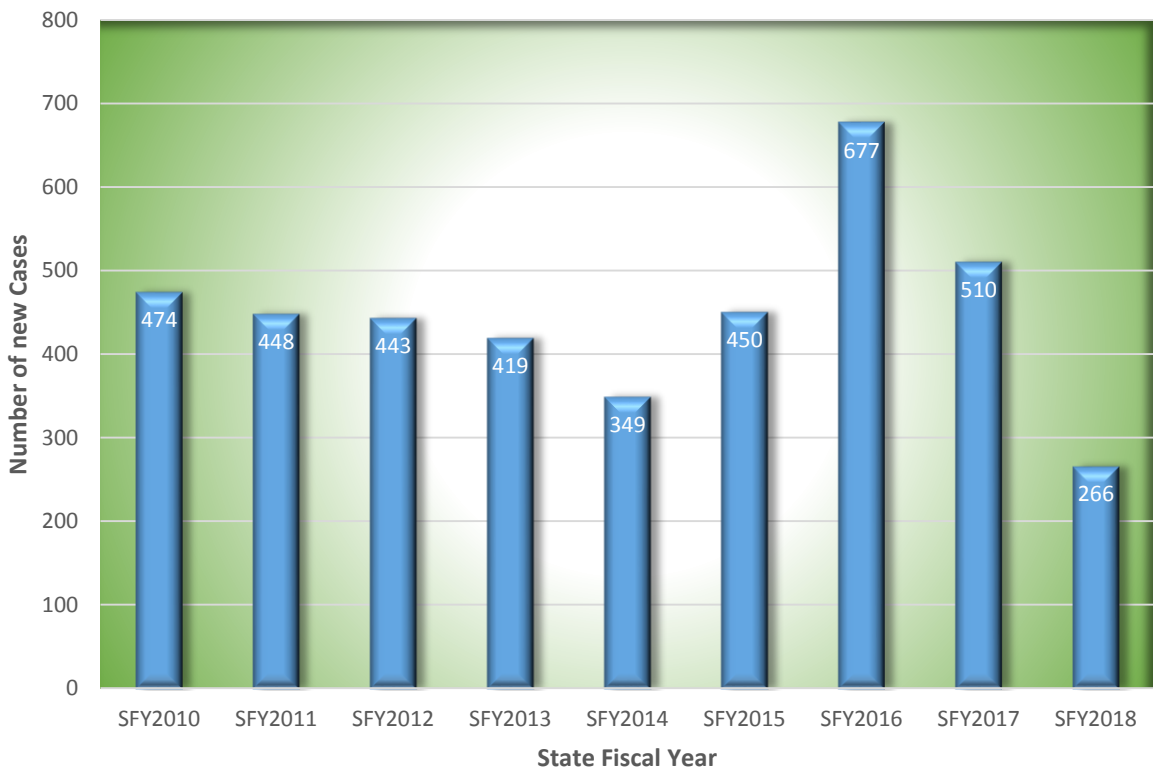


Figure 2

Case Referral Data

Case Referrals by Program: The Division of Enforcement received case referrals from twelve different program areas in SFY 2018. Of those referrals, the highest number involved the wastewater program with 150 referrals (56%), followed by the UST program with 33 (12%).

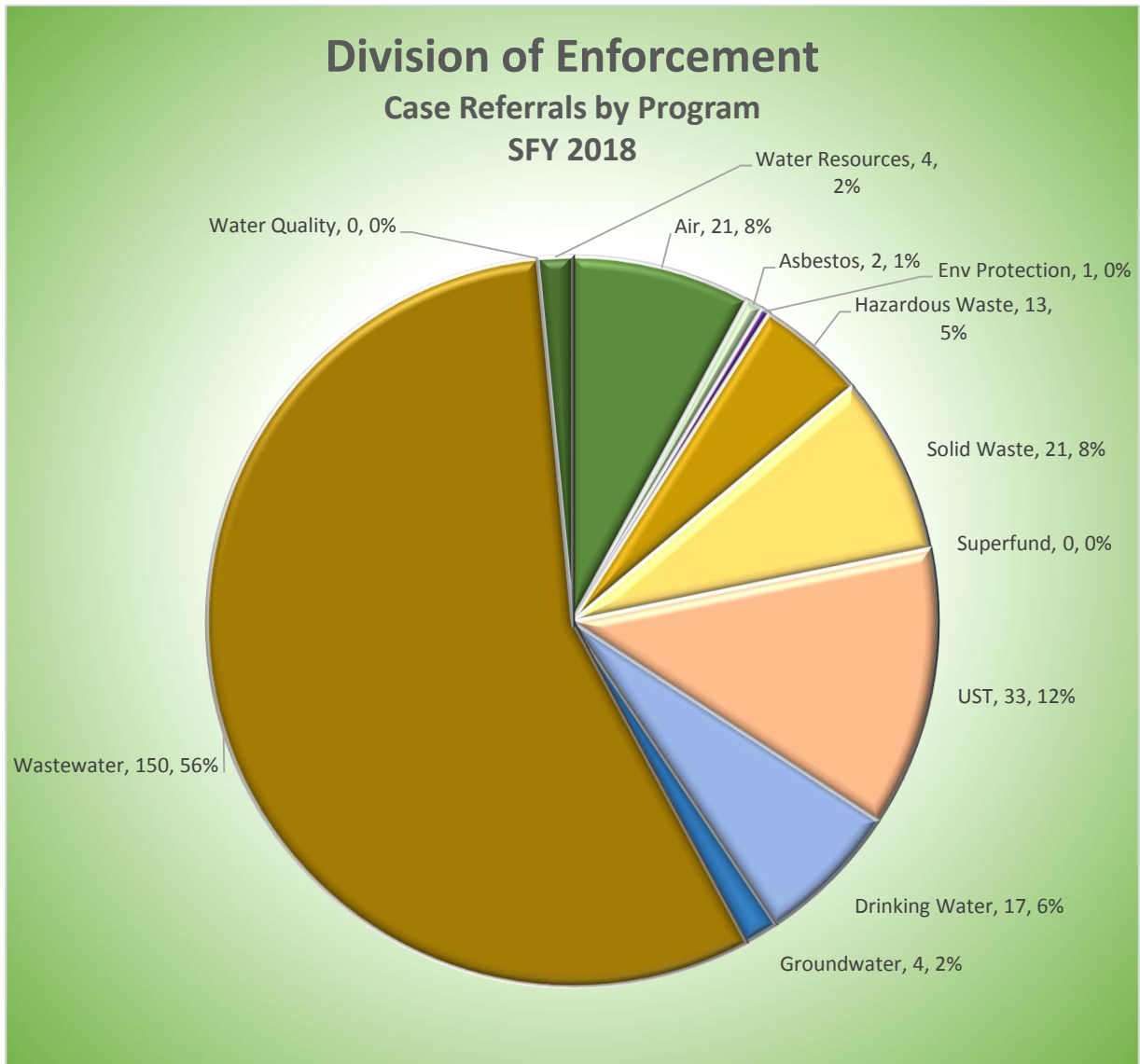


Figure 3

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 2018. The Division's Compliance and Operations Branch had the most referrals with 121 (45%). Referrals from the Division of Waste Management accounted for the second most, with 68 (26%).

