

DEPARTMENT OF ENVIRONMENTAL CONSERVATION LEGISLATIVE REPORT

Report Name: Uniform Environmental Enforcement Act Report

Year: 2023

Date reported: 02/15/2024

Authorizing statute: 10 V.S.A. §8017

Committees: President Pro Tempore of the Senate, Speaker of the House, House Committee on Environment and Energy, & Senate Committee on Natural Resources and Energy

Prime contact: Adam D. Miller, Director of Environmental Compliance

Executive Summary

In 2023, the Department of Environmental Conservation (DEC) within the Agency of Natural Resources (ANR) received a total of 3,943 incidents. The Enforcement Section (ENF) of the Environmental Compliance Division (ECD) in DEC is the investigative body of DEC. In 2023, 2,898 incidents were received by ENF, and 1,045 were initiated or received by DEC programs with 865 of those being spill reports.

The primary duty of the Enforcement Section of ECD is to investigate and document any/all alleged violations of Vermont's environmental permits, rules, regulations, and statutes that are under the jurisdiction of DEC. ECD's Enforcement Section is staffed by a Chief Environmental Enforcement Officer (CEEEO), and an Administrative Services Coordinator and when at full staff, seven (7) Environmental Enforcement Officers (EEOs) located within geographical districts throughout the state. Staff turnover saw the EEO force drop to five (5) during 2023. This combined with ENF representing DEC at the State's Emergency Operations Center 24/7 during the entire 54-day long response to the July flood event impacted our overall closure numbers, but the effort was a total success in regard to serving Vermonters and a testament to the skill and dedication of the ENF staff.

In 2023, ECD closed 1,714 incidents. Of these, 1,185 or around 69% were closed with no violation being found. Of the 529 incidents with a violation found, about 70% were closed with voluntary compliance being achieved. This highlights the benefit of ECD's eight EEOs investigating incidents to determine if a violation exists and the positive outcomes EEOs generate during face-to-face communications with citizens to remedy violations.

ANR’s Enforcement and Litigation Section is housed within ANR’s Office of General Counsel (OGC). The legal staff in this section handle formal enforcement that begins when an investigation ends and includes brokering settlement agreements and representing ANR in court proceedings related to formal enforcement actions. ECD and OGC work closely to bring cases identified by EEOs or DEC media program staff to legal resolution.

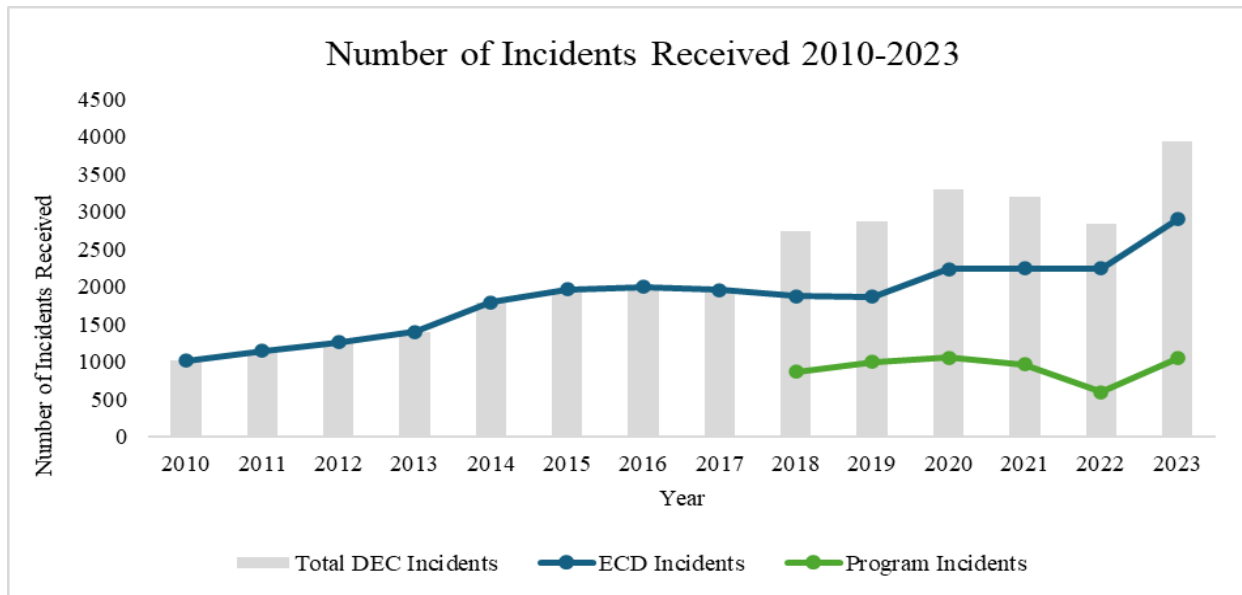
In 2023, ANR used formal enforcement methods in 17 cases through the issuance of civil citations, Administrative Orders, or Assurances of Discontinuances. The cases resulted in \$123,163.63 in penalties assessed for the year to be directed to the general fund.

