



Report to the
Montana Environmental Quality Council

Department of Environmental Quality

**ENVIRONMENTAL ENFORCEMENT
AND COMPLIANCE**

State Fiscal Years 2016 and 2017

December 19, 2017

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Introduction - Compliance and Enforcement Overview

This report is submitted by the Department of Environmental Quality (DEQ) to the Montana Environmental Quality Council as required by Section 75-1-314, MCA. The report summarizes the permitting, compliance assistance, and enforcement work conducted by DEQ during the FY2016 and FY2017 reporting period. The report is organized alphabetically by statute name. Information for each statute is presented in order of the reporting requirements listed below.

1. The activities and efforts taking place to promote compliance assistance and education.
2. The size and description of the regulated community and the estimated proportion of that community that is in compliance.
3. The number, description, method of discovery, and significance of noncompliances, including those noncompliances that are pending.
4. A description of how the department has addressed the noncompliances identified in subsection (3) and a list of the noncompliances left unresolved.
5. When practical, reporting required in subsection (1) should include quantitative trend information.

The vast majority of the regulated community is in compliance with the laws and regulations administered by DEQ. The goal of DEQ is that the regulated community be in compliance. Enforcement is not the goal – it is simply the pathway to compliance. This report describes how DEQ staff offer compliance assistance through education and training to make the regulated community aware of regulations and to help maintain compliance.

DEQ implements a progressive approach to compliance and enforcement. Noncompliances (or violations) are discovered in three ways: (1) site inspections, (2) review of self-monitoring reports, and (3) citizen complaints. If a violation is documented, a warning letter is usually sent in response to a minor violation, and a violation letter is sent for significant violations. The letters explain what actions are necessary to prevent or correct the problem.

If violations are not corrected or if the violations are deemed significant enough to justify an enforcement action, an enforcement request may be prepared. Upon the Director's approval of the enforcement request, Enforcement Division staff work with regulatory program staff and attorneys to write orders; calculate penalties; negotiate settlements; and monitor compliance with final orders.

Most of DEQ's enforcement actions are resolved administratively, not in court. DEQ issues an administrative order that includes corrective action and/or a penalty assessment. These orders may be appealed before the Board of Environmental Review. Since 2013, in order to avoid appeal costs, the Enforcement Division has been sending alleged violators settlement offers rather than issuing unilateral orders that can be appealed. Most cases have since been settled with consent orders. The filing of a complaint in district court is generally reserved for the most recalcitrant violators.

Citizen complaint calls and spill reports are channeled through the Enforcement Division. Staff track and manage the response to the calls, and investigate to determine if the complaint is valid. If valid, staff sends warning or violation letters to inform the responsible party of what is required to correct the problem.

A. Asbestos Control Act (ACA), Section 75-2-501, MCA

1. Compliance Assistance and Education Activities

The Asbestos Control Program (ACP) regulates the abatement of ten or more square feet, or three or more linear feet or cubic feet of asbestos-containing material by issuing asbestos project and annual facility permits, accrediting asbestos-related individuals conducting compliance inspections, and approving third-party asbestos training course providers.

The ACP provides compliance assistance by:

- providing on-site asbestos regulatory guidance at non-permitted sites;
- performing inspections at 64 percent of FY2016 permitted sites and 45 percent of FY2017 permitted sites;
- delivering formal presentations throughout the state to provide updated information and guidance to asbestos contractors, code officials, sanitarians, local officials, and the public;
- updating the Asbestos Program website and offering an online permitting system;
- participating in educational activities with the Solid Waste Advisory Committee and asbestos contractors to ensure safe disposal of asbestos-containing waste; improving work practices; and promoting licensing efficiencies; and
- working with the Asbestos Advisory Group (AAG), established by HB 434 of the 2015 Legislature, and representing a broad number of people with interests in asbestos regulations, to advise DEQ on issues related to asbestos regulation. Nine AAG recommendations were received by DEQ in January of 2017. The ACP's goal is to implement the recommendations over the next two years.

2. Regulated Community

The regulated community under the Asbestos Control Act consists of building owners, contractors, consultants, and individuals who conduct asbestos projects, provide asbestos training, and conduct other asbestos-related activities. The ACP issued 323 asbestos project permits during FY2016 and 368 permits during FY2017.

3. Noncompliances

The ACP documented 50 complaints and closed 50 complaints in FY 2016, and closed 43 of 44 documented complaints in FY 2017.

In FY2016 and FY2017, the Enforcement Division received 165 citizen complaints regarding violations or questions about the regulations. Of those complaints:

- two were closed by referral to the Asbestos Control Program;
- three were closed because of not enough information;
- five were closed with no violations;
- 151 were actively managed and closed when minor violations were corrected;
- four remain active; and
- no complaints became formal cases.

The Enforcement Division wrote 116 warning letters and 16 violation letters in FY2016-2017. The majority of letters were written about the requirement to get an asbestos inspection prior to renovation or demolition.

4. Enforcement Efforts

The ACP addresses violations and complaints in two ways.

- Violations are discovered by the ACP during routine site visits and inspections of permitted projects or through audits of accreditation courses. These violations are resolved through compliance assistance, warning letters, violation letters, or formal enforcement. Major violations or repeat offenses usually result in formal enforcement with a civil or administrative penalty.
- Complaints received by the ACP about alleged unpermitted activities and unpermitted asbestos projects are submitted directly to the Enforcement Division for processing.

During the reporting period, the Enforcement Division managed two Asbestos Control Act enforcement cases that were ongoing from the previous reporting period. Violations included: failure to conduct an inspection prior to an asbestos abatement project; failure to obtain a permit; use of unaccredited personnel; and asbestos handling violations. Both cases involved filing complaints in district court. No penalties were paid during the reporting period.

5. Quantitative Trend Information

Since FY2013, the Asbestos Program has been using a web-based permitting and accreditation system. During the 2017 fiscal year, use of the online system accounted for 85 percent of all applications, a rise from 70 percent the previous fiscal year. The Program anticipates use of the system will increase each fiscal year. The Asbestos Program is aware of a decrease in permitted site visits by 20 percent from FY2016 to FY2017. This trend is expected to continue as the Program conducts more compliance assistance at non-permitted sites and as regulatory non-compliance at permitted sites continues to decrease.

B. Clean Air Act (CAA), Section 75-2-101, MCA

1. Compliance Assistance and Education Activities

The Air Quality Bureau implements the requirements of the Montana and Federal Clean Air Acts. To that end, the Air Quality Bureau conducts a breadth of activities including planning, monitoring, permitting, and compliance assurance. Common to all those activities is an underlying bureau foundation that prioritizes the provision of assistance to regulated facilities to attain and maintain compliance with air quality rules and requirements, and to provide education on the “what” and “why” of those requirements to both the regulated community and the public. During FY2016 and FY2017 the Air Quality Bureau provided compliance assistance, education, guidance, and outreach through: communication during facility inspections; annual emissions inventory reviews; report reviews and responses; permitting and registration processes; responses to requests for information; investigations into air quality complaints; prepared presentations to various groups; presentation of air quality impact data via the internet; and reports via the news media.

Air Quality Bureau staff used these opportunities to explain regulatory requirements, suggest appropriate compliance procedures, discuss anticipated or upcoming federal regulations, remind stakeholders of upcoming deadlines, discuss issues of concern, and to solicit input. Staff addressed public concerns by: describing applicable rules and authorities; by explaining applicable permit and/or registration conditions, processes, and intended outcomes; and by providing background and context for current and historic air quality challenges and responses. Air Quality Bureau staff also made informational and educational presentations to various groups on a variety of air quality topics.

2. Regulated Air Quality Community

The community of regulated air quality facilities generally consists of four broad categories of sources:

- The first category includes *stationary* facilities that have the potential to emit greater than 25 tons per year of any one regulated air pollutant. The types of sources included in this category vary considerably in size and complexity, and represent a diverse industrial mix such as: wood products processing; oil and gas production, storage, and processing; mining; manufacturing; power generation; and the storage and processing of agricultural crops. There are 1,513 sources of this type regulated in Montana as of October 19, 2017. Most require a Montana Air Quality Permit (MAQP) to operate. Regulated oil and gas production sources can elect to register with the State of Montana instead of obtaining an air quality permit; 1,236 sources have chosen to pursue this more efficient option. Large stationary sources such as Montana's four petroleum refineries must obtain a Major Source Permit (Operating Permit) in addition to an MAQP.
- A second classification of regulated sources includes *portable* facilities that have the potential to emit greater than 15 tons per year of any one regulated air pollutant. This category principally includes asphalt plants, concrete batch plants, and aggregate crushing and screening plants. There are 349 sources of this type regulated in Montana as of October 19, 2017. At present, these facilities each require an air quality permit to operate; however, the Air Quality Bureau is currently developing a registration program for some portable facilities similar to the registration program that is in place for oil and gas production facilities. This registration program is planned to start with a focus on the aggregate industry, and anticipates regulatory efficiency gains similar to those experienced in the oil and gas production industry.

Tables B.2-1 and B.2-2 provide a breakdown of the types and numbers of the stationary and portable categories of regulated air quality sources in Montana.

Table B.2-1. State Regulated Air Quality Community Industrial Sources by Industry Type

Source Type	Number of Sources
Agricultural Storage	17
Asphalt Plants	71
Concrete Batch Plants	42
Compressor Stations	80
Aggregate Crushing/Screening	230
Incinerators	52
Manufacturing Facilities	34
Mines	25
Other	20
Power Generation Facilities	11
Petroleum Production (Registered)	1,236
Petroleum Production (Permitted)	4
Petroleum Refining	4
Petroleum Storage	24
Wood Products	12
Total	1,862

Data as of October 19, 2017

Table B.2-2. State Regulated Air Quality Community Industrial Sources by Permit Type

Permit Type*	Number of Sources
Montana Air Quality Permit (MAQP) Only	569
Major Source (Title V) Operating Permits	57
Oil and Gas Production Registrations	1,236
Total	1,862

*51 facilities have both an MAQP and an OP, and 6 facilities have only an OP. Hence, there is currently a total of 626 permitted facilities. Data as of October 19, 2017

- A third classification of regulated sources includes facilities that do not require an air quality permit or registration based on potential air pollutant emissions from distinct points, but that are still covered by specific regulations including Maximum Achievable Control Technology (MACT) standards and New Source Performance Standards (NSPS). These types of sources are frequently referred to as “area sources,” and include facilities such as gasoline filling stations, dry cleaners, and automotive paint booths. Efforts were made in 2008 and 2011 to identify and contact affected sources in this category. The 2011 effort identified 447 affected sources. Because minimal funding is available for this program, a comprehensive, up-to-date record of the numbers and types of these facilities is not currently maintained.

- A fourth classification of regulated sources includes those entities that are required to get a permit to conduct open burning. The Air Quality Bureau currently oversees 11 Major Open Burning Permits that are issued to conduct prescribed wildland open burning. Permittees in this category are governmental entities such as the United States (U.S.) Forest Service and Montana Department of Natural Resources and Conservation, but private entities such as Weyerhaeuser are also included. The Air Quality Bureau also currently oversees 25 Minor Open Burning Permits. Typically, the Minor Open Burning Permits are conditional burn permits that are required for licensed landfills to burn untreated wood waste and other companies to burn wood byproduct trade wastes.

Table B.2-3 provides a summary of all four categories (stationary, portable, area, and regulated open burning) of air quality regulated sources.

Table B.2-3. State Regulated Air Quality Community Regulated Entities by Source Category

Category Type	Number of Sources
Stationary Sources	1,513
Portable Sources	349
Subtotal, Permitted or Registered Sources	1,862
Area Sources*	447
Major Permitted Open Burners	11
Minor Permitted Open Burners	25
Current Total of all Regulated Entities	2,345

*Data from 2008 and 2011. The current number of area sources is likely higher than what is listed here. All industrial source data as of October 19, 2017.