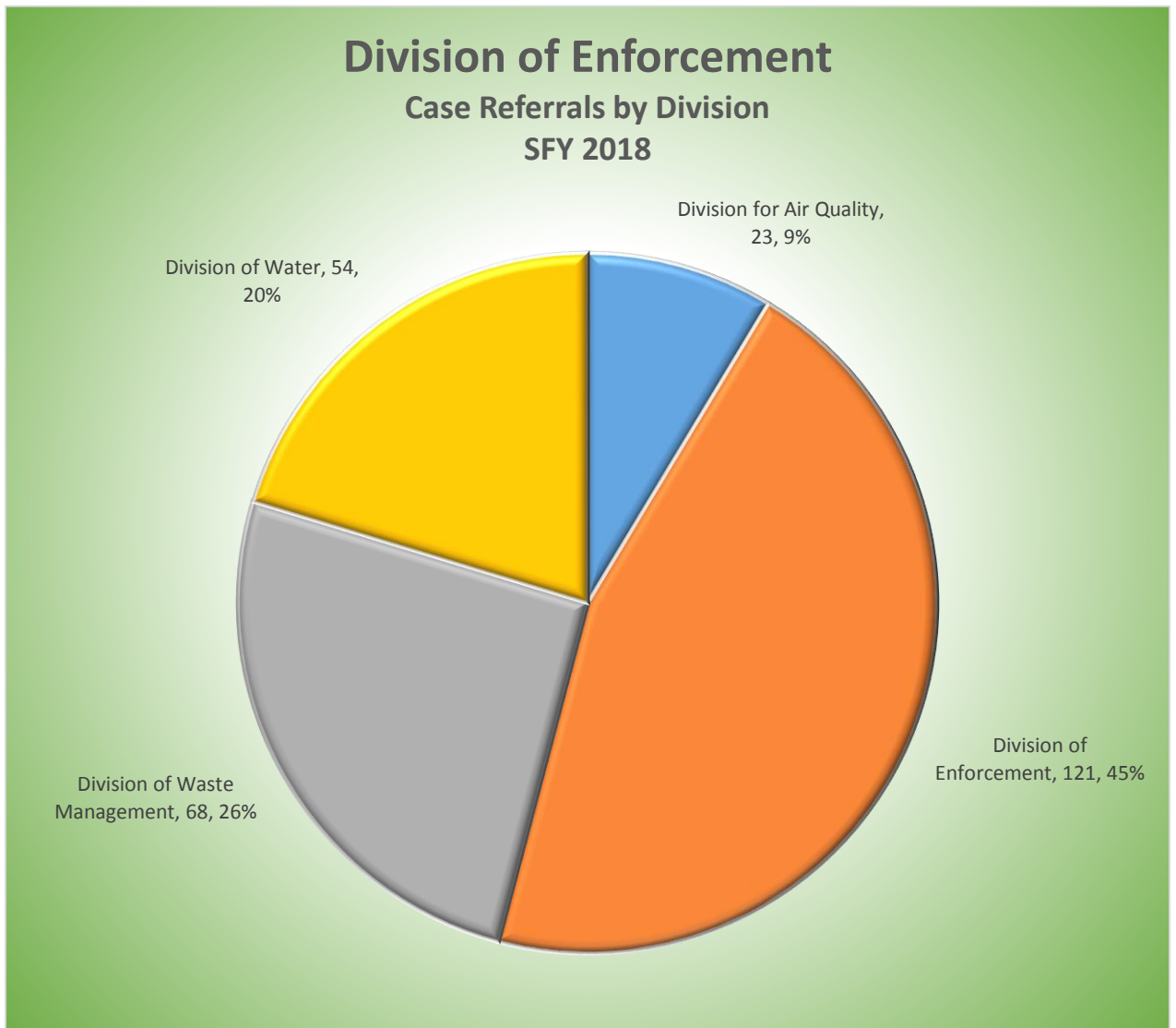


Figure 4

Case Referral Data

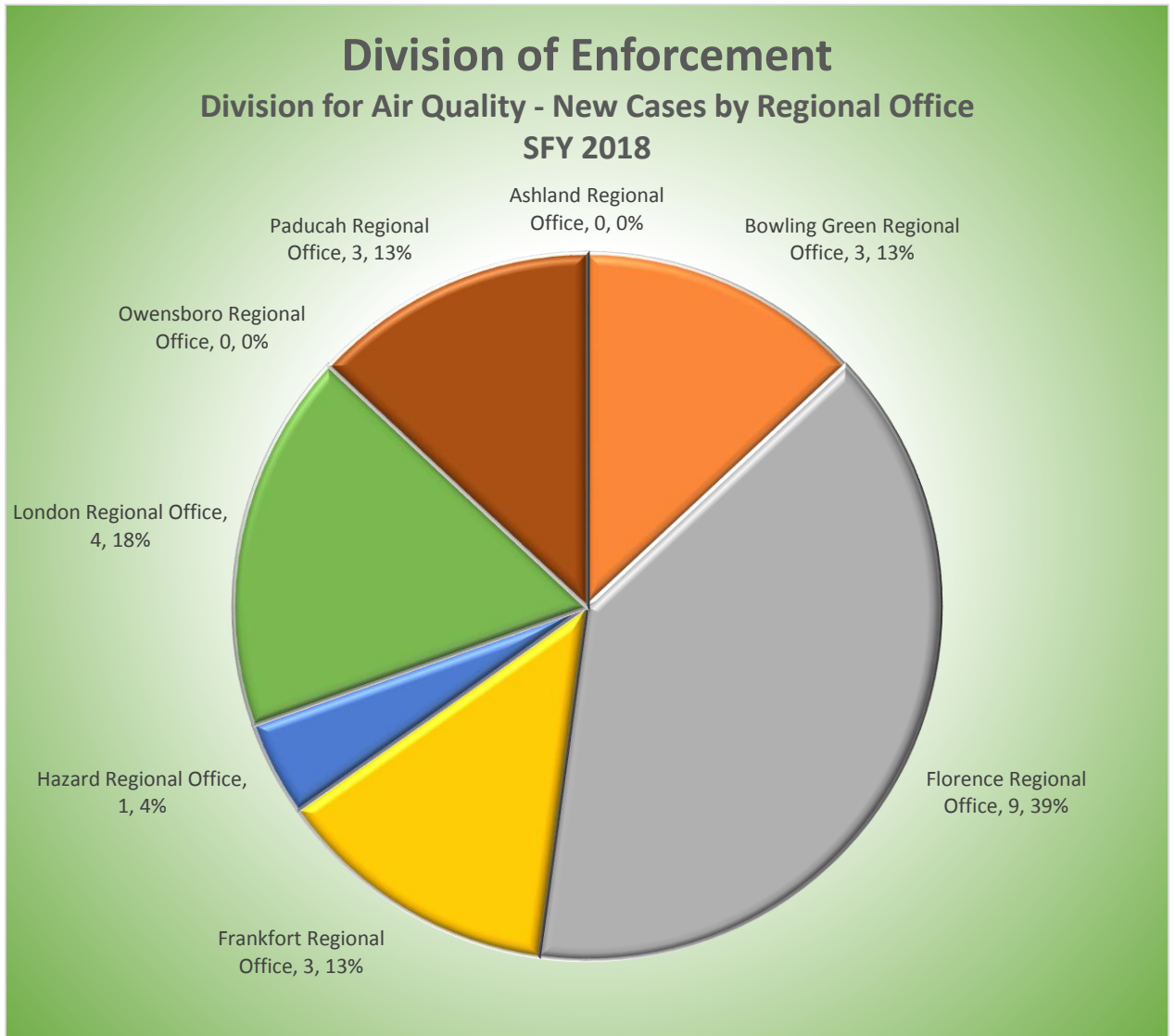


Figure 5

Case Referrals from the Division for Air Quality: The Division of Enforcement received 25 new case referrals from the Division for Air Quality in SFY 2018. Of the 25 referrals, the highest number came from the Florence Regional Office with 9 (39%), followed by the London Regional Office with 4 (18%).

Case Referral Data

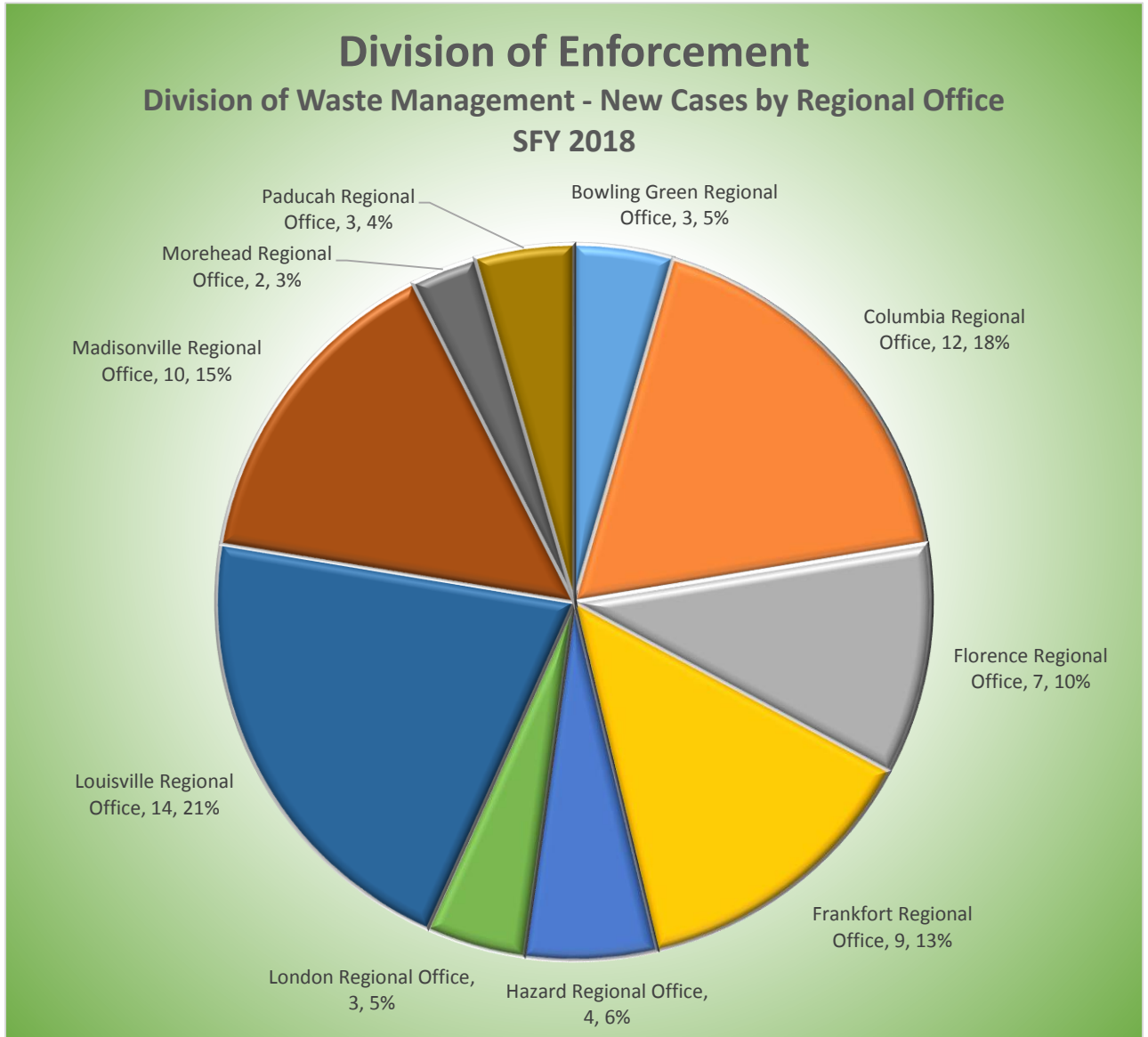


Figure 6

Case Referrals from the Division of Waste Management: The Division of Enforcement received 67 new case referrals from the Division of Waste Management in SFY 2018. Of the 67 referrals, the highest number came from the Louisville Regional Office with 14 (21%), followed by the Columbia Regional Offices with 12 (18%).

