

LEGISLATIVE REPORT



Title: Uniform Environmental Enforcement Act Report

Year: 2020

Date Reported: 2/15/2021

Authorizing Law: 10 V.S.A. § 8017

Prime Contact: Adam D. Miller, ECD Director

Committee: 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

Executive Summary

In 2020, the Department of Environmental Conservation (DEC) within the Agency of Natural Resources (ANR) received a total of 3,299 incidents. The Enforcement Section of the Environmental Compliance Division (ECD) in DEC is the investigative body of DEC. In 2020, 2,240 incidents were received by ECD, and 1,059 were initiated or received by DEC programs with 563 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 (CEEO), and Administrative Services Coordinator located in Montpelier and seven Environmental Enforcement Officers (EEOs) located within designated geographical districts throughout the state.

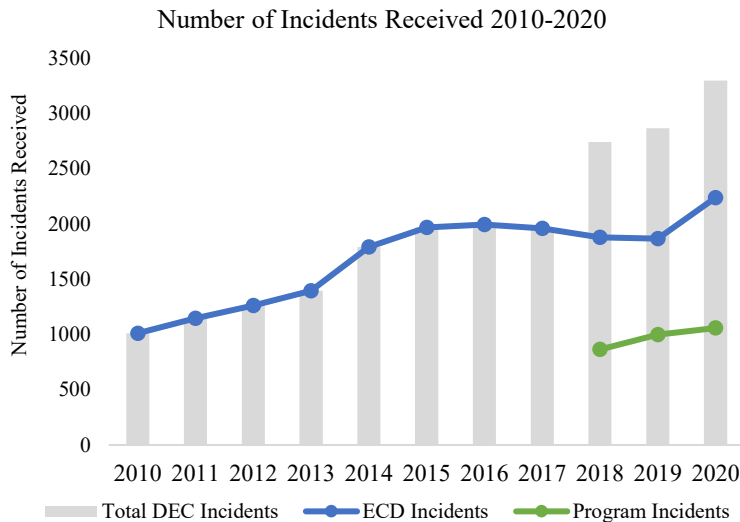
The total costs of the administering the Environmental Compliance Division's Enforcement Section in fiscal year 2020 were \$1,274,419.

In 2020, ECD closed 1,870 incidents. Of these, 1,339 or 72% were closed with no violation being found. Of the 531 incidents closed with a violation found, 75% 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 2020, ANR used formal enforcement methods in 30 cases through the issuance of civil citations, Administrative Orders, or Assurances of Discontinuances. The cases resulted in \$183,236.00 in penalties assessed for the year to be directed to the general fund.

Key Takeaways



DEC continues to see an increase in the number of incidents received each year. In 2020, we saw a drastic increase in incidents received – 431 more than 2019 resulting in a 15% increase total.

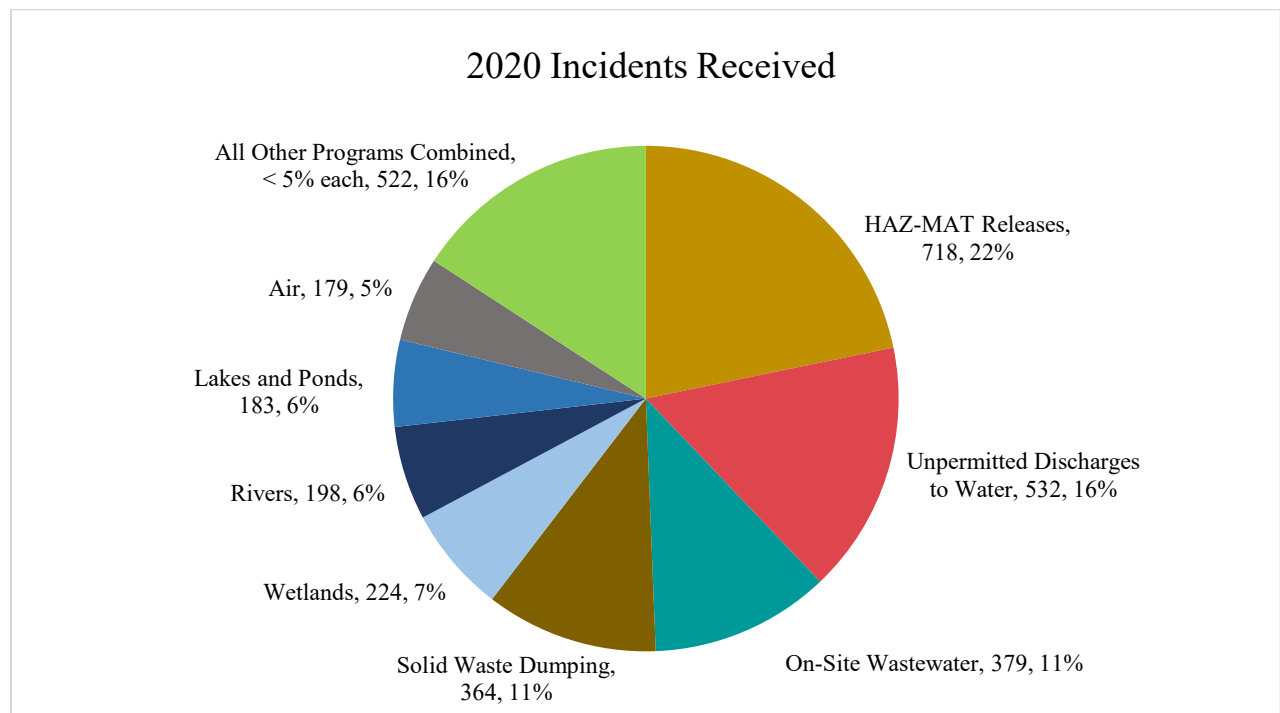
The increase in incidents received was compounded by changing response options due to the coronavirus (COVID-19). DEC took additional safety precautions to protect citizen and staff health.

