

DEPARTMENT OF ENVIRONMENTAL CONSERVATION LEGISLATIVE REPORT

Report Name: Uniform Environmental Enforcement Act Report

Year: 2021

Date reported: 02/15/2022

Authorizing statute: 10 V.S.A. §8017

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

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

Executive Summary

In 2021, the Department of Environmental Conservation (DEC) within the Agency of Natural Resources (ANR) received a total of 3,208 incidents. The Enforcement Section of the Environmental Compliance Division (ECD) in DEC is the investigative body of DEC. In 2021, 2,241 incidents were received by ECD, and 967 were initiated or received by DEC programs with 546 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 Director, Chief Environmental Enforcement Officer (CEEEO), and Administrative Services Coordinator located in Montpelier and seven Environmental Enforcement Officers (EEOs) located within designated geographical districts throughout the state. The total costs of the administering the Environmental Compliance Division's Enforcement Section in 2021 were \$1,324,227.00.

In 2021, ECD closed 1,938 incidents. Of these, 1,348 or 70% were closed with no violation being found. Of the 590 incidents closed with a violation found, 69% were closed as minor violations 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 2021, ANR used formal enforcement methods in 39 cases through the issuance of civil citations, Administrative Orders, or Assurances of Discontinuances. The cases resulted in \$344,841.00 in penalties assessed for the year to be directed to the general fund.

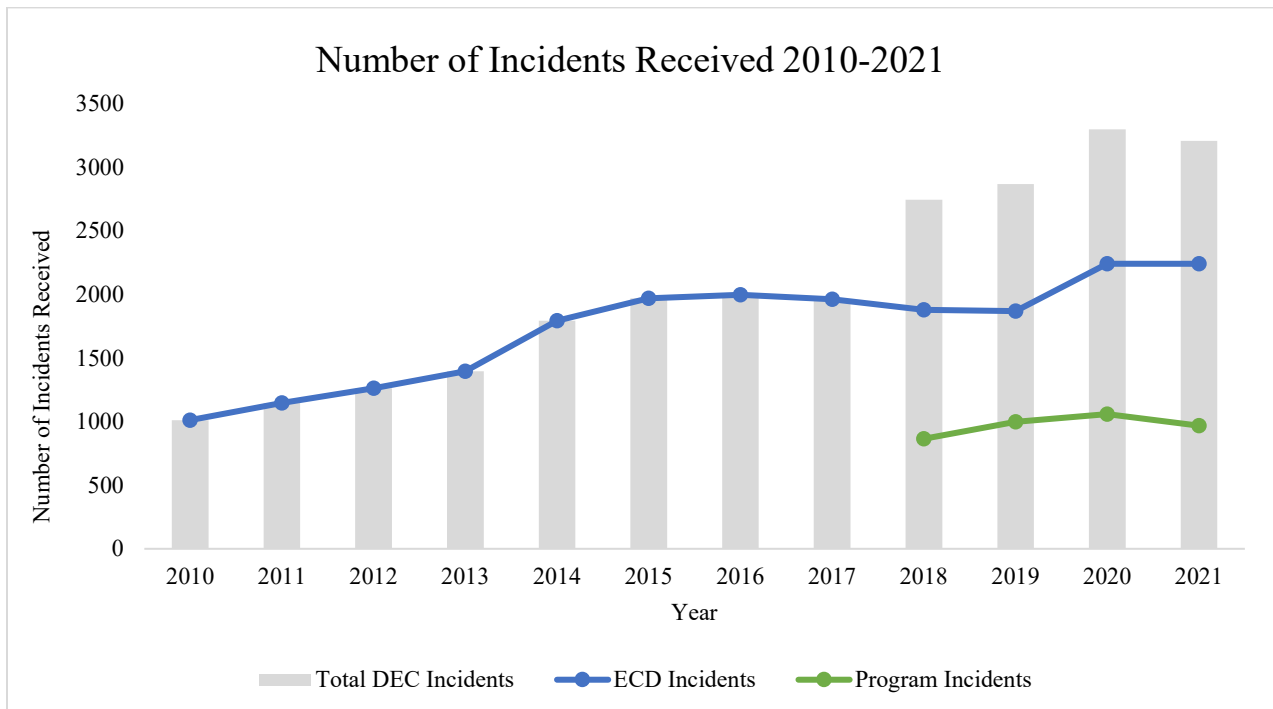
Collaboration with the Attorney General’s Office (AGO)

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 2021, ANR referred two enforcement cases to the AGO. No ANR-referred cases were closed by the AGO during the year.