Case Referral Data

Division of Enforcement

Division of Water - New Cases by Regional Office SFY 2018

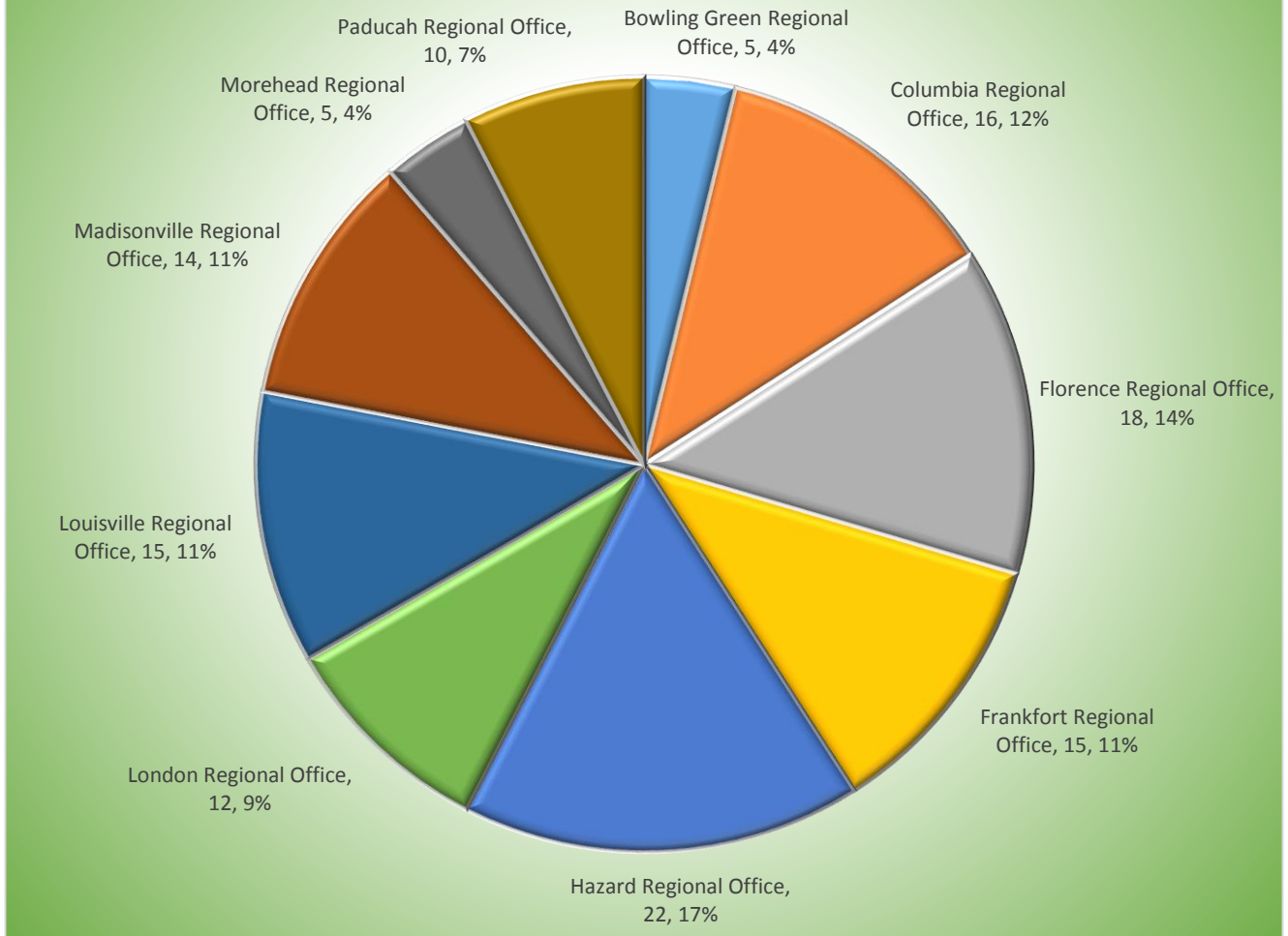


Figure 7

Case Referrals from the Division of Water: The Division of Enforcement received 132 new case referrals from the Division of Water in SFY 2018. Of the 132 referrals, the highest numbers came from the Hazard Regional Office with 22 referrals (17%), followed by the Florence Regional Office with 18 (14%).

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 257 Administrative Conferences in SFY 2018, for an average of 21 per month, a 50% increase from SFY 2017.

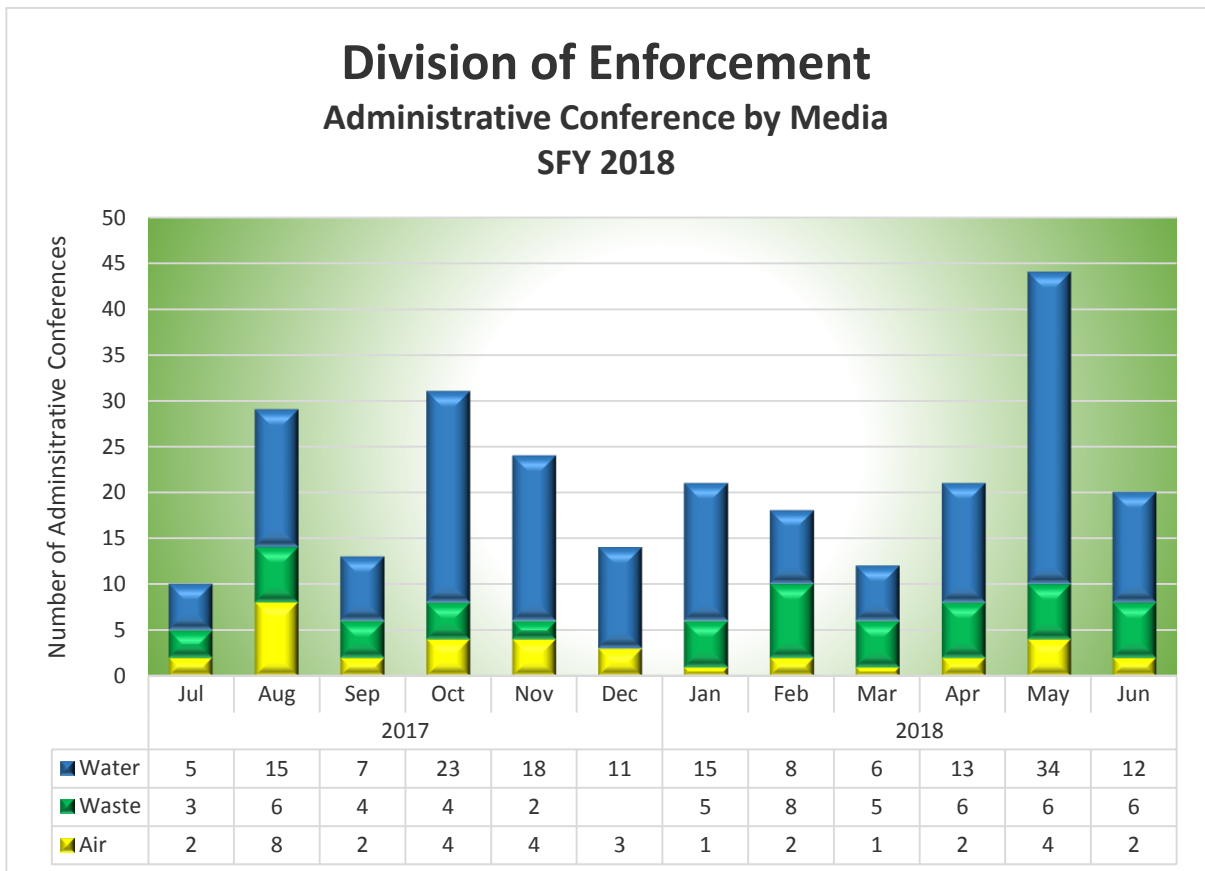


Figure 8

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 2018, DENF reached 183 Agreements-in-Principle, an average of 15 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 135 Demand Letters in SFY 2018, an average of 11 per month.

In SFY 2018, Agreed Orders were used to resolve 73 cases in the Division, an average of 6 per month.

Division of Enforcement
Settlement Documents Executed
SFY 2018

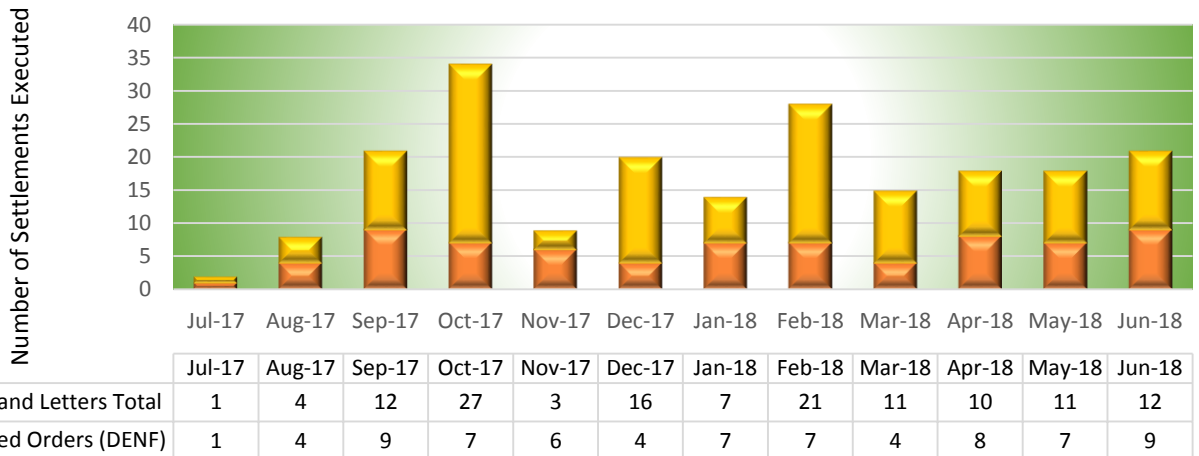


Figure 9

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 2018, DENF monitored an average of 230 executed settlement documents each month.

