

# DEPARTMENT OF ENVIRONMENTAL CONSERVATION LEGISLATIVE REPORT

## **Report Name: Uniform Environmental Enforcement Act Report**

**Year: 2022**

**Date reported: 02/17/2023**

**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 2022, the Department of Environmental Conservation (DEC) within the Agency of Natural Resources (ANR) received a total of 2,839 incidents. The Enforcement Section of the Environmental Compliance Division (ECD) in DEC is the investigative body of DEC. In 2022, 2,243 incidents were received by ECD, and 596 were initiated or received by DEC programs with 529 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 administering the Environmental Compliance Division's Enforcement Section in 2022 were \$1,518,315.

In 2022, ECD closed 2,475 incidents. Of these, 1,800 or around 73% were closed with no violation being found. Of the 675 incidents with a violation found, 71% 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 2022, ANR used formal enforcement methods in 27 cases through the issuance of civil citations, Administrative Orders, or Assurances of Discontinuances. The cases resulted in \$198,905.50 in penalties assessed for the year to be directed to the general fund.

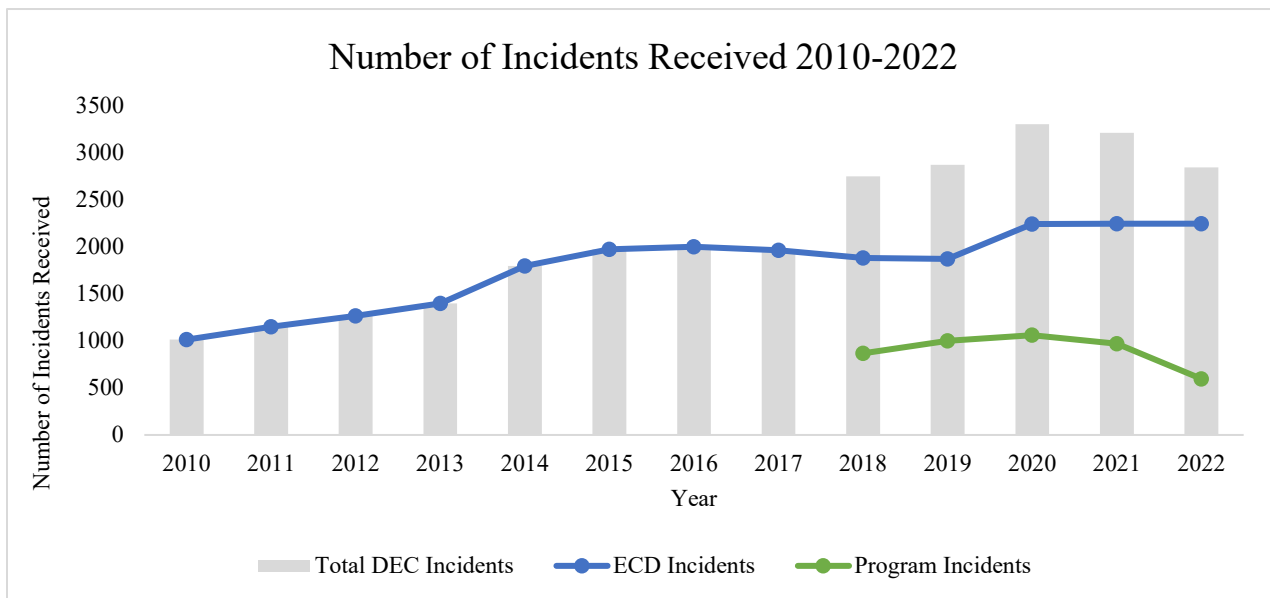
### Collaboration with the Attorney General’s Office (AGO)

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 2022, ANR referred three enforcement cases to the AGO. No ANR-referred cases were closed by the AGO during the year.

### Key Takeaways

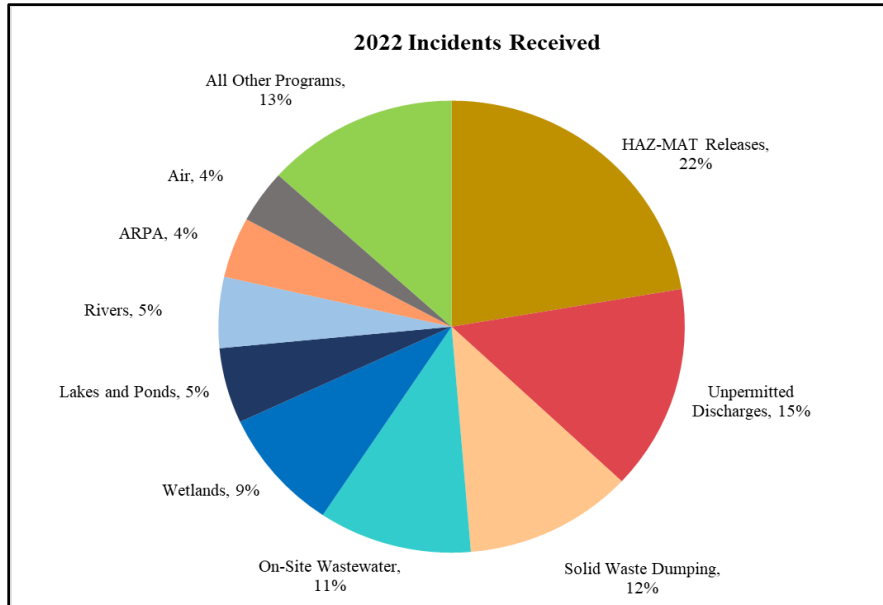
A noteworthy increase in the number of incidents received was seen in 2020 and held steady in 2021. This may have been a result of the stay-at-home trend seen during the COVID-19 pandemic. As the pandemic subsides, a return to the previous trend of a more gradual yearly increase in the number of incidents received is anticipated.