3. Noncompliances

Noncompliances are documented actions on a facility or a company not in conformance with specific air quality requirements. These situations are typically discovered through the Air Quality Bureau’s review of industrial self-monitoring reports, permit applications, or registrations, from on-site inspection observations, and occasionally from citizen complaints. The Air Quality Bureau exercises a spectrum of responses to matters of noncompliance based on the significance or repetition of the noncompliance. Normal responses to noncompliance actions by the bureau include:

- email, phone call, or in-person discussion to offer compliance assistance;
- letter documenting noncompliance and recommending corrective action;
- Warning Letter documenting noncompliance and requesting a response;
- Violation Letter documenting noncompliance and requesting a response; and
- enforcement action requiring corrective action and/or assessing a penalty.

The significance of a violation is dependent on a number of factors, such as the air quality impact of the violation, the type of violation, the duration of the violation, the size of the facility, and the compliance history of the facility or company. Areas of marginal compliance, administratively minor violations, or industry-wide noncompliance are often documented in correspondence other than a formal warning or violation letter. Moderately significant violations are typically documented in a warning letter, and more significant violations may be documented in a violation letter.

Compliance assistance is offered to facilities whenever practical. As an example of compliance assistance, the Air Quality Bureau makes numerous efforts to communicate expectations to companies about annual operating fee obligations. Multiple billing notices are sent to companies, phone calls are made, and/or emails are sent to let the companies know of their obligations. Only after all of these efforts have been taken, with no response from the facility, does the bureau typically send violation letters to facilities. Similarly, compliance assistance is also provided through interactions with facilities about inspections, annual emissions inventory reviews, report reviews and responses, permitting and registration processes, and requests for information. Similarly, the emphasis on starting with compliance assistance is the approach that the Air Quality Bureau employed with oil or gas well facilities while developing and implementing the oil and gas registration program over the past decade. The bureau spent many years educating the regulated community about state and federal requirements and assisting in achieving compliance before beginning to issue warning or violation letters as necessary over the last several years. The Air Quality Bureau believes that this approach is yielding improving compliance rates across this industry over the last several years.

Compliance assistance actions are a continuous activity of the Air Quality Bureau, and a record of the numbers of those actions and associated informal communications is nearly impossible to estimate. In contrast, the issuance of warning and violation letters is a more formal and documented process, and records of those actions are maintained and may be communicated. Table B. 3-1 provides a summary of the numbers of warning and violation letters issued by the Air Quality Bureau to permitted and registered air quality facilities during FY2016 and FY2017.

Table B.3-1. Air Quality Warning and Violation Letters issued to Regulated Facilities

	FY2016	FY2017
Air Program Regulated Facilities (Total)	1,882	1,862
<i>Permitted Facilities</i>	628	626
<i>Registered O&G Well Facilities</i>	1,254	1,236
Warning/Violation Letters Issued¹	105	109
<i>Permitted Facilities</i>	60	74
<i>Registered O&G Well Facilities</i>	45	35
Number of Field Inspections	261	391
<i>Permitted Facilities</i>	192	180
<i>Registered O&G Well Facilities</i>	69	211
Warning/Violation Letters resulting from Field Inspections (Rate)	41 (15.6%)	37 (9.5%)
<i>Permitted Facilities</i>	5 (2.6%)	16 (8.9%)
<i>Registered O&G Well Facilities</i>	36 (52.2%)	21 (9.9%)
Number of File Reviews²	2,178	1,993
<i>Permitted Facilities</i>	1,736	1,816
<i>Registered O&G Well Facilities</i>	442	177
Warning/Violation Letters resulting from File Reviews (Rate)	64 (2.9%)	72 (3.6%)
<i>Permitted Facilities</i>	55 (3.2%)	58 (3.2%)
<i>Registered O&G Well Facilities</i>	9 (2.0%)	14 (7.9%)

1. Notices of Noncompliance based on issue date of warning and violation letters.

2. File reviews consist of semi-annual report reviews, quarterly report reviews, source test reviews, annual production information review, Registration Form reviews, etc.

Of the 214 total warning and violation letters issued by the Air Quality Bureau in FY2016 and FY2017, 34 remain open or unresolved. The Air Quality Bureau referred 22 violation letters to the Enforcement Division for further action as discussed in Section 4 below. No warning letters were referred to the Enforcement Division.

Direct representation of the percentage rate of compliance or noncompliance at any facility, company, or industry class, or representation of compliance trends over several years are not functions of Table B.3-1 and should not be inferred from it. This is true for the following reasons:

- First, most facilities are not inspected annually. The noncompliance rates shown above are determined by comparing the number of facilities issued a violation/warning letter within the fiscal year against the number of facilities inspected/reviewed, rather than against the total number of permitted/registered facilities. Depending on complexity and the significance of compliance challenges, a given facility may be visited by bureau staff several times in a given year, while others are not visited at all for several years. Similarly, more complex facilities are required to submit a large number of compliance reports that must be reviewed, while others may require very few. Consequently, the numbers in the table present a description of the actual work performed by the Air Quality Bureau and reflect the numbers of staff positions filled or vacant within the indicated timeframe, but not necessarily a complete representation of the actual measured rate of compliance or noncompliance of all permitted/registered sources in Montana.

- Second, each inspection or report review represents a limited compliance snapshot in time. The snapshot may not represent long-term or overall air quality compliance. Individual warning or violation letters differ in the timeframes they address, and could correspond to violations that occurred from time periods ranging from hours to days or even years, so the table represents numbers of warning or violation actions taken by the Air Quality Bureau, but not the length of time in the year that a facility or company was out of compliance. In addition, a field inspection or file review action might occur in one fiscal year, while a corresponding warning or violation letter may be issued in a subsequent fiscal year. Therefore the resulting rate of noncompliance does not directly correlate to a given calendar period.
- Third, numbers of compliance actions are not a reliable indicator of actual impacts to air quality or the environment. As discussed above, warning and violation letters are appropriately issued for a range of noncompliance severities. For example, failure to register or to submit a report within a required timeframe are both actions of noncompliance that may result in a warning or violation letter, as are failures to install or operate required control equipment, or emissions of air pollutants in excess of allowable limits. However, though those actions all are counted in the table above, the potential or actual impacts to Montana’s citizens and environment are considerably different.
- Finally, the table does not represent the total of the Air Quality Bureau’s compliance actions. As discussed above, the bureau conducts many more compliance actions than those documented in warning or violation letters, often with very positive results. Also, the table does not address non-permitted sources in Montana, or minor source facilities overseen by county air quality programs. Finally, compliance actions addressing noncompliances at non-industrial sources (e.g., an action addressing a violation of the Open Burning Program) are not included in the table.

4. Enforcement Efforts

In FY2016 and FY2017, the DEQ Enforcement Unit received 265 citizen complaints regarding air quality. The primary complaints were dust, emissions, odors, and open burning. Of those complaints:

- 55 were referred to the Air Quality Bureau;
- 34 were referred to outside agencies;
- four were closed with not enough information;
- 12 were closed with no violation;
- 157 were actively managed and closed; and
- three remain active.

The Enforcement Division wrote 79 warning letters and 16 violation letters in FY2016 and FY2017. The letters were primarily written regarding dust, open burning, and emissions.

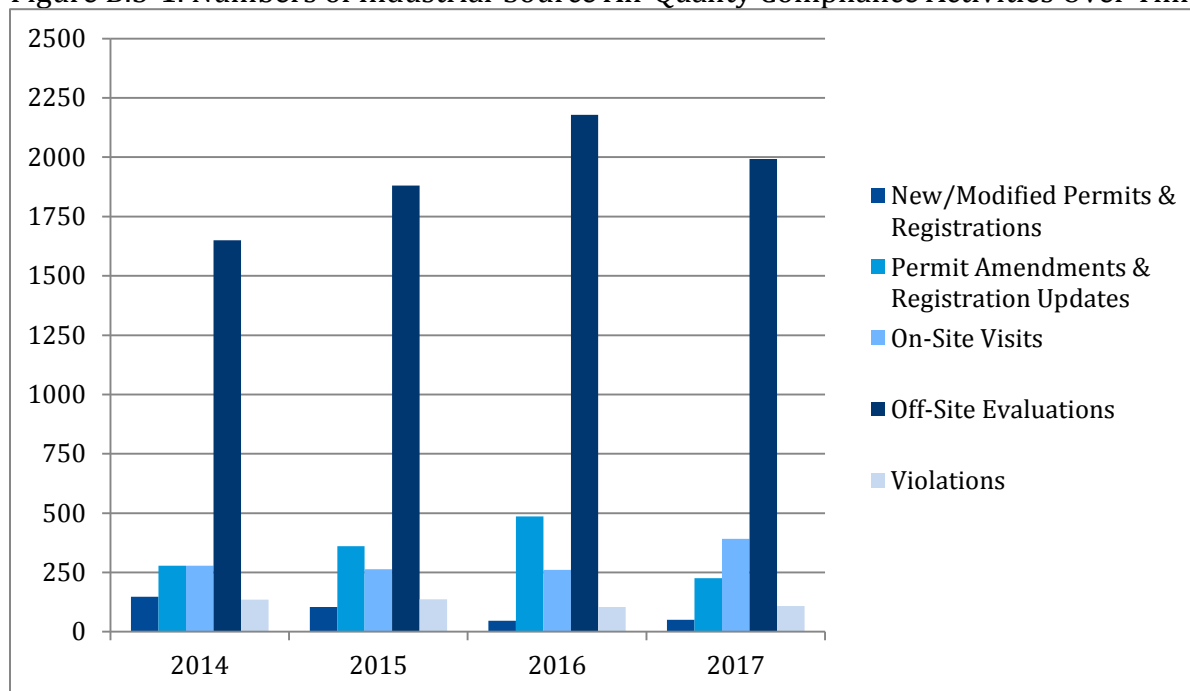
During the reporting period, the Enforcement Unit managed 47 Clean Air Act enforcement cases. Twenty-five cases were ongoing from the previous reporting period and 22 were new cases. Several ongoing cases are longstanding federal enforcement cases that DEQ signed on to under a consent decree. The primary violations addressed by the enforcement actions during this

reporting period involved failure to permit or register equipment, failure to control volatile organic compounds at oil and gas sites, and exceeding permit emission limits. At the end of this reporting period, six cases are under development, three have settlement offers, one case was withdrawn, ten are under order, and 27 cases were closed. A total of \$556,652 of administrative penalties and \$114,747 of civil penalties were paid during the reporting period. The penalties go to the Alternative Energy Revolving Loan account.

5. Quantitative Trend Information

Figure B.5-1 provides a graphic representation of the trend of numbers of industrial source Air Program compliance activities over the last four fiscal years.

Figure B.5-1. Numbers of Industrial-Source Air Quality Compliance Activities Over Time



C. Comprehensive Environmental Cleanup and Responsibility Act, (CECRA) Section 75-10-701, MCA

1. Compliance Assistance and Education Activities

The Remediation Division's State Superfund Unit (Superfund Program) uses the Comprehensive Environmental Cleanup and Responsibility Act (CECRA) and the Environmental Quality Protection Fund (EQPF) to investigate and clean up hazardous substances at sites not addressed by the federal Superfund program or other programs. Historical waste disposal activities at these sites caused contamination of air, surface water, ground water, sediments and/or soils with hazardous or deleterious substances.

Montana law provides several opportunities for potentially liable persons (PLPs) to clean up contaminated sites under CECRA without formal enforcement. The Voluntary Cleanup and Redevelopment Act (VCRA), which is part of CECRA, allows for voluntary cleanup of sites so the property can be redeveloped without the use of DEQ orders. VCRA is appropriate where cleanups can be accomplished in less than five years. The Controlled Allocation of Liability Act (CALA), also part of CECRA, provides for allocating liability where liable persons can complete cleanups and seek reimbursement of some cleanup costs from the Orphan Share Fund. Other provisions of CECRA allow noticed PLPs to conduct proper and expeditious cleanup at sites without the necessity of a DEQ order.