Division of Enforcement Number of Cases in Monitoring by Month SFY 2018

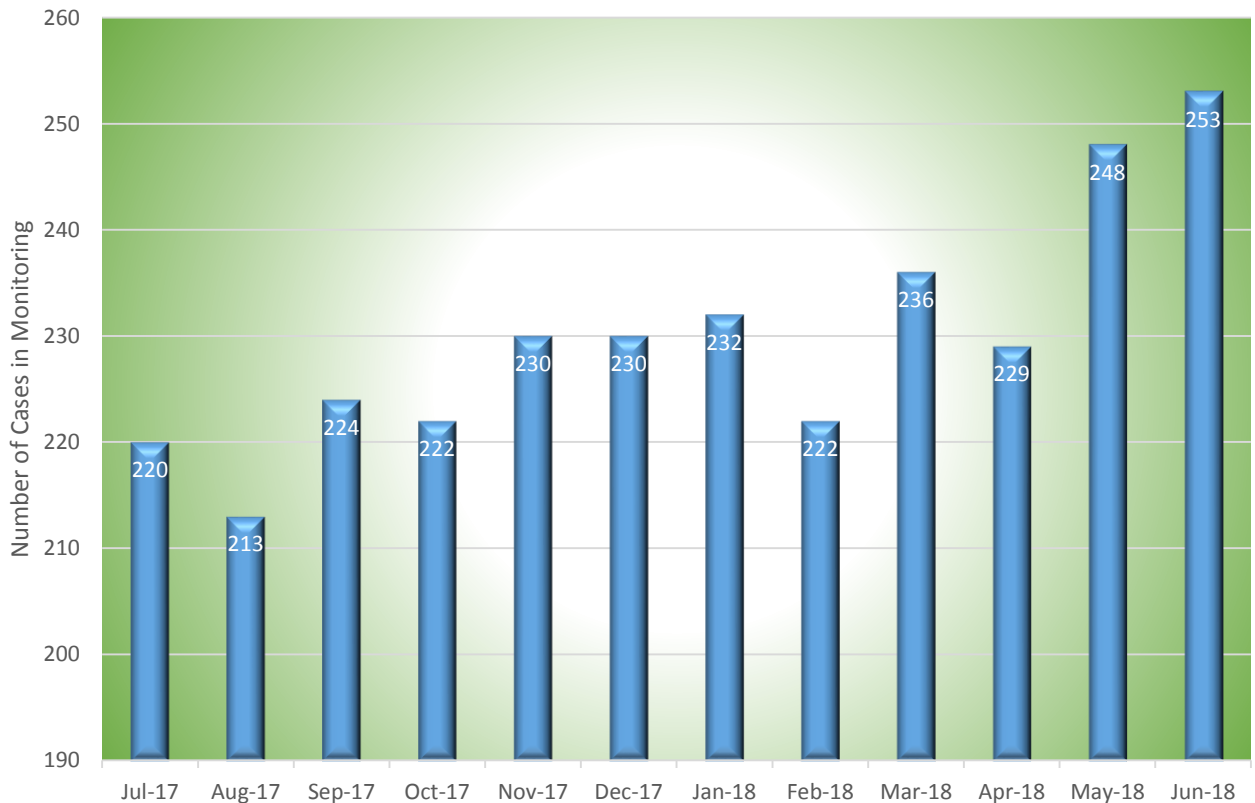


Figure 10

Civil Enforcement Branch

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

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

In SFY 2018, The Division referred 50 enforcement cases to the Cabinet's Office of Legal Services for further enforcement action, an average of 4 per month.

In SFY 2018, DENF resolved a total of 29 cases through the Office of Legal Services (22 Agreed Orders, 6 Secretary's Order, and 1 Franklin Circuit Court Decision).

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

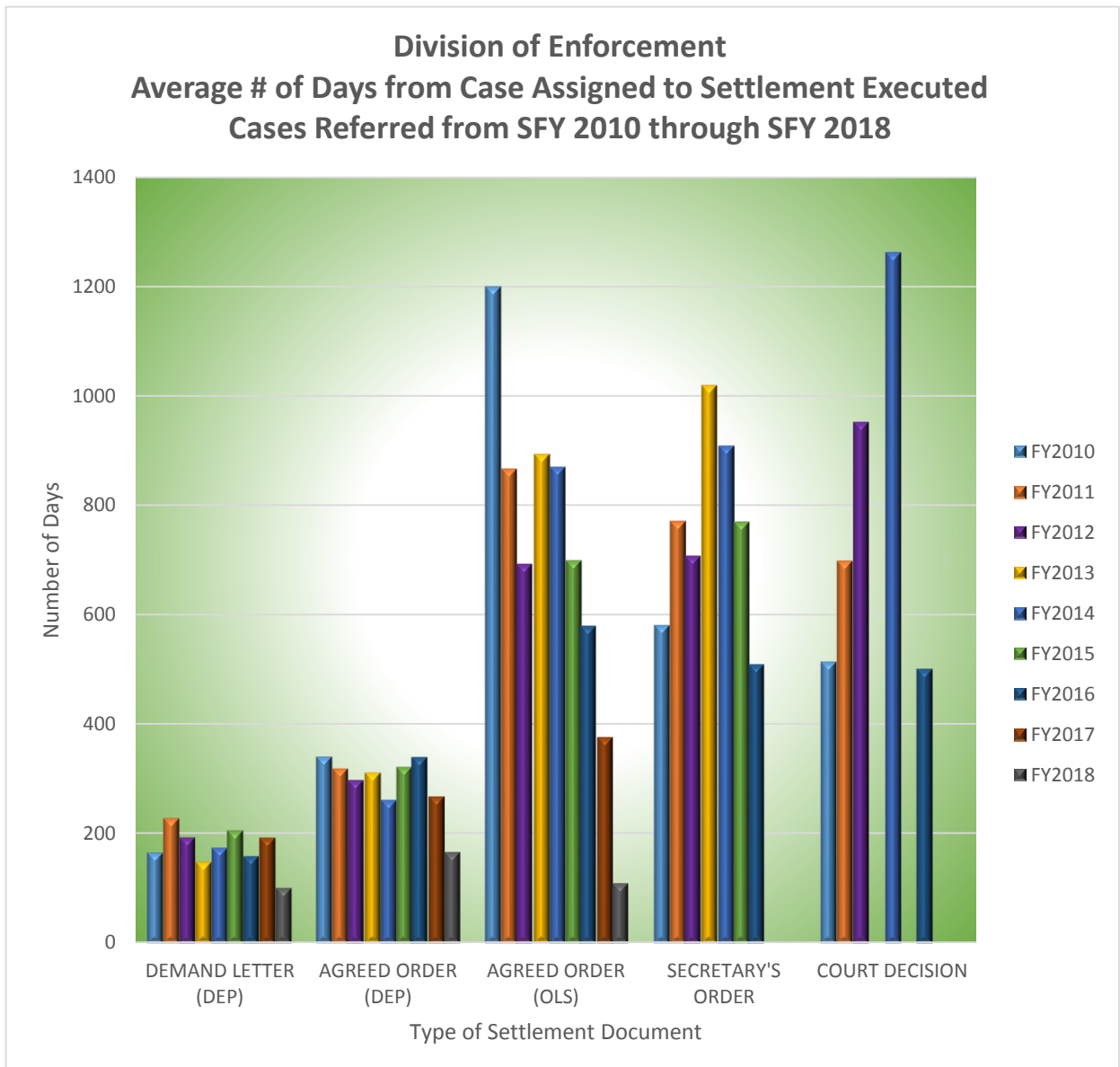
Case is opened in the Office of Administrative Hearings and is settled in further negotiations or the hearing process.

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

Civil Enforcement Branch

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

Based on historical averages, once a case is referred to the Division, it takes 179 days to issue a Demand Letter, 311 days to execute an Agreed Order, 752 days to execute an OLS Agreed Order, and 741 days to execute a Secretary's Order.



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 2018, 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 2018, the Division of Enforcement collected \$2,496,271 in civil and stipulated penalties. \$950,059 of penalties collected involved cases from the Water media.