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.

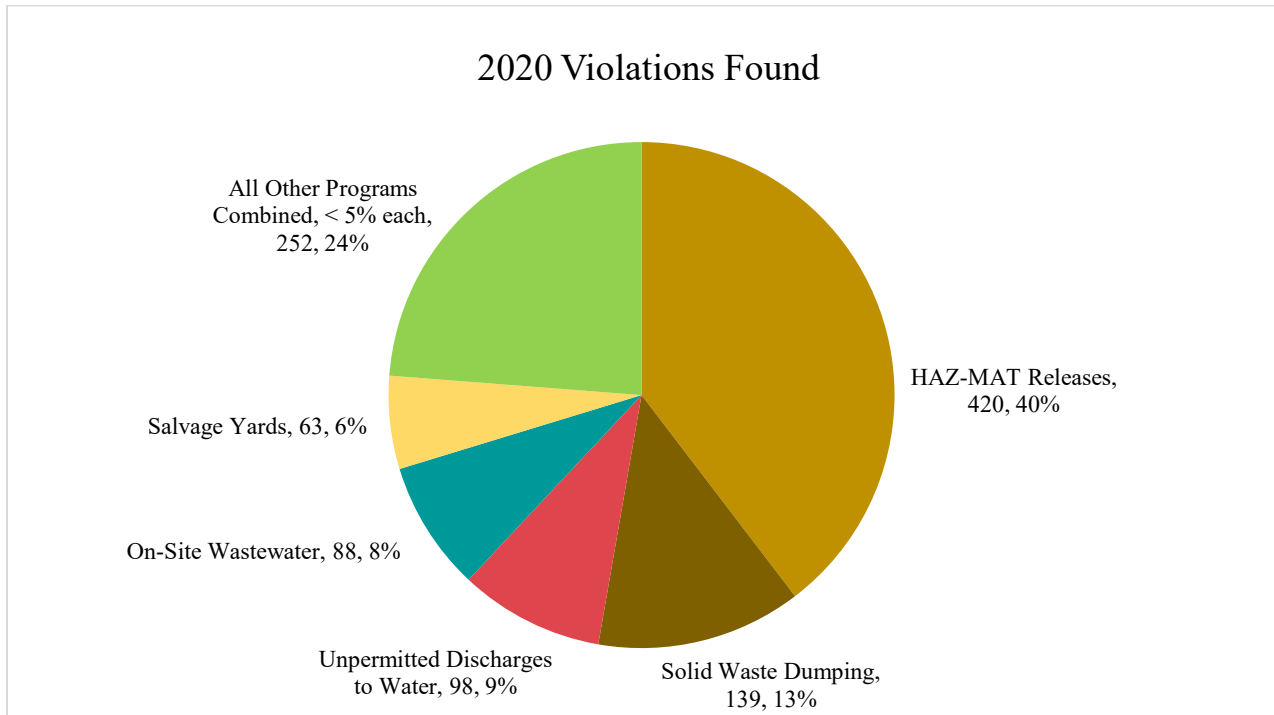
Discussion

Data Trends

In 2020, the most common categories of incidents received are presented in figure below.



The top categories of violations found in 2020 are present in the figure below.



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 2020, ANR referred eleven enforcement cases to the AGO. Six ANR-referred cases were closed by the AGO during the year.

Summary Tables

Summary of Incidents Received and/or Resolved January 1, 2020 to December 31, 2020

Division	Total Incidents Received in 2020	Pending of Those Received in 2020	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	2,240	763	1,339	41	24	356	65	45	1,870
DEC Media Programs	1,059	353	273	22	1	419	16	71	802
Total	3,299	1,116	1,612	63	25	775	81	116	2,672

*Reflects incidents closed through other means, e.g., lack of evidence, lack of cooperation from complainant, unable to respond, or violation found/enforcement action not pursued

Summary of Formal Court Actions January 1, 2020 to December 31, 2020

Type	Number Issued	Penalties Assessed	Penalties Collected
Administrative Orders	1	\$9,000.00	\$21,822.00
Assurances of Discontinuance	24	\$165,836.00	\$177,268.75
Civil Citations	5	\$8,400.00	\$900.00
Emergency Orders	0		
Total	30	\$183,236.00	\$199,990.75

ANR closed three cases informally in 2020. 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.