The Superfund Program also conducts stakeholder meetings to provide updates on rule and policy changes, legislation, or other information. The Superfund Program assists communities to obtain state and federal grants to investigate and clean up contaminated sites. In addition, the Superfund Program develops guidance documents to assist the regulated community and the public.

2. Regulated Community

Under CECRA, sites are ranked based on the potential risks to human health and the environment. Because staff and financial resources are not sufficient to address all 178 listed sites in Montana, CECRA activities focus primarily on maximum and high priority sites. During fiscal years 2016 and 2017, 20 sites were delisted. Current resources only allow the Superfund Program to address 41 sites. For the actively addressed sites, 93 percent of the regulated community is currently in compliance with CECRA (see below for compliance issues specific to CECRA).

3. Noncompliances

The two most common noncompliance issues are failure to adequately incorporate DEQ's requirements while developing investigation and cleanup plans, and nonpayment of DEQ's oversight costs. During fiscal years 2016 and 2017, one PLP failed to perform required operation and maintenance activities as outlined in its approved VCRA cleanup plan. Superfund Program staff identifies noncompliance issues during review of required documents and the monthly review of accounts receivable. However, site visits and public complaints may also identify other noncompliance issues.

In FY2016 and FY2017, the Enforcement Division received two complaints regarding CECRA facilities. Both of those complaints were referred to the Superfund Program and work with the PLPs is continuing.

4. Enforcement Efforts

Typically, the Superfund Program first works with the potential liable parties to obtain their cooperation in investigating and cleaning up the site. If the PLP is uncooperative, the Superfund Program may initiate an enforcement action to obtain cleanup.

For failure to adequately incorporate DEQ's requirements, the Superfund Program starts by identifying specific work requirements during scoping meetings with PLPs. After the scoping meeting, the Program reviews the document generated and identifies any deficiencies. The PLP is given an opportunity to correct the deficiencies. If a PLP fails to correct the deficiencies, the Superfund Program may choose to make the changes and offer the PLP the opportunity to finalize the document. If the PLP chooses not to finalize the document, DEQ will finalize the document and give the PLP the opportunity to implement the work. If the PLP fails to conduct the work, then the Superfund Program may: conduct the work itself and recover its costs from the PLP; order the PLP to conduct the work; or pursue litigation to require the PLP conduct the work. PLPs are required to pay DEQ's oversight costs. Failure to pay may stop work until payment is received or ultimately may lead to legal action. Consent decrees or administrative orders are in place for 18 CECRA sites. During the reporting period, the Superfund Program had ongoing judicial actions at two facilities.

5. Quantitative Trend Information

No quantitative trend information can be developed. However, cooperation and quality of PLPs' documents and work efforts has qualitatively improved since the last reporting period. Lack of payment of DEQ's oversight costs is periodically an issue.

D. Montana Hazardous Waste Act (MHW), Section 75-10-401, MCA

1. Compliance Assistance and Education Activities

The Hazardous Waste Program regulates the generation and transfer of hazardous materials by permitted facilities and registered hazardous waste generators. The Hazardous Waste Program provides compliance assistance by:

- responding to requests for information;
- conducting waste minimization reviews during compliance evaluation inspections;
- providing training and contractor contact sheets, waste stream-specific handouts, a website, and other information; and
- providing pre-permit modification application assistance to facilities seeking changes to permits.

2. Regulated Community

The regulated community under MHW consists of facilities that treat, store, and/or dispose of hazardous waste, hazardous waste handlers, and used oil handlers. There are currently nine permitted treatment, storage, and disposal facilities and 1,537 active handlers, which includes large quantity, small quantity, and conditionally exempt small quantity generators, transporters, transfer facilities, used oil handlers, and/or universal waste handlers. The Hazardous Waste Program estimates that 99 percent of permit holders are either in substantial compliance with MHW requirements or are working with DEQ staff to correct any violations.

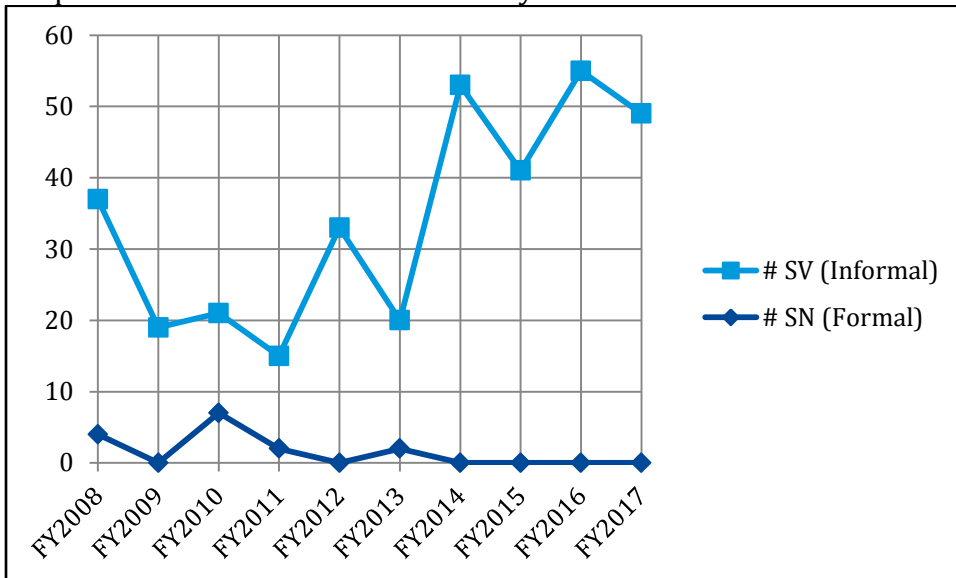
3. Noncompliances

The Hazardous Waste Program generally characterizes violations as secondary or significant. Secondary Violations (SV) represent noncompliance with the required reporting and hazardous waste management requirements, but that does not pose an imminent danger to human health or the environment. These are addressed by the Hazardous Waste Program. Significant Noncompliances (SN) are major violations that pose a significant threat to human health and the environment, or are repeated instances of SVs. These are forwarded to Enforcement Division staff. The DEQ has 17 open violations at seven violators and the EPA has 48 at 17 violators. EPA is the lead compliance agency for the open violations within the borders of Indian reservations.

Table D.3-1. FY2016 and FY2017 Violations

Violations	FY2016	FY2017	Open
Secondary Violations	55	49	65
Significant Noncompliance	0	0	0

Graph D.3-1: 10-Year Violation History



In FY2016 and FY2017, the Enforcement Division received 51 citizen complaints regarding hazardous waste and used oil. Of those complaints:

- six were closed by referral to the Hazardous Waste Program;
- two were referred to outside agencies;
- one was closed with not enough information;
- eight were closed with no violation;
- 31 were actively managed and closed; and
- three remain active.

The Enforcement Division sent one warning letter and two violation letters in FY2016 and FY2017.

4. Enforcement Efforts

Noncompliance may be observed during complaint-related inspections or during normal compliance evaluation inspections. The response to noncompliance may be administered by informal verbal or written notification, or violation letter methods. All recorded violations are entered into the federal database.

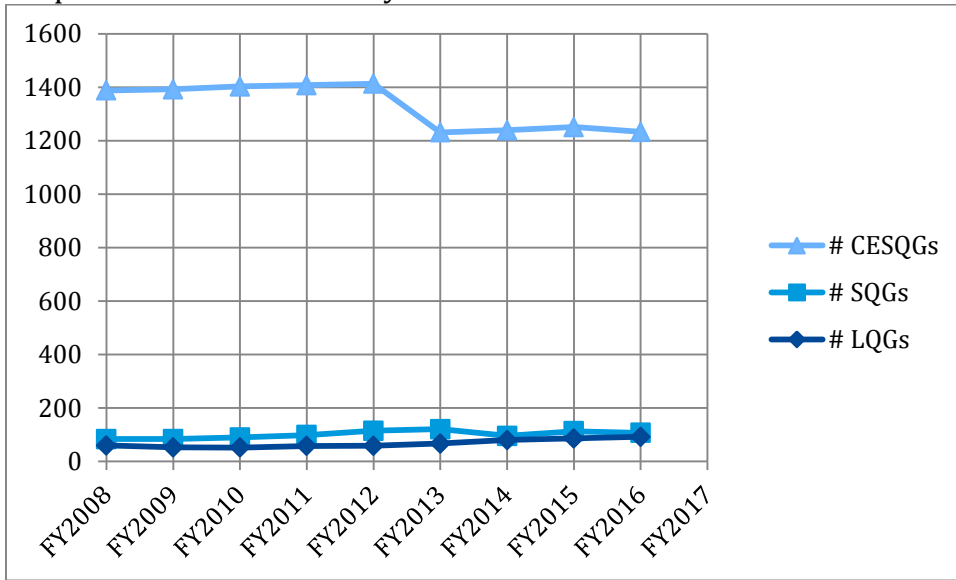
- A verbal informal response would be issued in the field for an easily corrected violation (e.g., an unmarked drum of used oil and the violation is corrected in the presence of the inspector). There were five verbal informal responses issued in FY2016 or FY2017.
- A written informal response (i.e., warning letter) is issued for relatively minor violations that cannot be corrected immediately (e.g., a minor used oil spill or not having a required manifest on site). A written informal response requires the submission of proof of compliance. In FY2016, the Hazardous Waste Program issued 16 written informal responses and 23 in FY2017.
- A violation letter, the first step in a formal enforcement proceeding, is issued in the case of a more serious violation, such as a spill of hazardous waste, or repeat violations. A violation letter allows the responsible party to submit mitigating evidence prior to a referral for formal enforcement. No violation letters were issued in either FY2016 or FY2017.

During the reporting period, the Enforcement Division managed three MHWAs enforcement cases. All of the cases were ongoing from the previous reporting period. As of the end of this reporting period one case is under order and the remaining two cases were closed. A total of \$5,179 of civil penalties was paid during the reporting period.

5. Quantitative Trend Information

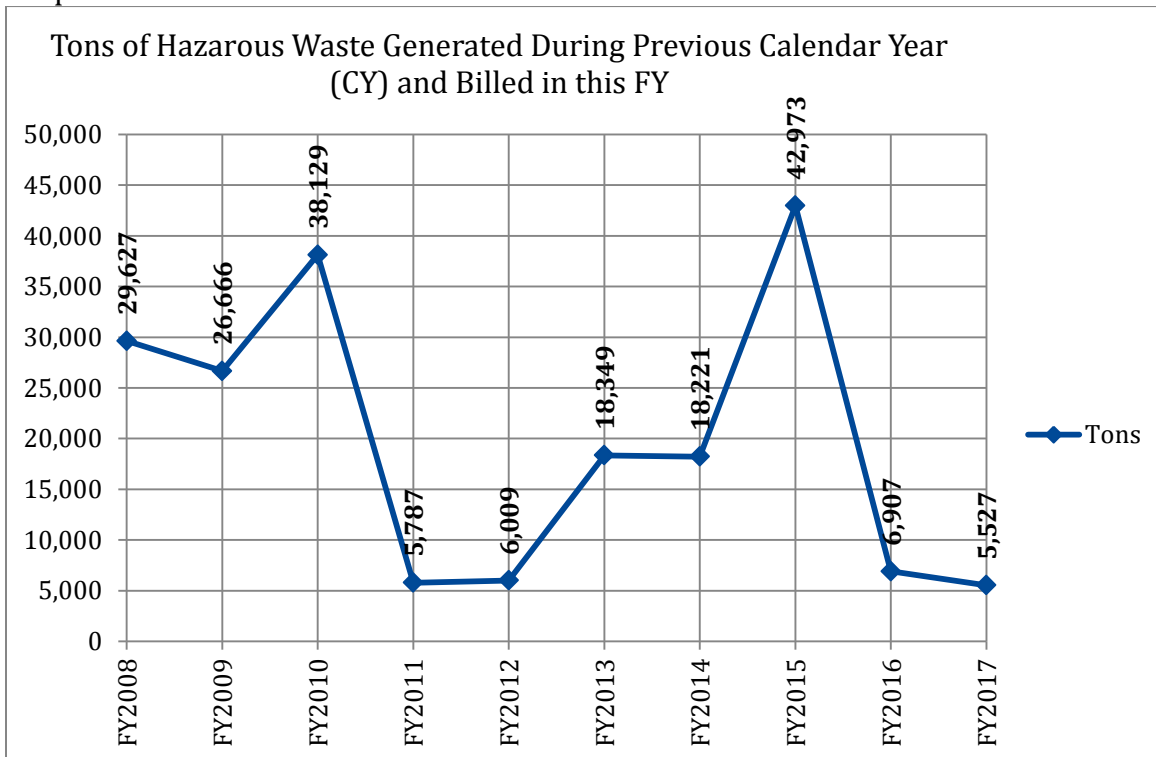
Notable trends over the past ten years in the size of the regulated community and the volume of hazardous waste generated are included in Graphs D.5-1 and D.5-2.