DIVISION OF ENFORCEMENT CIVIL PENALTY COLLECTIONS DATA BY FISCAL YEAR SFY 2009 through SFY 2018

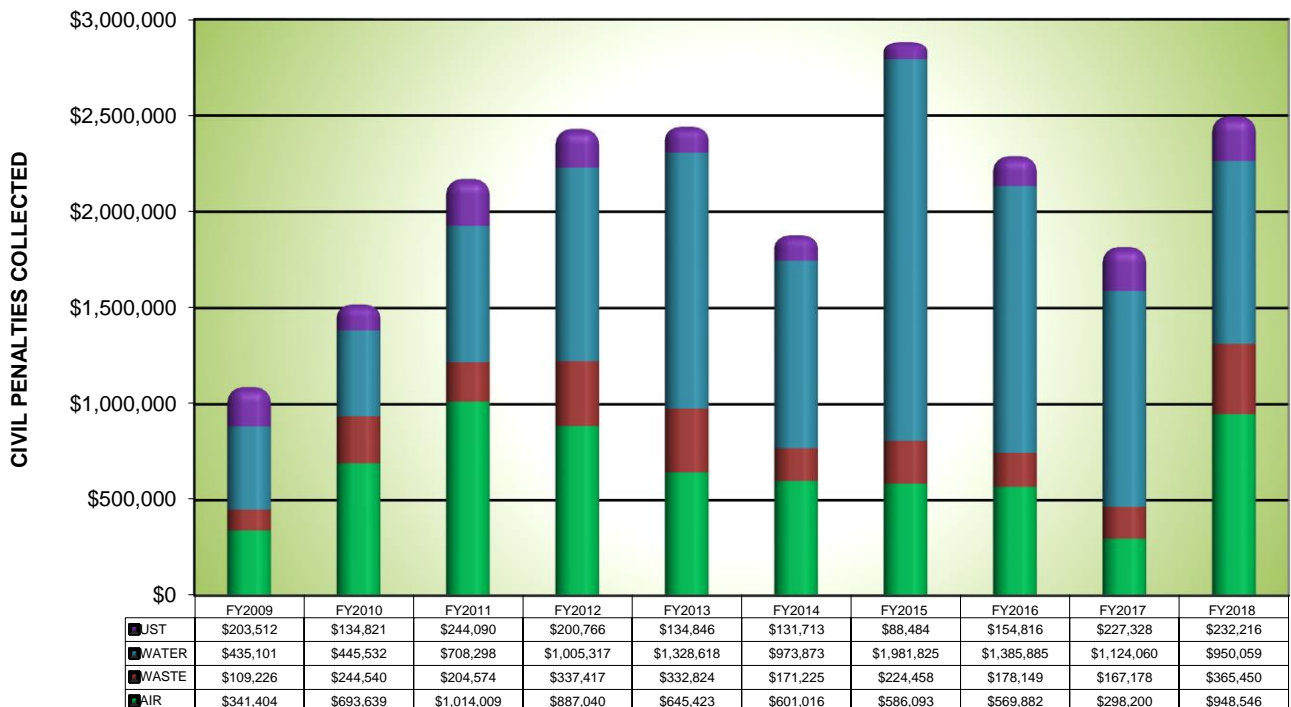


Figure 12

Civil Enforcement Branch

Total Settlement Documents: In SFY 2018, 237 settlement documents were executed. 208 of the settlements were negotiated in the Division of Enforcement, and 29 of the settlements came from cases that were referred to the Office of Legal Services.

Division of Enforcement Settlement Documents Executed Annually by Type SFY 2009 through SFY 2018

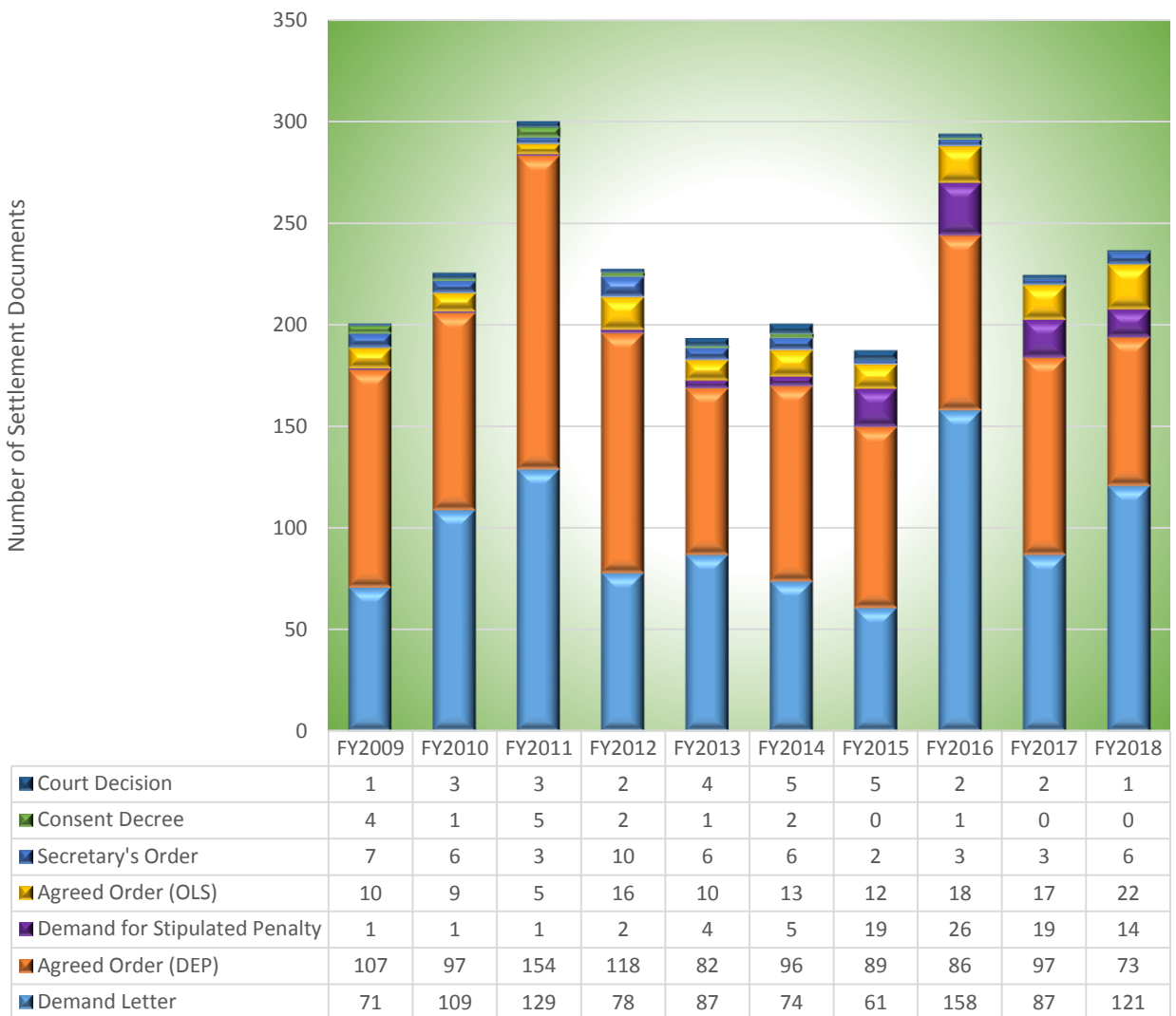


Figure 13

Civil Enforcement Branch

Closed Cases: From SFY 2009 to SFY 2018, an average of 328 cases have been closed annually. The Division of Enforcement closed a total of 226 enforcement cases in SFY 2018.

Division of Enforcement
Cases Closed Annually by Program
SFY 2009 through SFY 2018

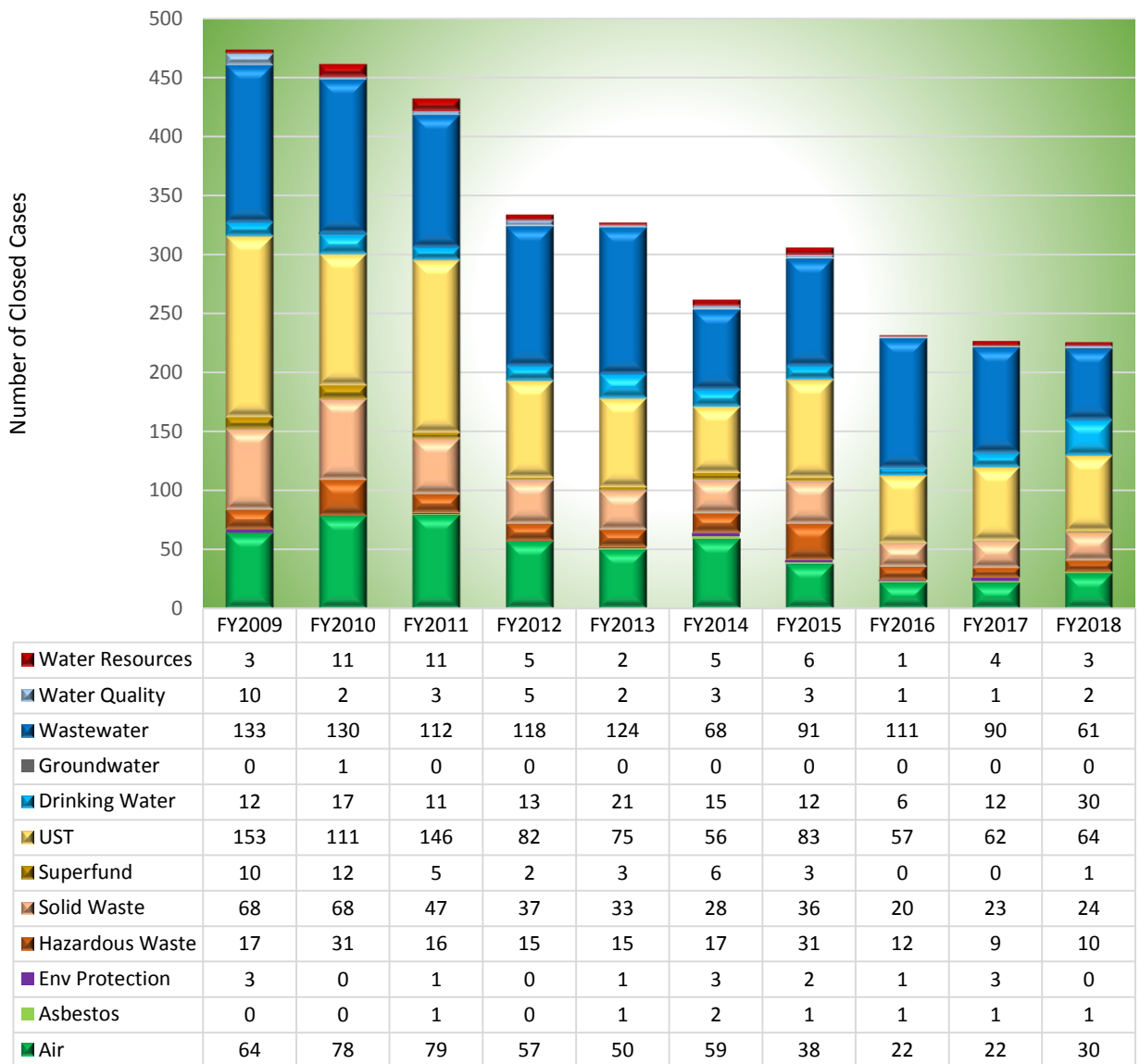


Figure 14

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 2018, 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 completed in SFY 2018 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 2018 were for violations referred by Central Office Programs from the Division of Waste Management and the Division of Water. Violations were referred from Hazardous Waste, Pretreatment, Whole Effluent Toxicity (WET), and Water Resources Programs.