Key Takeaways

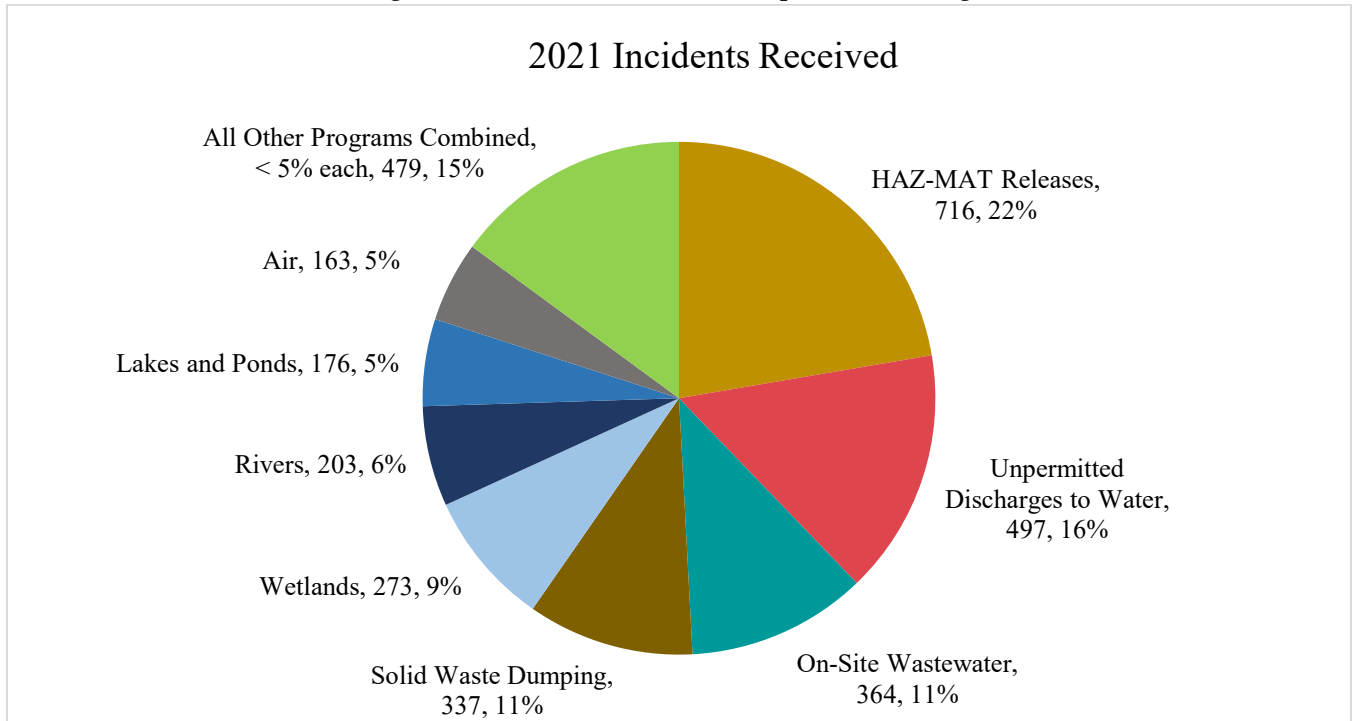
Since onset of the coronavirus (COVID-19) in 2020, DEC has seen a significant increase in the number of reported incidents compared to prior years. In 2021, DEC received a similar number of incidents as was received in 2020. The impact of the increase in incidents over the past two years continues to be compounded by limited response options due to COVID-19. DEC continues to take additional safety precautions to help protect the health of both citizens and staff.