Graph D.5-1: 10 Year History of the Number of Hazardous Waste Generators by Designation



- Large Quantity Generators (LQG) generate 1,000 kg of hazardous waste per month.
- Small Quantity Generators (SQG) generate between 100 and 1,000 kg of hazardous waste each month.
- Conditionally Exempt Small Quantity Generators (CESQG) generate less than 100 kg of hazardous waste per month.

Graph D.5-2: Tons of Hazardous Waste Generated over a Ten-Year Period



The annual volume of hazardous waste varies because of remediation projects that generate hazardous remediation waste and waste generated during maintenance “turnarounds” at refineries.

E. Infectious Waste Management Act (IWMA), Section 75-10-1001, MCA

1. Compliance Assistance and Education Activities

The Solid Waste Program governs regulation of the transportation and management of infectious waste by licensing infectious waste treatment facilities and requiring facility operation and maintenance plans for infectious waste treatment, storage, and disposal. The registration of infectious waste transporters began in February 2014. The Solid Waste Program provides compliance assistance by conducting site visits to proposed facilities, inspections of license holders, and responding to written and telephone requests for information. The Program provided technical guidance to transporters who registered with DEQ.

2. Regulated Community

The regulated community under the Infectious Waste Act consists of facilities that treat infectious waste and infectious waste transporters. There is one licensed infectious waste treatment facility (a commercial autoclave), which is in compliance with the law and the applicable requirements of the Solid Waste Management Act. Currently there is one registered infectious waste transporter.

3. Noncompliances

There were no violations of the Infectious Waste Act over the last two fiscal years. In FY2016 and FY2017, the Enforcement Division did not receive any complaints regarding the law.

4. Enforcement Efforts

During the reporting period, the Enforcement Division did not manage any cases regarding the Infectious Waste Act. Noncompliances are typically identified through inspections and site visits to licensed facilities. If a noncompliance is found during a site inspection, the Solid Waste Program generates a violation letter establishing a compliance assistance plan that must be completed by a certain date. Staff provides follow-up assistance to the facility to ensure the violation is corrected. Formal enforcement actions may be initiated if the facility fails to comply with the corrective action plan described in the violation letter.

5. Quantitative Trend Information

DEQ does not have or conduct systematic, quantitative trend analysis on infectious waste transporters at this time.

F. Major Facility Siting Act, Section 75-20-101, MCA

1. Compliance Assistance and Education

The Major Facility Siting Act (MFSa) requires energy facility proponents to obtain a Certificate of Compliance (Certificate) from DEQ prior to the construction and operation of an energy facility. Energy facilities that are subject to regulation under MFSa include: qualifying transmission lines, such as the Montana Alberta Tie, Ltd. (MATL) transmission line, qualifying pipelines, such as the Keystone XL Pipeline Project, and electrical generating facilities such as the Colstrip Steam Electric Station operated by Talen Montana. DEQ has authority to issue a Certificate if it is able to make requisite findings. These findings include, but are not limited to:

- the basis of the need for the facility;
- minimization of adverse environmental impacts;
- consistency with regional plans for expansion of the appropriate grid of the utility systems;
- the facility will serve the interests of utility system economy and reliability; and
- the facility will serve the public interest, convenience and necessity.

DEQ also has responsibility as the lead state agency for qualifying hydroelectric dams licensed or being relicensed by the Federal Energy Regulatory Commission (FERC). DEQ staff provide compliance assistance to dam operators for the required submittals under their FERC license. This requires staff to review and coordinate state agency approval of emergency operating variances as necessary. DEQ staff also participate in the administration of a settlement agreement, to which DEQ is a signatory, in regard to Avista’s hydroelectric projects on the lower Clark Fork River. In general, DEQ staff monitors the construction of certified facilities to determine compliance with provisions set forth in a Certificate.

DEQ staff also review monitoring reports submitted periodically by regulated entities to determine Certificate compliance. In most cases where DEQ staff observe a condition that is believed to be a violation of a Certificate, the inspector will draw the attention of the regulated entity to the condition for corrective action. If the regulated entity readily corrects the condition, enforcement action is usually not taken. Enforcement action may be taken as a first step if warranted by the size or severity of the violation. Outside of site inspections and monitoring report reviews, DEQ staff answer any questions as to the requirements of a Certificate and/or the procedures that must be followed to amend the provisions of a Certificate.

2. Regulated Community

The regulated community consists of operators of large energy facilities, including transmission lines, pipelines, and certain generating facilities. Thirty-one facilities, several of which are listed in Section 1 above, were covered under MFSA during this reporting period.

3. Noncompliances

In August of 2012, DEQ and PPL Montana (now Talen Montana) entered into an Administrative Order on Consent to address groundwater contamination from ash disposal ponds at the Colstrip generating facility. DEQ entered into the AOC pursuant to its enforcement authority under the Montana Water Quality Act and the Major Facility Siting Act. Administration of the AOC is ongoing.

4. Enforcement Efforts

Administration of the August 2012 AOC with Talen Montana to address groundwater contamination from ash disposal ponds at the Colstrip generating facility continues. Site Characterization is complete, including determination of background screening levels. Talen is currently conducting interim actions to control seepage from the ponds, while it completes risk assessment and remedy evaluation for the Plant Site, Units 1 and 2, and Units 3 and 4 Ponds. As part of Settlement of a lawsuit, Talen has committed to closure of Units 1 and 2 of the Colstrip Steam Electric Station by July 1, 2022.

5. Quantitative Trend Information

DEQ does not have or conduct systematic, quantitative trend analysis, due to the unpredictability of factors affecting markets and the demand for new transmission line capacity or pipelines. These factors include, but are not limited to, international oil politics, environmental issues, federal extensions of production tax credits for wind farms, the current oversupply and low price of natural gas, and relatively flat demand in energy usage across the West. It is for these reasons that most of the projected development in the state is focused on transmission line rebuilds and upgrades.

G. Metal Mine Reclamation Act, Section 82-4-301, MCA

1. Compliance Assistance and Education

The Hard Rock Mining Bureau (HRMB) administers the Montana Metal Mine Reclamation Act (MMRA), the Montana Environmental Policy Act (MEPA), and the corresponding administrative rules on hard rock mining. The functions of HRMB are: (a) regulation of hard rock mining and reclamation activities; (b) bond calculation; (c) reclamation of bankrupt or recently abandoned mining sites with forfeited or relinquished reclamation bonds; (d) implementation of environmental analysis provisions of MEPA and the hard rock mining and reclamation statutes; and (e) administration of the Small Miner Exclusion and Exploration programs.

Compliance assistance is provided by HRMB through a combination of interactions with the regulated entities, including the discussion of (a) pre-application plans of study, (b) application review, (c) MEPA coordination, and (d) post-permit issuance inspection. HRMB technical staff members spend considerable time with the regulated entities discussing the implementation of the MMRA.

Identification and analysis of baseline data for the potentially affected environment is the first step in preparing an application for an operating permit. This plan provides an opportunity for HRMB staff to work with the mining company to “do it right the first time.” During the permit application review period, staff works with applicants to produce a mine plan that complies with mining, air, and water laws. This effort includes coordination with other state and federal agencies to assist in identifying diverse resource areas that may be affected.

Compliance assistance continues after a permit is issued. HRMB staff members conduct as many as three regularly scheduled inspections of every operating permit area each year to ensure adherence to the provisions in the permit. Staff members strive to become familiar with projects and to assist permittees in recognizing potential violations before a noncompliance occurs. HRMB staff members have also regularly participated in a Mine Design, Operations, and Closure Conference every year. The conference has been a joint effort between DEQ, the US Forest Service, US Bureau of Land Management, Montana Tech, consultants, and industry sponsors and has created a good forum for discussion of MMRA topics.

2. Regulated Community

The regulated community for hard rock mining covers a broad spectrum. HRMB regulates sources ranging from at least four major international corporations (through a host of American and Canadian junior mining companies) to dozens of small partnerships and individuals with Small Miner Exclusions.

HRMB administers 78 operating permits for mines and associated facilities. The active operating permits include six metal mines: four are actively producing, one is not currently operating, and another (Troy) is currently in transition from care and maintenance to closure. There are also four major limestone quarries (three with associated cement plants), a gypsum mine, and three talc mines, along with other operations that produce building stone, riprap, and aggregate. Other properties are inactive or in reclamation, with two former heap-leach gold mines (Zortman and Landusky) being reclaimed at the direction of HRMB and the Bureau of Land Management. There are 142 current exploration licenses and 412 Small Miner Exclusions.

As of the end of FY2017, HRMB was actively regulating 632 entities (permits, exploration licenses, and Small Miner Exclusions). Many Small Miner and exploration sites are inactive in any given year for a variety of reasons.

3. Noncompliances

Each operating permit site was visited at least once per year during FY2016 and FY2017. Due to staff limitations, it was not possible to visit every Small Miner and exploration site each year. Most noncompliances were deemed minor and were dealt with in the field under HRMB's policy of offering compliance assistance, such as advising small miners to reclaim property to within the five-acre limit or apply for an operating permit, or telling drillers to dig deeper sumps to contain fluids.

In FY2016 and FY2017, the Enforcement Division received 7 citizen complaints regarding the MMRA. Of those complaints:

- four were closed through referral to HRMB;
- two were actively managed and closed by the Enforcement Division;
- one was closed for not having enough information; and
- no complaints remain active at this time.

The Enforcement Division wrote one warning letter during the reporting period. None of the complaints became a formal enforcement case.

4. Enforcement Efforts

As stated previously in Section 3, the HRMB determined that most noncompliances were minor and were therefore dealt with in the field under HRMB's long-standing policy of offering compliance assistance. Because this was an informal, but effective process, HRMB did not formally track noncompliances during FY2016 and FY2017. During the reporting period, the Enforcement Division managed two MMRA enforcement cases. One case was ongoing from the previous reporting period and one was new. As of the end of this reporting period, one case is in development and one was withdrawn. No penalties were paid during the reporting period.

5. Quantitative Trend Information

Metal prices are at multi-year lows. Production and revenues are down. Presumably because Montana voters banned the use of cyanide leaching (open pit mined ore and resulting heap-leach operations) in 1999, most of the mineral exploration is done by individuals or junior companies, as opposed to the major corporations. Funding for mining operations appears to be difficult to raise. Three projects approved by DEQ have reportedly yet to start mining because of lack of funding – the Golden Dream underground gold mine, Montana Tunnels M-pit expansion, and the Butte Highland Ventures underground gold mine.