*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.*

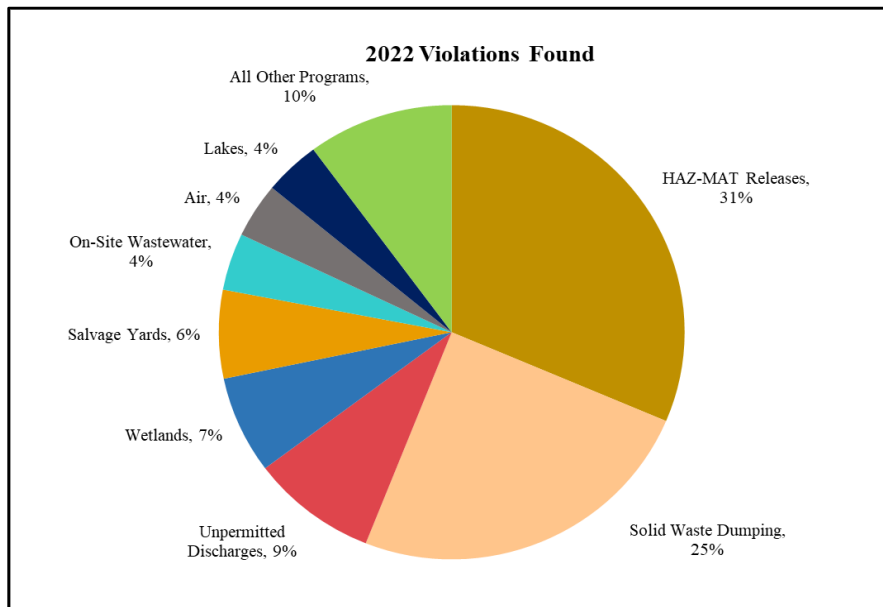
## Discussion

In 2022, the most common categories of incidents received are presented in the figure below.



Program	Total	Percent
HAZ-MAT Releases	634	22%
Unpermitted Discharges	416	15%
Solid Waste Dumping	332	12%
On-Site Wastewater	302	11%
Wetlands	249	9%
Lakes and Ponds	153	5%
Rivers	144	5%
ARPA	123	4%
Air	108	4%
All Other Programs	378	13%
<b>Total</b>	<b>2839</b>	<b>100%</b>

The top categories of violations found in 2022 are present in the figure below.



Program	Total	Percent
HAZ-MAT Releases	394	31%
Solid Waste Dumping	309	25%
Unpermitted Discharges	110	9%
Wetlands	87	7%
Salvage Yards	79	6%
On-Site Wastewater	51	4%
Air	49	4%
Lakes	49	4%
All Other Programs	127	10%
<b>Total</b>	<b>1255</b>	<b>100%</b>

## Summary of Incidents Received and/or Resolved

January 1, 2022 to December 31, 2022

Division	Total Incidents Received 2022	Pending Of Those Received in 2022	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	2243	830	1800	22	35	454	104	60	2475
DEC Media Programs	596	168	80	47	0	320	0	29	476
<b>Total</b>	<b>2839</b>	<b>998</b>	<b>1880</b>	<b>69</b>	<b>35</b>	<b>774</b>	<b>104</b>	<b>89</b>	<b>2951</b>

\*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, 2022 to December 31, 2022

Type	Number Issued	Penalties Assessed	Penalties Collected
Administrative Orders	3	\$23,500.00	\$15,099.77
Assurances of Discontinuance	22	\$171,405.50	\$125,030.50
Civil Citations	2	\$4,000.00	\$2,500.00
Emergency Orders	0	\$0.00	\$0.00
<b>Total</b>	<b>27</b>	<b>\$198,905.50</b>	<b>\$142,630.27</b>

ANR closed eight cases informally in 2022. 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 2022 in the amount of \$ \$7,500.00.