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

COB has issued 1,247 Notices of Violation and sent 152 Enforcement Referrals to CEB in SFY 2018.

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 2018, the Branch reviewed coal companies for the monitoring period of calendar year 2017. Many of those violations have resulted in referrals to the Civil Enforcement Branch for formal enforcement action.

In SFY 2018, Coal Compliance Reviews have resulted in 563 Notices of Violation being issued and 56 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 2018, Major/Minor Compliance Reviews have resulted in 570 Notices of Violation issued and 68 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 2018, Permit Program Compliance Reviews have resulted in 135 Notices of Violation issued and 5 referrals to the Civil Enforcement Branch.

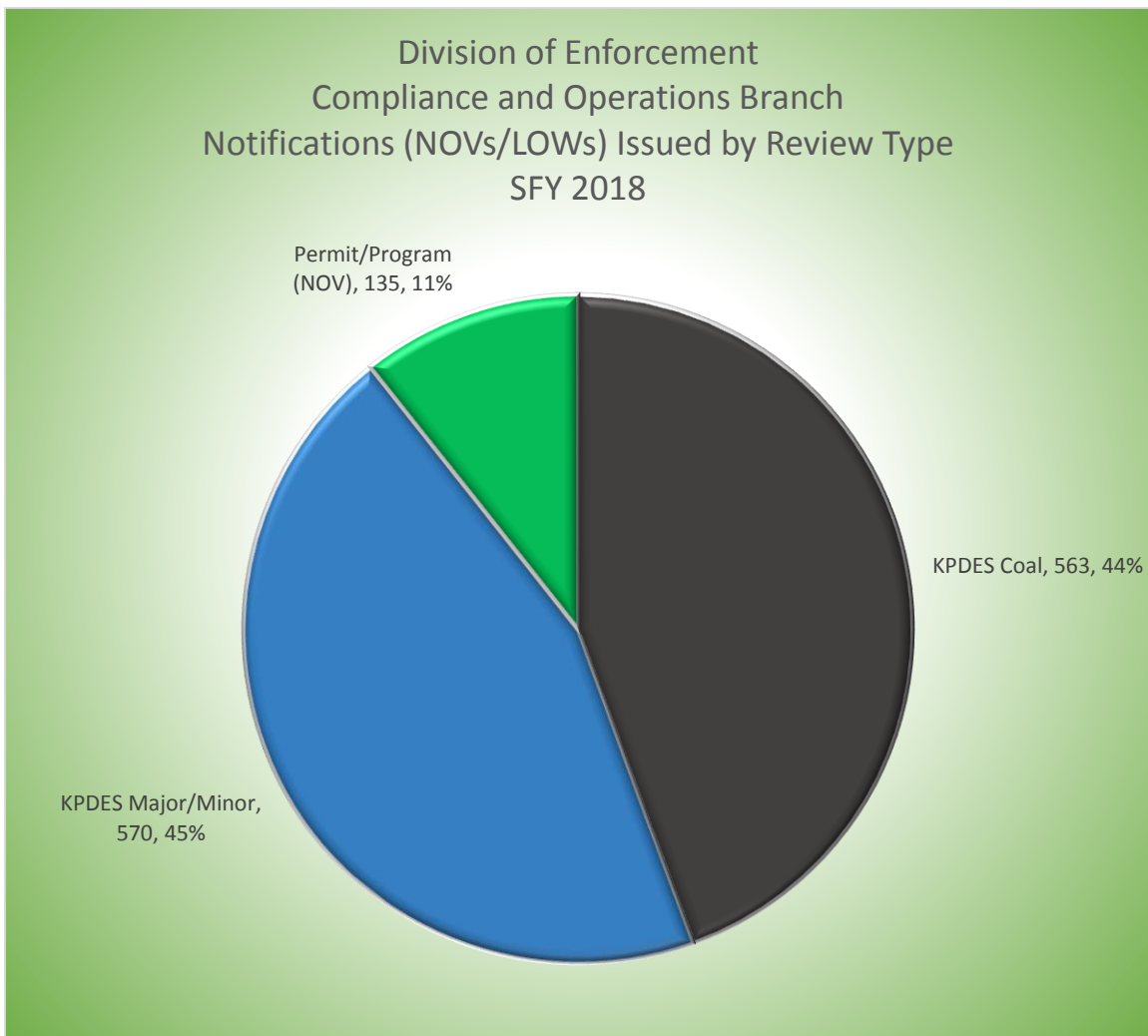


Figure 15

Compliance & Operations Branch

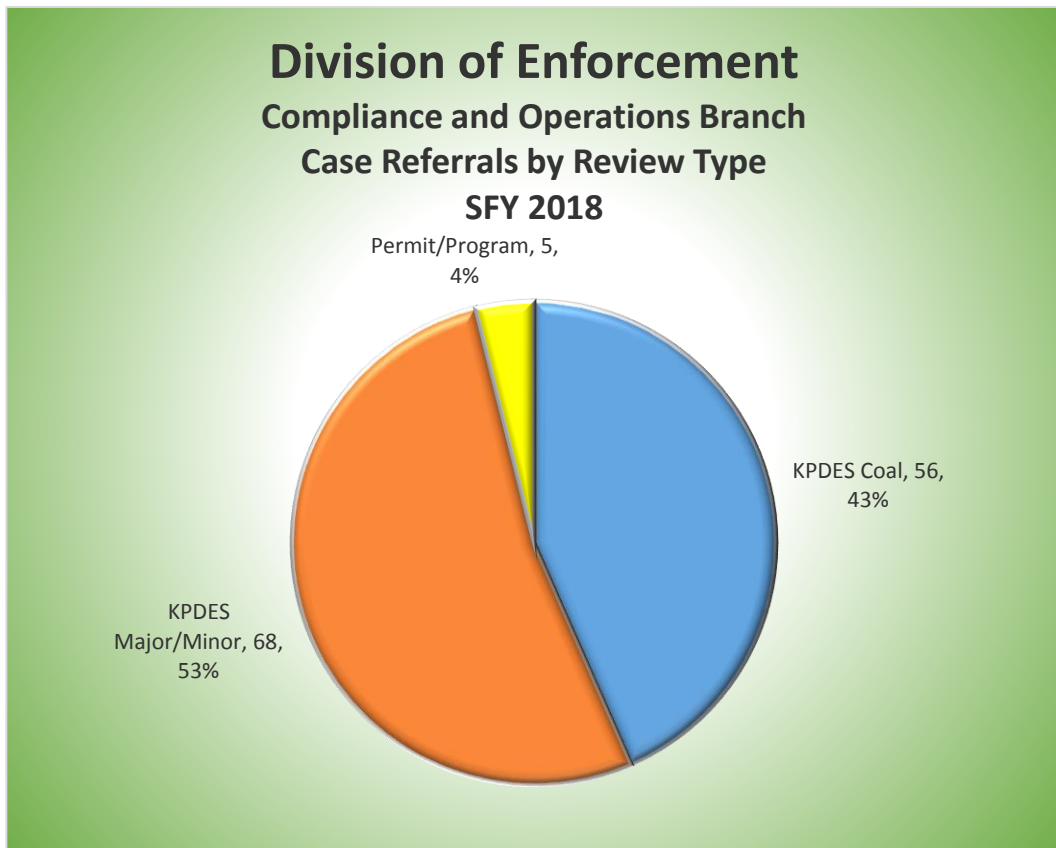


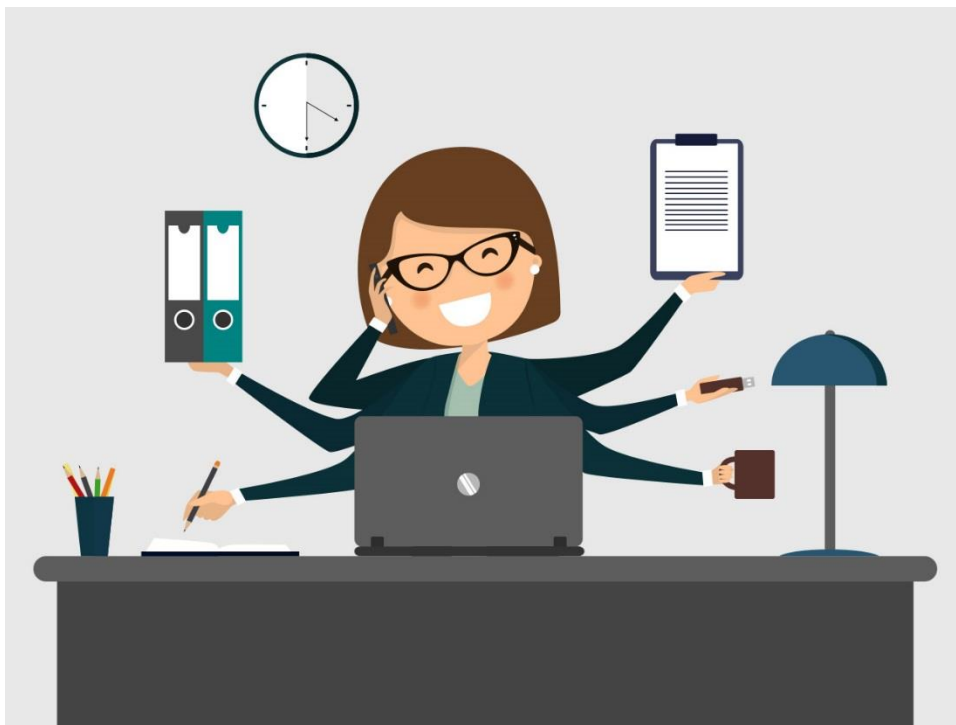
Figure 16

Referrals to the Civil Enforcement Branch: In SFY 2018, the Compliance and Operation Branch sent 129 referrals from Coal, Major and Minors, and Permit Program Reviews to the Civil Enforcement Branch. Each referral then becomes a case, or is consolidated into a larger case, and is assigned to an Enforcement Specialist in the Civil Enforcement Branch for further enforcement action. During the formal enforcement process, Compliance and Operations Branch staff complete up-to-date compliance reviews and serve as technical experts for the Division in settlement negotiations. The Enforcement Specialist will coordinate with Civil Enforcement Branch staff, the Director's and Commissioner's Office staff, the Office of Legal Services attorneys, and company representatives until final resolution is reached.