H. Methamphetamine Cleanup Act (MCA), Section 75-10-1301, MCA

1. Compliance Assistance and Education Activities

The Methamphetamine Cleanup Program (Meth Program) is a voluntary program that guides the collection and exchange of information regarding the effective cleanup of properties contaminated by the manufacture of methamphetamine by administering recommended cleanup standards, posting the status of contaminated properties, and providing guidance to property owners about cleanup standards.

The Meth Program provides compliance assistance by responding to written and telephone requests for information, implementing a public outreach effort to educate property owners of the need to participate in the cleanup program and maintaining the EPA voluntary guidelines for meth lab cleanup that provides technical guidance to state and local authorities.

2. Regulated Community

The voluntary regulated community under the Meth Program consists of training providers and certified contractors conducting cleanups following meth manufacturing evidence in properties. In FY2016, there were 22 certified cleanup contractors and three training providers. In FY2017, there were 27 certified cleanup contractors and two training providers. The requirements of the Methamphetamine Cleanup Act are voluntary. The majority of the public follow the guidance issued by the Meth Program.

3. Noncompliances

There were no noncompliances during FY2016 and FY2017. DEQ has adopted rules to guide the certification of contractors and trainers and has established cleanup standards property owners must follow if the owners have elected to participate in the Meth Program guidelines.

In FY2016 and FY2017, the Enforcement Division did not receive any complaints pertaining to the Methamphetamine Cleanup Act.

4. Enforcement Efforts

In FY2016 and FY2017, guidance information was sent to individuals who have elected to participate, including the standards for appropriate cleanup of contaminated properties. As the Methamphetamine Cleanup Act is voluntary, no formal enforcement actions have been initiated.

5. Quantitative Trend Information

The law enforcement community reports that education efforts and targeted presence has steadily reduced the number of meth production locations across the state. However, 159 properties remain on the contaminated property list maintained by the Meth Program.

I. Motor Vehicle Recycling and Disposal Act (MVRDA), Section 75-10-501, MCA

1. Compliance Assistance and Education Activities

The Motor Vehicle Recycling and Disposal Program MVR&DP: licenses and regulates motor vehicle wrecking facilities (MVWFs) and motor vehicle county graveyards; administers a program for the collection, recycling, and disposal of junk vehicles; and oversees the operation of the county programs, provides grants, and approves their annual budgets.

The MVR&DP provides compliance assistance by:

- responding to requests for information;
- conducting regular inspections;
- delivering assessments of required regulations and guidance on how to meet those requirements;
- providing counties with a comprehensive Motor Vehicle Recycling and Disposal Reference and Guidance Manual and annual training; and
- offering interactive online forms and applications for members of the regulated community and the public.

2. Regulated Community

The regulated community under the Motor Vehicle Recycling and Disposal Act is any governmental or commercial entity active in or possessing junk vehicles. During FY2016, there were 151 licensed motor vehicle recycling facilities and in FY2017 there were 146. There were 51 motor vehicle county MVWFs.

The estimated proportion of the regulated community in full compliance with the requirements of the MVRDA is 99 percent. A facility in violation of the statute is given a compliance date to have the violation corrected. The Motor Vehicle Wrecking Facility license must be renewed annually and if the facility in question has not corrected the earlier violation the license will not be renewed.

3. Noncompliances

During FY2016 and FY2017, Motor Vehicle Recycling and Disposal Program identified:

- no major violations – (violations taking up to 15 days to correct);
- one moderate violation – (violations taking up to 10 days to correct); and
- and four minor violations – (violations taking five days to correct).

All of these violations were corrected prior to the facilities' license renewal period and none were submitted for formal enforcement action.

In FY2016 and FY2017, the Enforcement Division received 59 citizen complaints regarding motor vehicle recycling and disposal. Of those complaints:

- four were closed by referral to the MVR&DP;
- five were referred to an outside agency;
- eight were closed with no violation and one was closed with not enough information;
- 33 were actively managed and closed;
- eight remain active; and
- no complaints became formal enforcement cases.

The Enforcement Division sent 12 warning letters and 35 violation letters in FY2016 and FY2017. The letters were primarily sent regarding operating a recycling facility without a license and not shielding junk vehicles from public view.

4. Enforcement Efforts

When noncompliance is noted during facility inspections, the violation is recorded in the inspection report and brought to the operator's attention and scheduled for correction. If the violation continues unabated into the next scheduled inspection or beyond the scheduled date for compliance, enforcement action may be required.

During the reporting period, the Enforcement Division managed seven MVRDA enforcement cases. Two cases were new and five cases were ongoing from the previous reporting period. Common violations addressed by the enforcement actions included operating without a license. As of the end of this reporting period, two are in case development, three are under order, one is in litigation and one was closed. Of the four under order, two are under a permanent injunction to prohibit any future operation of a facility. No MRVDA penalties were collected during the reporting period.

5. Quantitative Trend Information

Over the last two fiscal years, the number of license applications received for new wrecking yards has decreased, which is likely because the price of scrap metal has fluctuated dramatically. These fluctuations have led to an increase in the number of cars hauled by county programs. The number of direct haul contracts administered by the MVR&DP has remained the same at seven.

J. Opencut Mining Act (OMA), Section 82-4-401, MCA

Opencut Mining Act (OMA), Section 82-4-401, MCA

1. Compliance Assistance and Education Activities

The Opencut Mining Section (Opencut Section), which is part of DEQ's Coal and Opencut Mining Bureau, oversees the regulation and reclamation of land mined for sand, gravel, bentonite, clay, peat, soil and scoria, by any party on any land (except tribal) in Montana.

The Opencut Section provides compliance assistance and education both in person and through information available on our website. The Opencut Section's greatest source of compliance assistance and education is through pre-application meetings. DEQ staff will meet with the operator on a proposed site for a pre-application meeting and answer any questions and provide guidance and direction on how to best complete the application. Opencut Section staff also provide trainings for operators to help them better understand the permitting process and the Opencut application.

2. Regulated Community

Permit holders vary from small entities that mine a few hundred or thousand cubic yards of material annually to multinational companies that have several hundred employees, mine millions of cubic yards of material annually, and have several permits. Several cities have permits with the Opencut Section, as do all 56 counties and some state agencies (mainly the Montana Department of Transportation). A few federal agencies also have permits.

The Opencut Section, at any given time, has: roughly 2,000 permitted operations; 85 pending permit applications, amendments, and assignments; and 50 pending bond release applications. These numbers fluctuate in response to new applications being submitted and decisions being made on pending permits and bond releases.

The Opencut Section's resources are focused on meeting statutory deadlines associated with permitting activities. Subsequently, the Opencut Section does not have resources to conduct regular inspections of the approximately 2,000 permitted mines, and has no current information relating to the percentage of the regulated community that is in compliance.

3. Noncompliances

In FY2016 and FY2017, the Enforcement Division received 37 citizen complaints regarding the Opencut Mining Act. Of those complaints:

- 11 were closed by referral to the Opencut Section;
- two were referred to an outside agency and six were closed with no violation;
- 16 were actively managed and closed; and
- two complaints became formal enforcement cases.

The Enforcement Division sent three warning letters and three violation letters in FY2016 and FY2017. The letters were primarily sent regarding mining without a permit.

4. Enforcement Efforts

During the reporting period, the Enforcement Division managed 60 Opencut Mining Act enforcement cases. Seventeen of the cases were ongoing from the previous reporting period and 37 were initiated during the reporting period. Common violations addressed by the enforcement actions involve conducting opencut operations without a permit, failing to follow the Plan of Operations, failing to maintain a bond or surety, or failing to submit Annual Production Reports. As of the end of this reporting period: two cases were denied; six were withdrawn; three are in case development; one has a settlement offer; 27 are under order; one is in litigation; three are under Board of Environmental Review appeal and 17 were closed. A total of \$165,701 of administrative penalties and \$163,195 of civil penalties were collected during the reporting period. The money goes to the Environmental Restoration and Rehabilitation Account.

5. Quantitative Trend Information

The Opencut Section's permitting activity doubled from 2009 to 2012 (see chart below). This was a direct result of the oil boom in eastern Montana and western North Dakota. Although there is still activity in eastern Montana, the number of applications for eastern Montana has diminished. The Opencut Section is starting to see a trend of applications near urban areas across Montana, which leads to greater permitting complexity especially when groundwater is involved. Applications in these more populated areas also lead to increased public participation in the permitting process in the form of public comment and required public meetings.

Table J.5-1 Annual number of Opencut Mining Applications 2008 through 2016

2008	2009	2010	2011	2012	2013	2014	2015	2016
170	141	189	265	323	259	238	229	210

K. Public Water Supply Law (PWSL), Section 75-6-101, MCA

1. Compliance Assistance and Education

The Public Water Supply Program (Public Water Program) implements and enforces the PWSL and has primary enforcement authority for implementing and enforcing the federal Safe Drinking Water Act requirements. Public water suppliers must comply with construction, operation, monitoring, reporting, and treatment requirements.

Public Water Program staff offer compliance assistance and education in a variety of methods. The Program emphasizes owner/operator and consultant training, technical assistance, best available treatment techniques, and monitoring tools. Technical assistance is provided via telephone, email, onsite visits, DEQ offices, direct mailings, and at water schools and conferences.

To assist systems with sampling, the Public Water Monitoring Section sent out sampling reminder post cards. Monitoring schedules were also sent out to all new systems and to systems that requested them. An electronic monitoring schedule tool with a "real time" interface is available that reflects a system's current monitoring status. It has proven very beneficial for the systems and for the program in terms of compliance. Drinking Water Watch allows the public to check on a system's water quality and compliance status. It also gives public water suppliers the ability to track their monitoring data, noncompliance history, and water sampling requirements online.

The Field Services Section performs routine sanitary survey compliance inspections of public water systems to identify potential system deficiencies. It also provides technical assistance to address specific noncompliance issues such as boil orders, assessments, and overall system performance. These inspections give the system the opportunity to discuss their specific needs and issues with DEQ on a one-on-one basis and the opportunity to fix issues under a corrective plan and timeline.

The Engineering Section reviews plans and specifications for conformance with minimum design standards. This helps to ensure long-term life-of-system components and minimizes the possibility of noncompliance problems related to system construction. The engineering section spends an estimated 30 percent of its staff time working with owners, operators, and consultants to identify and correct deficiencies in submitted plans and specifications.

2. Regulated Community

The Program regulated approximately 2,168 public water supply systems during the reporting period, which included 737 community systems, 284 non-transient non-community systems, and 1147 transient systems. System type determines monitoring requirements, which are based on exposure risk (i.e., number of people served, source water type, and duration of exposure).

3. Noncompliances

Monitoring Section

- Number of noncompliances (systems with one or more violations) - 1,106.
- Description of noncompliances and significance - Monitoring and reporting violations were the majority of all violations and are less significant than violations of the maximum contaminant levels (MCL). In addition, each system may have more than one violation for the period.
- Method of Discovery - Noncompliance was identified through self-reporting, inspections and via review of the databases.
- Compliance rate - 49 percent.

Field Services Section

- Number of sanitary survey inspections - 1,037 (required every three or five years, depending on system classification).
- Number of noncompliances (systems with at least one significant deficiency) - 58
- Description of noncompliances and significance - Significant deficiencies have a high potential to adversely affect public health.
- Method of discovery - Inspections were routine, conducted as a function of technical assistance, or as the result of a complaint.
- Compliance rate - 99.8 percent (includes systems with no significant deficiencies and those that repaired their significant deficiency).

In FY2016 and FY2017, the Enforcement Division received 43 citizen complaints regarding public water supply law. Of those complaints:

- 38 were closed by referral to the Public Water Program;
- three were actively managed and closed; and
- one complaint became a formal enforcement case.