Collaboration with the Attorney General’s Office (AGO)

ANR continues to work closely and effectively with the AGO, meeting with them quarterly. ANR provides information on new cases to the AGO on a weekly basis. The MOU between the two organizations is reviewed annually to ensure its continued effectiveness.

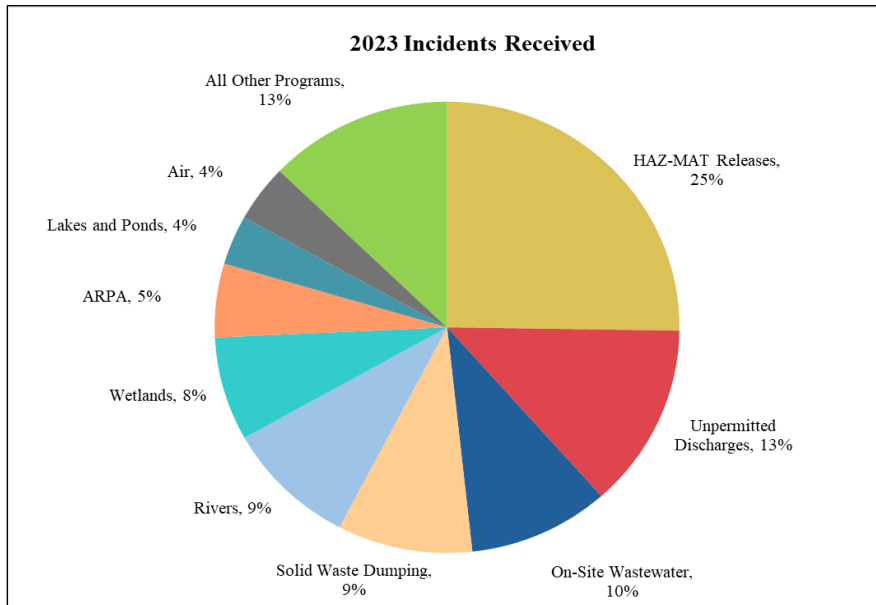
During 2023, ANR referred one enforcement case to the AGO. There were 4 ANR-referred cases that were closed by the AGO during the year.