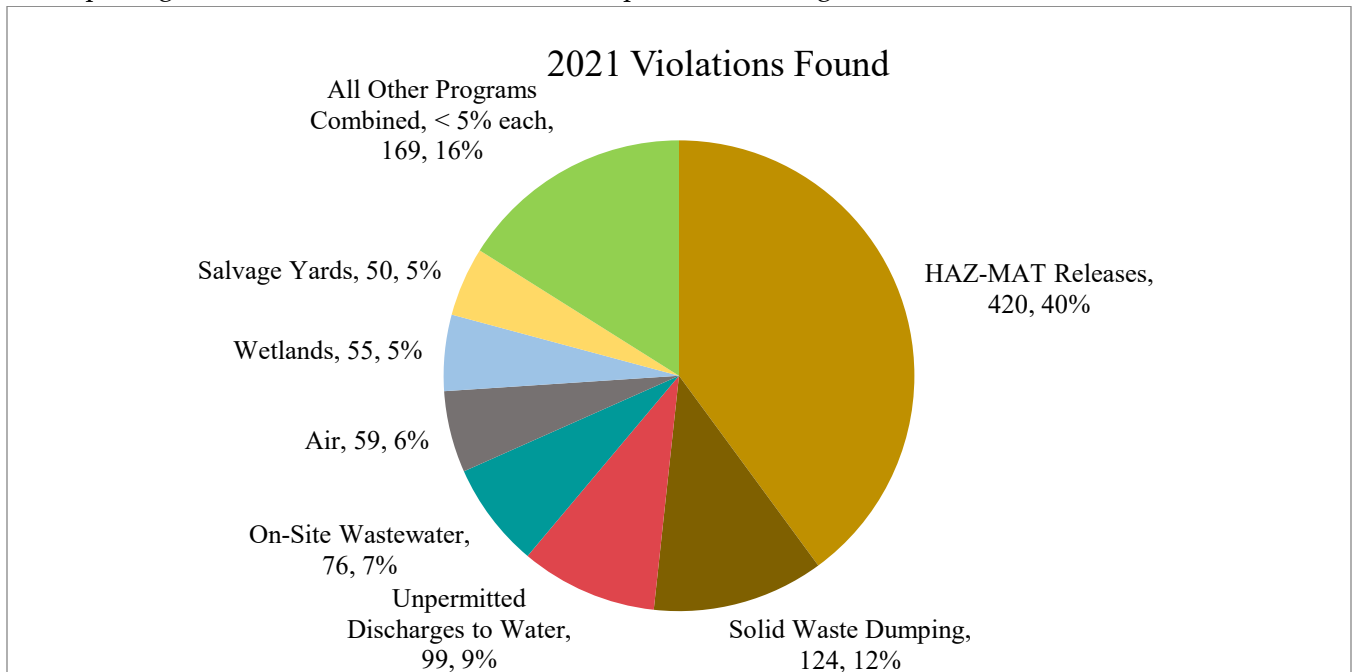
Incidents Received by Year. ECD data is presented since 2010. Note: Although the tracking breakout of ECD and program incidents began in 2018, incidents involving ECD and individual programs occurred prior to 2018.

Discussion

In 2021, the most common categories of incidents received are presented in figure below.



The top categories of violations found in 2021 are present in the figure below.



Summary of Incidents Received and/or Resolved January 1, 2021 to December 31, 2021

Division	Total Incidents Received 2021	Pending Of Those Received in 2021	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	2241	716	1348	43	25	363	105	54	1938
DEC Media Programs	967	346	220	40	11	415	16	55	757
Total	3208	1062	1568	83	36	778	121	109	2695

*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, 2021 to December 31, 2021

Type	Number Issued	Penalties Assessed	Penalties Collected
Administrative Orders	6	\$90,549.50	\$45,953.62
Assurances of Discontinuance	21	\$243,291.50	\$228,315.76
Civil Citations	11	\$11,000.00	\$9,350.00
Emergency Orders	1		
Total	39	\$344,841.00	\$283,619.38

ANR closed eight cases informally in 2021. 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 in 2021 in the amount of \$3,375.