4. Enforcement Efforts

The Public Water Program uses a stepped approach to ensure fair and consistent application of enforcement tools. The steps include technical assistance, warning letter, violation letter, and last, referral to the Enforcement Division for formal enforcement action. Some noncompliance issues cannot be resolved after the fact and enforcement is used to prevent a similar violation in the future.

During the reporting period, the Enforcement Division managed 93 Public Water Supply enforcement cases. Ongoing cases numbered 101 and 32 were new cases. Most of the enforcement actions were initiated to address a failure to monitor, failure to install appropriate filtration or disinfection, or maximum contaminant level (or MCL) exceedance violations. As of the end of this reporting period: two were withdrawn; three are in development; two have settlement offers; 66 are under order; one is a civil request; one is in litigation; one was referred to a county; and 17 were closed. A total of \$19,637 in administrative penalties and \$4,600 of judicial civil penalties were collected during the reporting period.

L. Sanitation in Subdivisions Act (SSA), Section 76-4-101, MCA

1. Compliance Assistance and Education

The Subdivision Review Section (Subdivision Program) provides technical assistance and training about subdivision laws and regulations to county health departments, county commissioners, and to developers and their consultants. Most technical assistance is provided by phone or in the office, and staff interacts with applicants on a daily basis.

The Subdivision Program has increased efforts to provide more formal education and training about rule interpretations and technical analyses to county sanitarians and consultants. Subdivision Program staff provide a minimum of two off-site training sessions per year. Staff will occasionally conduct field investigations of proposed subdivisions; however, personal contact by phone and in-office meetings is the most effective means to provide compliance assistance.

Several administrative rules were modified through the efforts of a focus group consisting of DEQ employees, local health officials, developers, and consulting engineers. An ongoing goal of the focus group is to streamline the application process and provide greater consistency, thereby promoting greater compliance.

2. Regulated Community

The regulated community includes all subdivisions approved by DEQ that hold a Certificate of Subdivision Approval (COA). This does not include lots that were exempt from review or reviewed as Municipal Facilities Exemption lots. The number of individual lots included within a subdivision application can range from one to several hundred. The annual number of subdivisions reviewed and approved over the past two years has increased from 641 applications for 2,482 lots in FY2015 to 671 applications for 2,162 lots in FY2016 and 2,818 lots and 846 applications in FY2017.

3. Noncompliance

The most common noncompliance issue associated with the Sanitation in Subdivisions Act is lots that do not have a valid COSA from DEQ. This type of noncompliance occurs when facilities are constructed that have not been reviewed and approved for adequate water, wastewater, solid waste, or storm water. In this situation, water quality protection standards may be exceeded and public health may be threatened.

There were 41 formal complaints of potential violations of the Sanitation in Subdivisions Act during FY2016 and FY2017 with 11 cases carried over from the previous year. The Enforcement Division sent two warning letters and 41 violation letters in FY2016 and FY2017. The letters were primarily sent about the need to operate within the approved COSA or to update the COSA.

4. Enforcement Efforts

The Subdivision Program uses a stepped approach and its enforcement response guidance to ensure fair and consistent application of enforcement tools. The steps include technical assistance, warning letter, violation letter, and finally referral to the Enforcement Division for formal enforcement action. The Subdivision Program attempts to resolve the noncompliance issue through the least formal enforcement process available, preferably through technical assistance. Some noncompliance issues cannot be resolved and enforcement is escalated to prevent a similar noncompliance issue in the future.

During the reporting period, the Enforcement Division managed 13 Sanitation in Subdivisions Act enforcement cases. Eleven were ongoing and two were new cases initiated during the reporting period. Most of the enforcement actions involved creating or operating a subdivision without the required COSA. As of the end of this reporting period: one case was denied; one is in case development; eight are under order; one has a civil request; and two were closed. A total of \$9,475 of administrative penalties and \$4,500 of civil penalties was collected during the reporting period.

5. Quantitative Trend Information

There does not appear to be any clear trend regarding the number of enforcement actions that occur each year

M. Septage Disposal and Licensure Laws (SDLL), Section 75-10-1201, MCA

1. Compliance Assistance and Education Activities

The Septage Disposal Program regulates septic tank pumping wastes, grease traps and sump pumping wastes, septage pumpers, and land disposal sites.

The Septic Program provides compliance assistance by:

- publishing a pumper guide and brochures that are mailed and posted on the program website for the regulated community and county offices;
- conducting annual training for licensed pumper and county sanitarians;
- responding to thousands of calls and emails during the reporting period;
- inspecting at least 25 percent of the land application sites each year; and
- staffing the Septic Pumper Advisory Committee.

2. Regulated Community

In FY2016 and FY2017, the regulated community under the septage laws consisted of 150 licensed septage pumpers and 160 septage land application and disposal sites. The Septic Program estimates that 98 percent of the regulated community is in full compliance with the requirements of the septage laws.

3. Non-compliances

In FY2016 and FY2017, there were two major and six minor violations identified through site inspections. All of the violations were corrected prior to the license renewal period.

In FY2016 and FY2017, the Enforcement Division received 16 citizen complaints regarding septic disposal and licensure laws. Of those complaints:

- seven were closed by referral to the Septic Program;
- three were closed with no violation;
- five were actively managed and closed; and
- one remains active.

The Enforcement Division sent three violation letters in FY2016.

4. Enforcement Efforts

The Septic Program does a regular inspection cycle of all licensees and land application sites. Violations are documented in an inspection report and result in a noncompliance letter to the licensee with a timeframe for correcting the violation. The Septic Program also receives complaints about septage pumping or land application of waste. The Program follows up on the complaints. This may result in the Program issuing new licenses or sending noncompliance letters. The Septic Program seeks to close violations or complaints by providing the needed compliance assistance to the regulated community. Occasionally, violations are referred for formal enforcement action.

During the reporting period, the Enforcement Division managed five septage law enforcement cases. Four were ongoing from the previous period. Most of the cases were initiated for pumping without a license. Three cases are under order and two were closed. A total of \$2,408 administrative penalties and \$2,237 of civil penalties were collected during the reporting period.

5. Quantitative Trend Information

In FY2016 and FY2017, the availability of environmentally suitable land application sites in western Montana continues to be limited, which requires the regulated community to find alternatives for waste disposal. The Program has increased efforts to inspect existing sites to ensure that septage is not being over applied and that litter does not become an unmanageable problem. The volume of septage in eastern Montana counties has stabilized and or decreased due to the reduction in oil and gas exploration activities.

N. Solid Waste Management Act (SWMA), Section 75-10-201, MCA

1. Compliance Assistance and Education Activities

The Solid Waste Program regulates the proper disposal of wastes in Montana, including: municipal solid wastes; commercial and industrial non-hazardous wastes; infectious medical wastes; used tires; and construction and demolition debris.

The Solid Waste Program provides compliance assistance by:

- conducting site visits to proposed facilities and inspections of licensed sites;
- encouraging applicants to attend pre-submittal scoping meetings to facilitate the licensing process;
- delivering regular training sessions for landfill operators and providing technical assistance through telephone calls or by email; and
- staffing the Solid Waste Advisory Committee, which allows solid waste managers to exchange information and work with program staff to set policy and guidance priorities.

2. Regulated Community

During FY2016 and FY2017, the regulated community under the Solid Waste Program consisted of 149 licensees, including:

- 86 solid waste management facilities, including municipal solid waste landfills, construction and demolition waste landfills, inert material landfills, and clean wood waste burn sites, and resource recovery facilities;
- four large commercial composters, nine small yard waste composters, 12 dead animal composting operations;
- 11 waste transfer stations;
- seven full-time and five one-time landfarms for petroleum contaminated soils and sump solids;
- 18 recycling facilities; and
- a variety of household hazardous waste and electronic waste collection event licenses.

The Solid Waste Program estimates that 90 percent of the regulated community was in compliance with the SWMA during FY2016 and FY2017.

3. Noncompliances

During FY2016 and FY2017, the Solid Waste Program identified:

- 12 major violations at five licensed facilities, and
- 35 minor violations at 10 licensed facilities.

In FY2016 and FY2017, the Enforcement Division received 123 citizen complaints regarding solid waste. Of those complaints:

- eight were referred to the Solid Waste Program;
- eight were referred to outside agencies;
- five were closed with not enough information;
- 15 were closed with no violation;
- 66 were actively managed and closed; and
- 21 remain active.

The Enforcement Division sent 34 warning letters and 43 violation letters in FY2016 and FY2017. The letters were usually about illegal dumping/improper management of solid waste without a license.

4. Enforcement Efforts

During the reporting period, the Enforcement Division managed 12 Solid Waste Act enforcement cases. Eleven cases were ongoing and one was new. The majority of cases were initiated for operating a solid waste management facility without a license. As of the end of this reporting period: three cases are under order; three are under civil request; two are in litigation and four were closed. A total of \$1,500 of administrative penalties and \$4,921 of judicial civil penalties was collected during the reporting period.

5. Quantitative Trends

The Solid Waste Program saw a marked decrease in the requests for licensure information on resource recovery operations or special waste landfills in eastern Montana. Only one application for a special waste management facility was received in FY2016 – FY2017 period. The decrease was due to the continued downturn in oil and gas development. However, during the period, there was a modest increase for information and actual license applications for hydrocarbon impacted soils landfarms. Four landfarms were licensed during this period. This was due to the adoption of rules by the Department, giving licensure authority for all landfarms to the Solid Waste Program.

O. Strip and Underground Mine Reclamation Act (SUMRA), Section 82-4-201, MCA

1. Compliance Assistance and Education Activities

The Coal Section inspects mining operations according to the schedule required in the Administrative Rules. Each active site must be inspected monthly. One inspection per quarter is required to be a complete inspection. For each inactive site, only one complete inspection per quarter is required. Aerial inspections are conducted periodically as needed.

The Section uses routine inspections to observe mining activities, promote compliance, highlight achievements, and provide education. Coal Section inspectors work closely with mine operators, both in the field and from the office, to ensure that mining and reclamation activities are consistent with permit requirements. Issues identified during mine inspections that do not indicate resource loss or an immediate environmental threat may become maintenance items. Maintenance items are used to ensure operator compliance and negate the need to issue a noncompliance.

2. Regulated Community

The Coal Section has nine active coal mining permits of which one is an underground longwall operation and the remainder are open pit strip mining operations. Additionally, the Coal Section oversees the reclamation process on four inactive coal mining permits. Total bond held for the coal mining activities is approximately \$453,556,546.

The Coal Section also regulates coal and uranium prospecting activities. These activities are conducted to determine the location, quality, and quantity of the mineral reserves. During the reporting period there were eight active coal prospecting permits. There are currently no uranium mining activities in the state.

3. Noncompliances

During the FY 2016 and FY 2017 reporting period, the Coal Section issued one Notice of Noncompliance (NON). The NON was abated by the permittee and resolved with DEQ during the reporting period. No Cession Orders (major or significant violations that meet the definition of imminent harm) were issued. At the end of the reporting period, there are no unresolved or outstanding Notice of Noncompliances (NONs).

In FY2016 and FY2017, the Enforcement Division did not receive any complaints regarding the Strip and Underground Mining Reclamation Act.

4. Enforcement Efforts

When the Coal Section issues a NON, it includes a requirement for abating the violation. An abatement timeline, not to exceed 90 days, is included in the notice. The Coal Section regularly works with the company to ensure proper abatement of a violation.

During the reporting period, the Enforcement Division managed one coal mining administrative enforcement case. A total of \$7,150 in administrative penalties has been collected from old cases during the reporting period.

5. Quantitative Trend Information

The Coal Section has had a relatively stable regulated community of six or seven operators over the previous ten years. During the reporting period, there appears to be a trend that the operators are pursuing mine expansions, and there are two applications for new strip mine permits being processed. Most of the approved major permitting actions were appealed to the Board of Environmental Review.