Key Takeaways



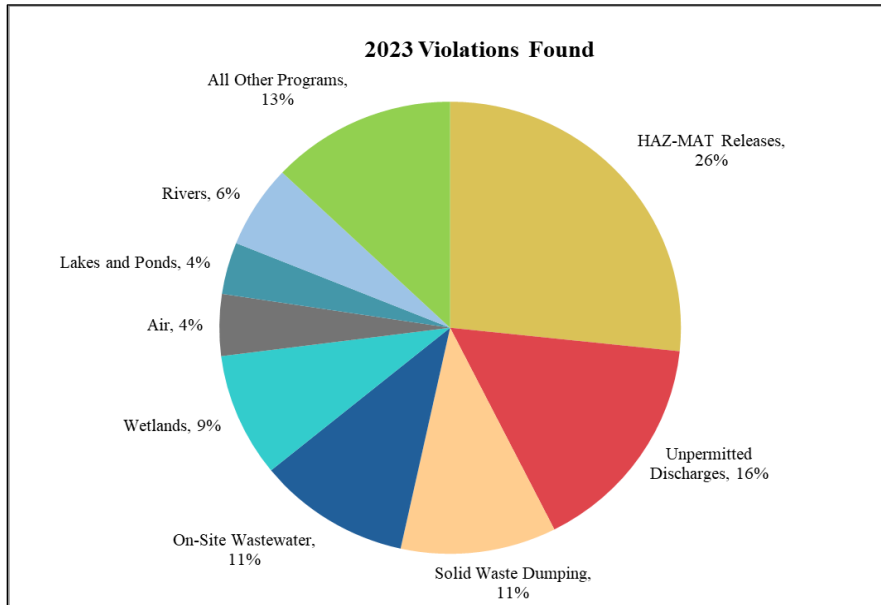
Incidents Received by Year. ECD data is presented since 2010. Note: Although the tracking breakout of ECD and program incidents began in 2018, incidents involving ECD and individual programs occurred prior to 2018.

In 2023, the most common categories of incidents received are presented in the figure below.



Program	Total	Percent
HAZ-MAT Releases	995	25%
Unpermitted Discharges	521	13%
On-Site Wastewater	387	10%
Solid Waste Dumping	371	9%
Rivers	362	9%
Wetlands	293	7%
ARPA	208	6%
Lakes and Ponds	140	4%
Air	161	4%
All Other Programs	505	12%
Total	3943	100%

The top categories of violations found in 2023 are present in the figure below.



Program	Total	Percent
HAZ-MAT Releases	611	27%
Unpermitted Discharges	364	16%
Solid Waste Dumping	250	11%
On-Site Wastewater	245	11%
Wetlands	203	9%
Air	101	4%
Lakes and Ponds	85	4%
Rivers	136	6%
All Other Programs	297	13%
Total	2292	100%

Summary of Incidents Received and/or Resolved January 1, 2023 to December 31, 2023

Division	Total Incidents Received 2023	Pending Of Those Received in 2023	Closed No Violation	Closed NOAV Issued	Closed Citation Requested/ Issued	Closed Voluntarily Corrected/ No Further Action Required	Closed Formal Action Requested/ Taken	Closed No Formal Action Taken*	Total Closed
Environmental Compliance Division	2898	941	1185	50	1	369	58	51	1714
DEC Media Programs	1045	171	316	2	3	496	0	60	877
Total	3943	1112	1501	52	4	865	58	111	2591

**Reflects complaints closed through other means, e.g. lack of evidence, lack of cooperation from complainant, referred to the appropriate regulatory program or NRB, unable to respond, or violation found/enforcement action not pursued*

Summary of Formal Court Actions January 1, 2023 to December 31, 2023

Type	Number Issued	Penalties Assessed	Penalties Collected
Administrative Orders	2	\$43,800.00	\$3,114.00
Assurances of Discontinuance	12	\$74,863.63	\$44,744.73
Civil Citations	3	\$4,500.00	\$3,000.00
Emergency Orders	0	\$0.00	\$0.00
Total	17	\$123,163.63	\$50,858.73

ANR closed nine cases informally in 2023. Closed informally means an enforcement attorney was able to obtain compliance without the need for formal legal action, or further investigation may reveal that an enforcement action was no longer needed or appropriate, or one case is consolidated with another and closed.

ANR entered into one Supplemental Environmental Project (SEP) in 2023 in the amount of \$ \$5,000.00.