Compliance & Operations Branch

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

In SFY 2018, Administrative Support Staff logged and processed 713 incoming correspondences and 381 penalty payments.



<https://blogs.rockyview.ab.ca/2018/04/24/celebrating-our-administrative-professionals/>

Compliance Notification Data

Notices of Violation Issued by Division: The Department as a whole issued 4,106 compliance notifications, in the form of Notices of Violation and Letters of Warning, in SFY 2018. Notices of Violation from the Division of Enforcement made up roughly 31% of all notices issued.

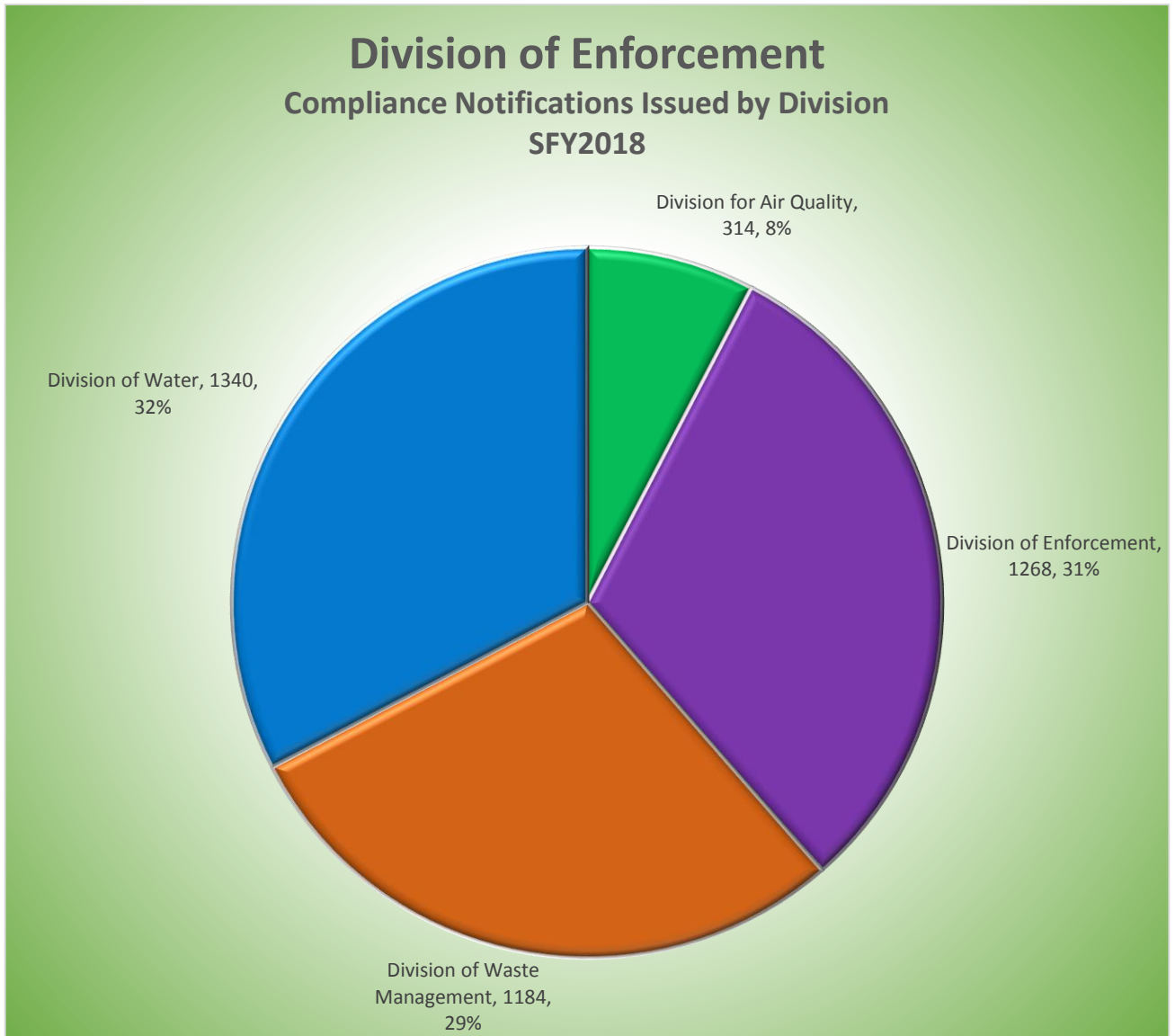


Figure 17

Compliance Notification Data

Compliance Notifications Issued by Activity Type: 49% of the Notices of Violation and Letters of Warning issued in SFY 2018 came from the Field Operations Branches. The second highest contribution was from the Compliance and Operations Branch of the Division of Enforcement with 28%.

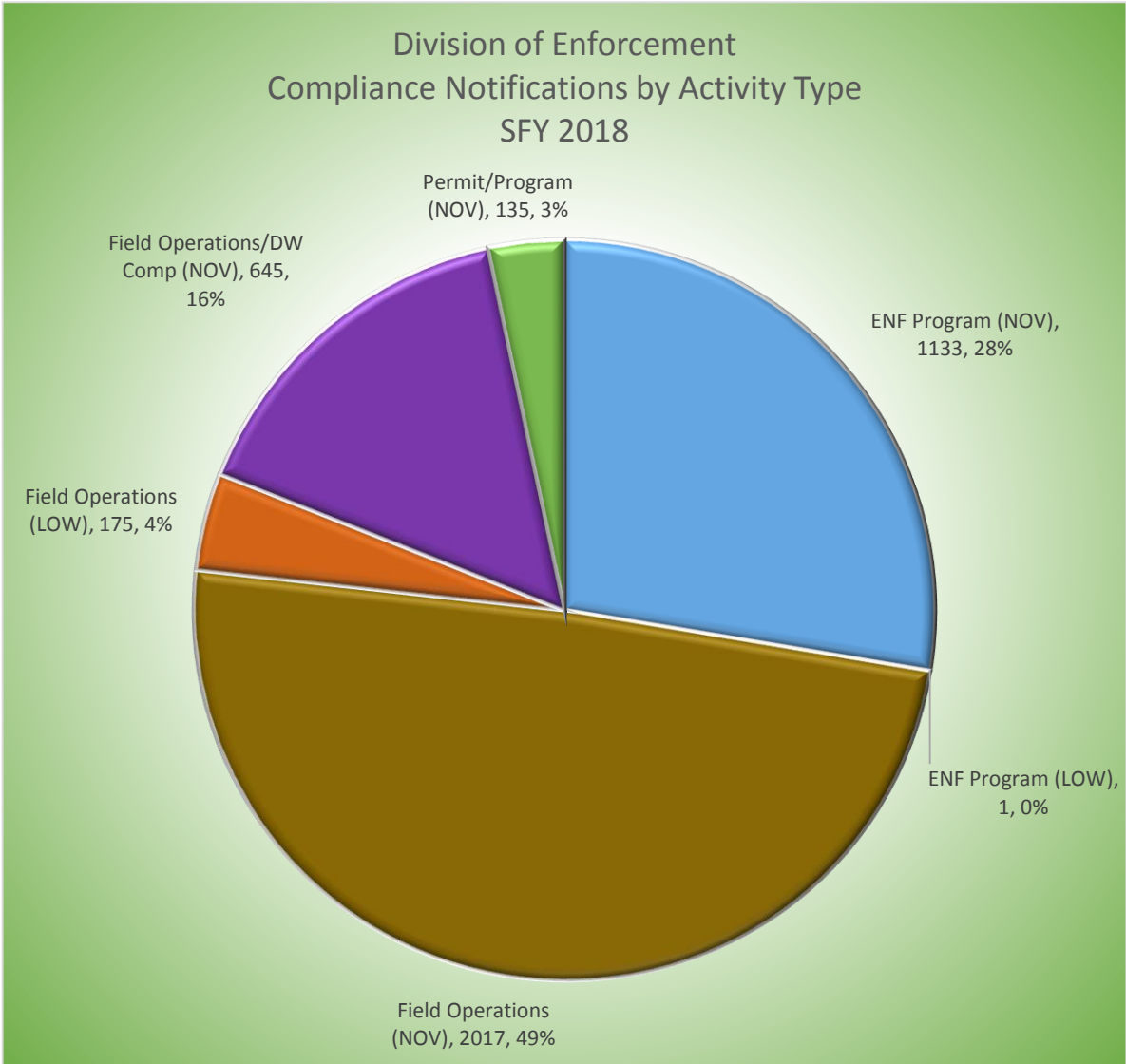


Figure 18

Compliance Notification Data

Compliance Notifications Issued by Program: In SFY 2018, the largest number of notifications issued by KDEP was in the Wastewater program with 1,823 (44%), followed by the UST program with 828 (20%), and the Drinking Water program with 686 (17%).