P. Underground Storage Tank Installer and Inspector Licensing and Permitting Act (IILPA), Section 75-11-201, MCA

1. Compliance Assistance and Education Activities

The Underground Storage Tank Licensing and Permitting Program ensures proper installation and modification of underground storage tanks (USTs) through its permitting program, continuing education training opportunities, and licensing of inspectors, installers, and removers of UST systems. The UST Licensing and Permitting Program provides compliance assistance by conducting annual training and refresher courses, testing and licensing compliance inspectors, and conducting regular oversight inspections of licensed compliance inspectors

2. Regulated Community

In FY2016 and FY2017, the regulated community under the Installer and Inspector Licensing and Permitting law consists of 107 licensees as follows:

- 60 installers/removers;
- two licensees are restricted to the design of UST system corrosion protection components;
- 13 removal only; and
- 32 inspectors.

Of 107 licensees, 106 are in compliance with the law.

3. Noncompliances

In FY2016 and FY2017, the UST Licensing and Permitting Program identified one licensee in violation of the provisions of the IILPA.

In FY2016 and FY2017, the Enforcement Division received 20 citizen complaints regarding the Underground Storage Tank Installer and Permitting Act. Of those complaints:

- five were referred to the UST Licensing and Permitting Program;
- six were referred to outside agencies;
- one was closed with no violation;
- seven were actively managed and closed; and
- one remains active.

4. Enforcement Efforts

Complaints and violations are documented, and resolved through compliance assistance, warning letters, or violation letters. The DEQ may initiate a formal enforcement action in the event of unprofessional conduct by licensed installers or inspectors.

During the reporting period, the Enforcement Division managed four IILPA enforcement actions for installing an UST without a license. One case was ongoing and three were new cases. Cases were initiated for failing to submit documentation and failing to comply with requirements. As of the end of this reporting period, two cases are under order and two were closed. A total of \$1,345 of administrative penalties has been collection during the reporting period.

5. Quantitative Trend Information

In FY2016 and FY2017, licensees installing or removing USTs and the inspectors licensed to oversee the requirements of those activities has remained constant. The training, continuing education, and the regular oversight of licensees by UST Licensing and Permitting Program ensures very few individuals are out of compliance with the provisions of the IILPA and the accompanying administrative rules.

Q. Underground Storage Tank Act (USTA), Leak Prevention, Section 75-11-501, MCA

1. Compliance Assistance and Education Activities

The Underground Storage Tank Leak Prevention Program implements the USTA's requirements designed to prevent leaks from underground storage tanks (USTs). The UST Leak Prevention Program: ensures proper installation, operation and maintenance of USTs; provides compliance assistance to owners and operators; and ensures installers, removers, and inspectors are properly trained and licensed.

The UST Leak Prevention Program provides compliance assistance by:

- providing follow up with violations and related required corrective actions;
- sending compliance inspection reports and operating permit renewal reminders to tank system owners and operators;
- providing on-site UST regulatory guidance; and
- conducting continuing education classes for licensed installers, removers, and compliance inspectors.

2. Regulated Community

The regulated community under the USTA consists of:

- 986 facility owners,
- 1,258 facilities, and
- 3,750 active and inactive underground tanks.

Table Q.2-1. Percent of Regulated Community in Compliance with Significant Federal Operational Compliance Criteria

Fed FY	# of inspections	% in SOC compliance
2009	344	87%
2010	566	84%
2011	520	85%
2012	446	78%
2013	434	83%
2014	452	81%
2015	462	80%
2016	494	89%
2017	431	91%

3. Noncompliances

Table Q.3-1. UST Violation Status by Significance for FY2016

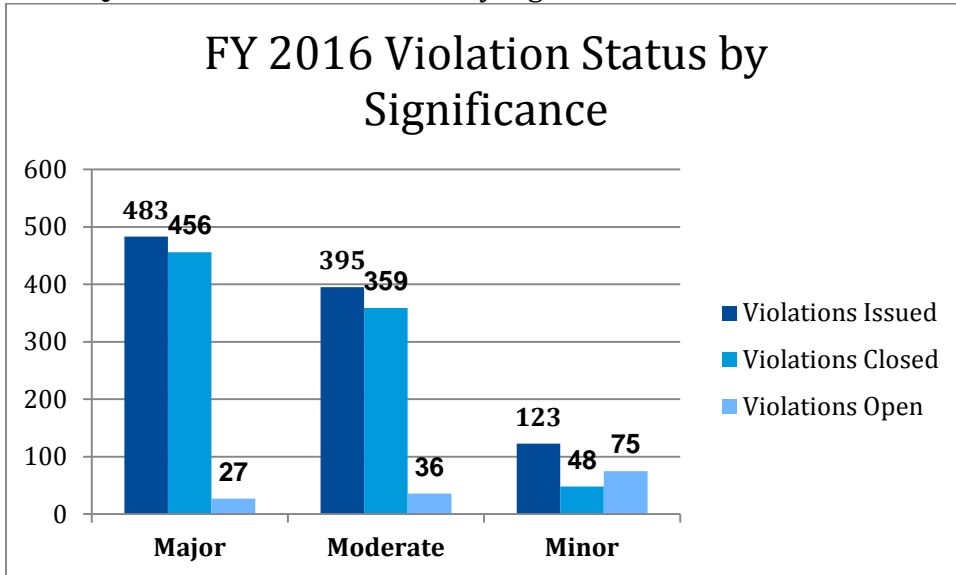
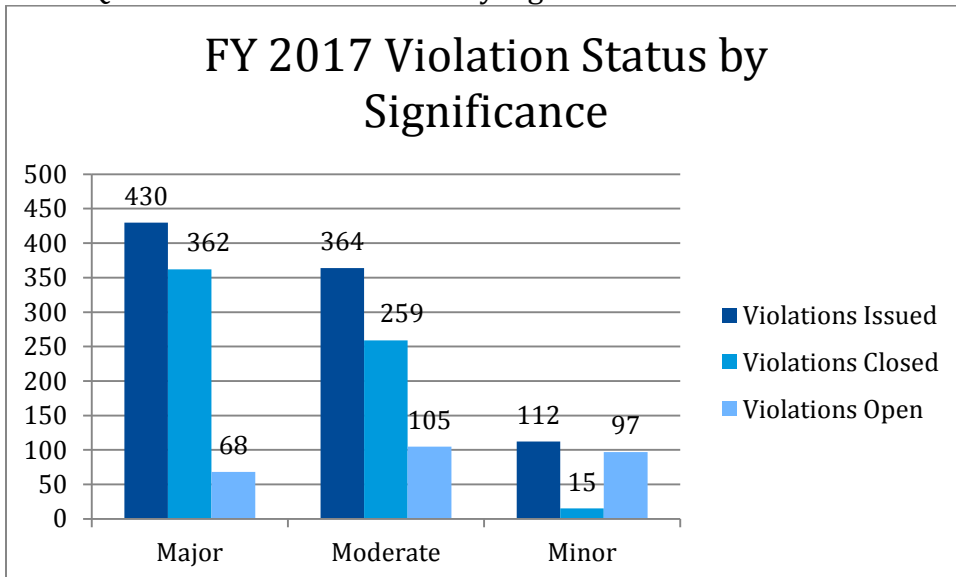


Table Q.3-2. UST Violation Status by Significance for FY2017



Major violations that are not corrected by the time an operating permit expires or within 90 days are referred for formal enforcement. Moderate violations are given a six-month corrective action window. If uncorrected after that window, they are referred for formal enforcement. Minor violations must be corrected by the next inspection cycle, three years hence. If they are not, they will be elevated to moderate significance.

In FY2016 and FY2017, the Enforcement Division received 31 citizen complaints regarding the Underground Storage Tank Installer and Permitting Act. Of those complaints:

- 29 were referred to the UST Licensing and Permitting Program or the Petroleum Technical Section, and
- two were actively managed and closed and none remain active.

4. Enforcement Efforts

Compliance inspectors debrief the owner or manager at the end of a compliance inspection, identifying violations and corrective action. The violations are categorized by significance (i.e., major, moderate, or minor). Compliance letters sent to owners also set a timeframe for the correction of each identified violation.

During the reporting period, the Enforcement Division managed 32 USTA enforcement cases. Eighteen cases were ongoing from the previous reporting period and 14 were new. Most of the enforcement actions were initiated to address operating without a permit and tank leak detection monitoring and inspection violations. As of the end of this reporting period; four are under development; three have settlement offers; 12 cases are under an order; one is under a civil request; two are in litigation and 11 cases were closed. A total of \$17,905 of administrative penalties and have been collection during the reporting period.

5. Quantitative Trend Information

The numbers of tank systems, owners/operators, and compliance rates have remained steady over the past five fiscal years. The UST Leak Prevention Program does not anticipate change in the coming biennium.

R. Underground Storage Tank Act (USTA), UST Cleanup, Section 75-11-501, MCA

1. Compliance Assistance and Education Activities

The Remediation Division's Petroleum Technical Section (UST Cleanup Program) utilizes the requirements of the USTA to address releases of petroleum and hazardous substances from underground storage tanks. Owners and operators of leaking USTs remain in compliance by conducting cleanup actions in accordance with the rules.

UST Cleanup Program staff provide compliance assistance and education to the owners and operators and their consultants through field site visits, meetings, phone calls, and letters explaining reporting and cleanup requirements and assisting with work plans. The UST Cleanup Program hosts meetings for consultants where assistance, guidance, and updates are provided. Petroleum release cleanup and compliance information is also published in DEQ's MUST News Web Log (BLOG).

Many sites are eligible to receive reimbursement for a portion of eligible costs associated with leak investigation, remediation, and third-party damages from Montana's Petroleum Tank Release Cleanup Fund. The fund laws require owners and operators to remain in compliance with cleanup requirements in order to remain eligible for reimbursement of ongoing cleanup costs.

Lack of finances is one of the primary reasons a small number of owners and operators are unable to clean up leak sites. Program staff assist owners and operators to secure funding as well as assist lending institutions and potential purchasers to understand site-specific release-related risks.

2. Regulated Community

The regulated community includes anyone who owns or operates an underground storage tank and who has been identified as having a suspected or confirmed release of a petroleum product or hazardous substance from a tank. An owner or operator may be federal, state, and local governments, schools, hospitals, railroads, service stations, utilities, convenience stores, farms, and other industrial and commercial enterprises. A total of 4,602 releases have been confirmed from the beginning of the program through June 30, 2017. The UST Cleanup Program has resolved 3,606 of these releases. A total of 75 new releases were confirmed in FY2016 and FY2017. At the end of this reporting period, 996 releases were active and needing additional work to be resolved.

3. Noncompliances

Noncompliance occurs when an owner or operator fails to comply with a cleanup requirement by missing a deadline or completing work efforts that do not meet appropriate quality required by law. The vast majority of owners and operators comply with the requirements to investigate and clean up releases.

Cleanup work is progressing at all releases considered high risk to human health and the environment. Investigation and cleanup begins relatively quickly because owners and operators responsible for a release are required to report a release within 24 hours and submit a more detailed 30-day release report. The highest noncompliance rate is for releases older than 10 years where owner/operators feel they have done enough work. For the biennium, the UST Cleanup Program conducted two emergency responses to petroleum releases that caused imminent and substantial risks to human health: one in Havre and the other in Black Eagle.

In FY2016 and FY2017, the Enforcement Division did not receive any complaints regarding the UST leaks cleanups.

4. Enforcement Efforts

The UST Cleanup Program uses a progressive enforcement strategy that includes warning letters, violation letters, staff field visits, or follow-up telephone calls to achieve voluntary compliance. Of the 996 active releases, the UST Cleanup Program issued two warning letters and no violation letters during the reporting period.