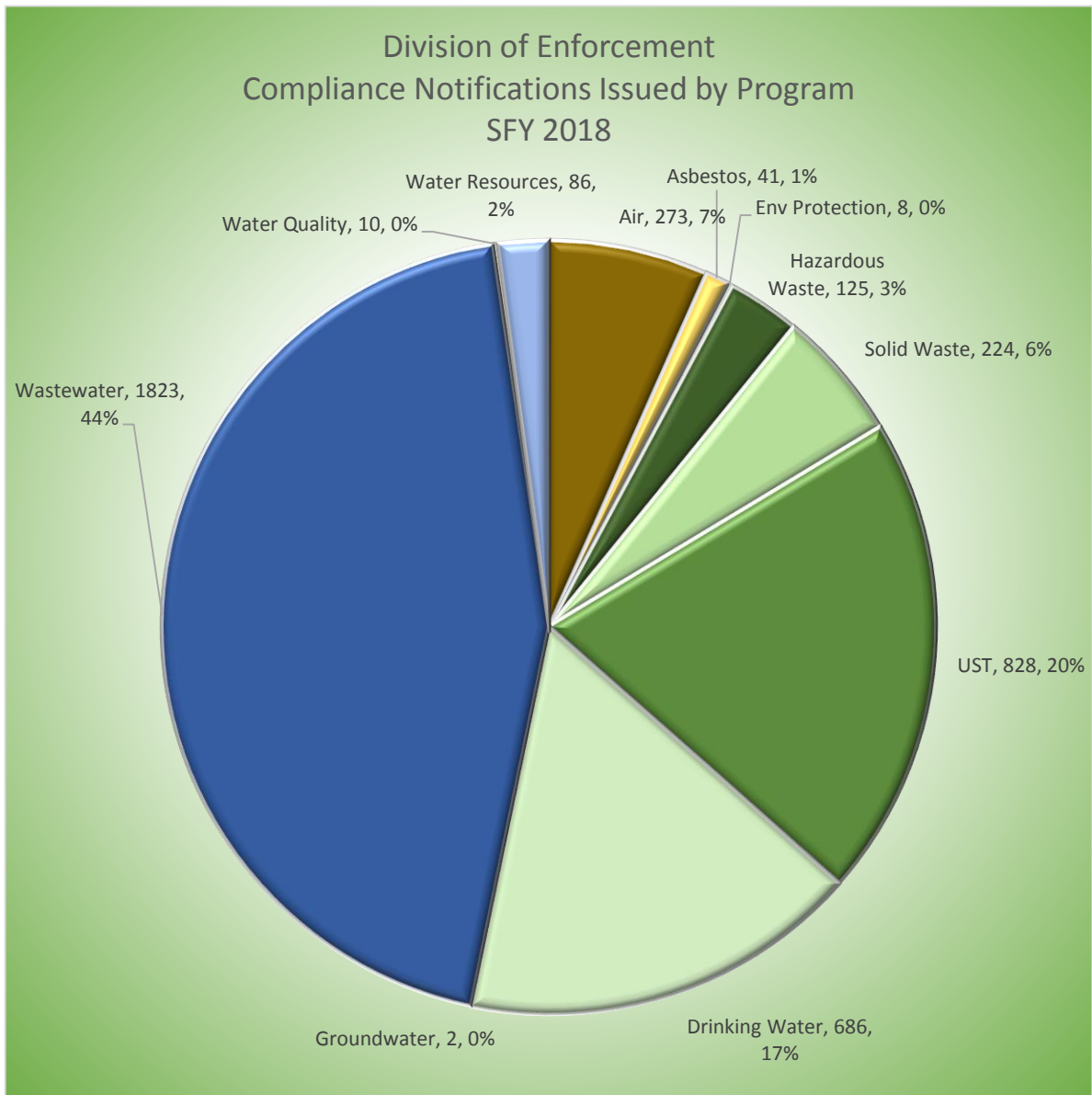


Figure 19

SFY 2018 Accomplishments

- **Ledvance (formerly Osram Sylvania)** was issued Notices of violation on January 29, 2014, July 16, 2015, October 21, 2016, and November 23, 2016 related to hazardous waste storage and disposal issues at their facility located at Tyrone Pike in Versailles, Kentucky. Elevated levels of lead were found in a ditch-line leaving the property. The case was referred to legal services and went to mediation. On May 14, 2018, an Agreed Order was issued which required the payment of a \$150,000 civil penalty along with several remedial measures, including site sampling, characterization, and remediation of any contaminated areas. The remedial measures are in progress.
- **Convenience Stores Leasing and Management** is the owner of eleven underground storage tank facilities. All of the facilities were referred to the Division of Enforcement from 2012 through 2016, for similar violations including: failure to perform required system testing; failing to properly operate and maintain tanks systems; failing to maintain and submit required reports; and failing to appoint a Designated Compliance Manager. The Division negotiated terms of an Agreed Order, which was executed in November of 2017, requiring the company pay a \$220,000 civil penalty and complete a Supplemental Environmental Project valued at \$30,000. The Agreed Order also contains performance and stipulated penalties for future violations and failing to comply with the terms of the order.
- **Hopkins County Coal, LCC:** DENF's COB performed DMR reviews of 17 KPDES (8 of which are renewals) permits for Hopkins County Coal, LLC. The company had 178 violations of their KPDES permits between January 2013 through June 2017. Negotiations were successful and an Agreed Order was entered into on July 12, 2018 between the Cabinet and Hopkins County Coal, LLC. The terms of the settlement included the payment of a \$70,000 civil penalty and corrective actions to prevent new violations from occurring. Those remedial measures are currently being completed by the Hopkins County Coal, LLC.

SFY 2018 Accomplishments

- **Campari America LLC dba Wild Turkey Distillery** was referred to Enforcement after four (4) NOVs were issued between February 8, 2016 and May 4, 2018. Violations involved repeat DMR exceedances for E. coli, BOD, and TSS as well as degrading the Waters of the Commonwealth. Wild Turkey was very proactive in addressing their violations. They involved the Division of Compliance Assistance, outside contractors, and spent millions of dollars on replacing and upgrading equipment. Ultimately, Wild Turkey found it best to pipe into the city system. This connection is complete, and further connection is expected in the future to allow for the distillery's expansion. As a result, violations similar to those in the referral are not expected in the future. Numerous representatives of Wild Turkey Distillery attended an administrative conference on May 8, 2018. A follow-up conference to discuss settlement was held on May 30, 2018. On June 4, 2018 Wild Turkey agreed to settle the case for \$20,000. A Demand Letter was sent June 12, 2018 and the full payment was received June 19, 2018.
- **Alden Resources** operates coal mining facilities in KY with 26 Kentucky Pollution Discharge Elimination System (KPDES) permits. Both branches worked closely on this eight year case. Based on a records review and the self-reported comprehensive review of Discharge Monitoring Reports (DMRs) for the time period of January 2010 through March 2018, the Cabinet has issued 1,073 violations. The Cabinet is currently finalizing settlement of the outstanding violations through an Agreed Order which would require Alden Resources to: develop and submit a Corrective Action Plan to address compliance with the monitoring, testing, recordkeeping, and reporting requirements for DMRs under its KPDES Permits; and address ongoing discharges in excess of the permitted limits. Additionally, Alden Resources will be required to pay a civil penalty in the amount of \$175,000 to resolve the cited violations.

SFY 2018 Accomplishments

- **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 2018, the Compliance and Operations Branch continued to work hard completing comprehensive Discharge Monitoring Reports (DMR) reviews of coal companies and wastewater facilities in the Commonwealth. With a mix of several new and veteran staff, the Branch issued 1,247 Notices of Violation and sent 152 referrals to the CEB during the course of SFY 2018. This work required the review of thousands of DMRs, 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. In SFY 2017, COB experienced an influx of Whole Effluent Toxicity violation referrals from the Division of Water's Surface Water Permits Branch. Thus prompting the Compliance and Operations Branch to cross-train additional staff. This new Permit Program employee still remains the reviewer on all his previous coal permits but now also oversees the Permit Program referrals as well. For SFY 2018, the violation referrals were from the Division of Waste Management's Hazardous Waste and Division of Water's Water Resources, Groundwater, Wastewater and Surface Water Permit Programs. 144 Notices of Violation were issued by one employee in the Branch and programmatic distributions are as follows: Whole Effluent Toxicity (WET): 98 (Chronic: 90 & Acute: 8), Water Withdrawal: 30, Dam Safety and Floodplain Compliance: 9, Pretreatment: 4, Ground Water: 2 and Hazardous Waste: 1.
- **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 2017 calendar year DMR review, the coal company owned 318 permits (out of 1,373 permits) in the State of Kentucky. The 2017 calendar year review showed 1,203 violations. These additional violations were referred and added to the current case in the Civil Enforcement Branch. This case now has a grand total of 3,283 violations, which are currently in negotiations.

Contact Information

Division of Enforcement Kentucky Department for Environmental Protection

Energy and Environment Cabinet

300 Sower Boulevard, 3rd Floor

Frankfort, KY 40601

(502) 564-2150 Telephone

(502) 564-4245 Fax

Director's Office

- **Michael Kroeger**, Division Director, (502) 782-6866
- **Mark Cleland**, Environmental Scientist Consultant Senior,
(502)782-6856

Civil Enforcement Branch

- **Justin Schul**, Environmental Control Manager, (502) 782-6870

Compliance and Operations Branch

- **Natalie Bruner**, Environmental Control Manager, (502) 782-6861