In addition to traditional enforcement tools, the UST Cleanup Program has federal grant funding from the LUST Trust Fund to conduct necessary cleanup work when owners and operators are unwilling or unable to conduct the work. Costs incurred for these actions are recoverable from financially viable owners and operators. The UST Cleanup Program prioritizes the use of limited LUST Trust funds based upon the relative risks to human health, safety, and the environment, and pursues a parallel formal enforcement action when owners and operators are capable of conducting the work but refuse. Enforcement against insolvent or bankrupt responsible parties is typically not practical, and the agency may exert discretion in not pursuing parties that do not have the financial ability to pay for cleanup costs.

In addition to federal grant funds, the Legislature appropriated \$7,000,000 from the Orphan Share Special Revenue Account during the 2016-2017 Biennium to be used by the department to take remedial actions at facilities where there are no readily apparent financially viable and potentially liable persons, and for the department to conduct an initial assessment to determine whether the facility may be closed or delisted. Approximately \$1,500,000 of this funding was utilized at 83 leaking petroleum storage tank sites and resulted in resolving 56 of those releases.

During the reporting period, the Enforcement Division managed five ongoing UST cleanup cases. Most of the cases were initiated for the failure to conduct the necessary cleanup work. Of the five cases, three are under order and two are in litigation. No penalties have been collected during the reporting period as the UST Cleanup Program wants violators to focus resources on cleanup.

5. Quantitative Trend Information

There has been a general decrease in noncompliance during this reporting period compared to previous periods. This is a direct reflection of Senate Bill 96 passed in 2015 along with a one-time-only appropriation of \$7,000,000 during this same timeframe that allowed DEQ to address hazardous substance and petroleum release sites where there is no readily apparent person who is financially viable to conduct the cleanup. The UST Cleanup Program utilized these funds to address 83 petroleum releases and thus avoiding enforcement.

In addition to SB96 one-time-only financial assistance, the UST Cleanup Program's progressive enforcement process works effectively to convince people to complete cleanup actions for which they are responsible. The progressive enforcement process allows DEQ to be persistent, yet gives the owner/operator time to realize cleanup is required by them before a release can be resolved.

S. Water Treatment Plant Operators Laws (WTPOL), Section 37-42-101, MCA

1. Compliance Assistance and Education Activities

The Water and Wastewater Operator Certification Program (Operator Certification Program) implements and enforces these laws. The Operator Certification Program provides training, examination, certification, and continuing education tracking services for water and wastewater operators and provides general assistance to the public and other state and federal agencies.

During FY2016 and FY2017, the Program held two Water and Wastewater Operator Advisory Council meetings per fiscal year. Training new operators about certification requirements is ongoing and the Program continually explores new methods, such as compact discs and internet-based courses to make training more accessible. The Operator Certification Program provides new operator training in conjunction with examination sessions.

2. Regulated Community

There are approximately 737 community public water supply systems and 284 non-transient non-community public water supply systems that must retain the services of a certified operator. At present, there are also 342 public sewage systems that must retain the services of a certified operator. There are approximately 1,692 certified operators in Montana. Compliance rates vary

across the year, mainly based on renewal requirements. In addition, operators are required to complete their continuing education credits every two years, so noncompliance increases in years when credits expire.

3. Noncompliance

Noncompliance under the Water Treatment Plant Operators law occurs in three areas. Failure of a system to retain a properly certified operator is addressed through the Public Water Supply Program. Failure of an operator to maintain compliance is not considered a noncompliance issue but it results in the revocation of certification. Failure of the operator to act responsibly may result in a revocation of certification through an enforcement action.

In FY2016 and FY2017, the Enforcement Division did not receive any complaints regarding this law.

4. Enforcement Efforts

The Enforcement Division managed one WTPOL enforcement case during the period against a public water supply that failed to retain a certified operator.

5. Quantitative Trend Information

The trend for public systems in compliance with the certified operator requirement for community and non-transient non-community systems over the past five fiscal years shows improved compliance. That may be attributable to the decline of oil and gas exploration and production and better program outreach to communities about the requirement to retain a certified operator.

Table S.5-1: Systems Out of Compliance: Monthly Averages for FY2011- FY2017

Fiscal Year	Violation Letters Sent (Total/Year)	Systems Out of Compliance (Monthly Averages/Year)
2011	234	20
2012	315	26
2013	471	39
2014	33	32
2015	40	21
2016	23	15
2017	14	8

T. Water Quality Act (WQA), Section 75-5-101, MCA

1. Compliance Assistance and Education

The Compliance, Training, and Technical Assistance Program promotes compliance through inspections, training, and technical assistance and provided compliance assistance, and education, and outreach to both the regulated community and the public during FY2016 and FY2017 through the following:

The following tables list the number of compliance inspections and the number of facilities in compliance during FY 2016 and FY2017.

Table T.1-1.

Compliance Assistance and Education Activities FY2016		
Regulated Community	Inspections	In Compliance
Surface Discharger	87	63
Ground Water Discharger	11	6
Storm Water Discharger	99	43

Table T.1-2.

Compliance Assistance and Education Activities FY2017		
Regulated Community	Inspections	In Compliance
Surface Water Discharger	99	39
Ground Water Discharger	13	5
Storm Water Discharger	75	17

Inspections

- Conducted 174 compliance inspections in FY2016 and 188 in FY2017, covering Wastewater, Industrial, & General permits: Confined Animal Feedlot Operations (CAFOs), Storm Water (Construction & Industrial), Produced Water, Construction Dewatering.

Training

- Provided a number of trainings each year pertaining to storm water, domestic wastewater, sample collection and monitoring, and Wastewater Operator Certification.
- Formulated training programs to support ongoing operations to better understand permitting requirements and minimize or prevent violations.

Technical Assistance

- Provided customer service, consultation, advice, information, and/or support to facilities during inspections to reduce impacts to water quality and improve compliance.
- Provided customer service, consultation, advice, information, and/or support to facilities that have potential to discharge wastewater (may be unpermitted and permitted) regarding water quality rules and permit requirements to understand their role in compliance (on the phone or site visit).
 - Assisted in completing application materials.
 - Offered informational public meetings to educate members on changing permitting requirements.

- Provided assistance to Wastewater System Operators through O&M Inspections, conducted comprehensive performance evaluations, provided technical expertise when requested, performed optimization studies, and provided information on innovative technologies and operational procedures to improve operations, maintenance, and performance of systems.

2. Regulated Community

The regulated community for water quality consists of entities that have sought to obtain a permit authorizing the discharge of pollutants into state waters.

Permit holders are divided into three general categories: (a) entities that discharge to surface water; (b) entities that discharge to ground water; and (c) those using best management practices to manage storm water discharges. The regulated community includes all applications reviewed and processed, as well as permits issued during FY2016 and FY2017 as seen in Tables T.2-1 and T.2-2.

Table T.2-1. Status of Permits for FY2016

Type	Total	Admin Extended	Effective	Expired	Not Needed	Pending	Terminated
Surface Water	659	78	367	95	76	18	24
Stormwater	1497	17	594	433	44	2	407
Groundwater	124	38	54	4	23	5	
Total	2280	133	1015	532	143	25	431

Table T.2-2. Status of Permits for FY2017

Type	Total	Admin Extended	Effective	Expired	Not Needed	Pending	Terminated
Surface	653	78	367	95	76	18	19
Stormwater	1503	17	594	433	44	2	413
Groundwater	125	38	54	4	23	5	1
Total	2281	133	1015	532	143	25	433

Based on the number of violations formally documented in FY2016 and FY2017, the estimated compliance rate for the three general categories of permit holders ranges from about 19 percent to 95 percent. The compliance rate for facilities that had active permit coverage is based on violations discovered through inspections or self-monitoring reports that received a notice of violation. Table T.2-3 provides specific information regarding the compliance rates for permitted entities.

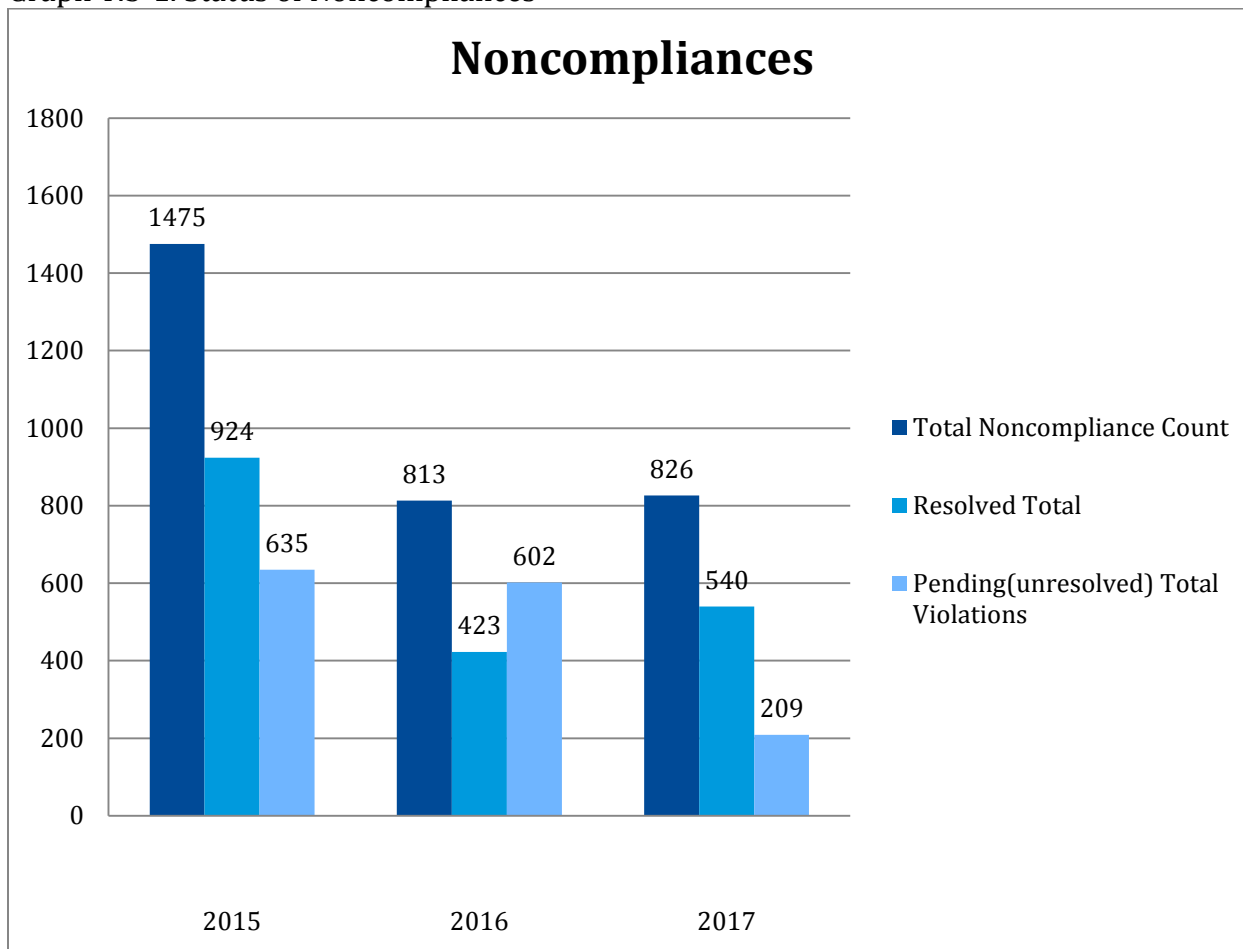
Table T.2-3. Compliance Rates

2016 PERMITS				
	2281			
Type	Total	Total Facilities in Violation	% Noncompliance	% Compliance
Surface Water	659	81	12%	88%
Stormwater	1497	26	2%	98%
Groundwater	124	56	45%	55%
2017 PERMITS				
	2281			
Type	Total	Total Facilities in Violation	% Noncompliance	% Compliance
Surface Water	653	96	15%	85%
Stormwater	1503	44	3%	95%
Groundwater	125	60	48%	52%

3. Noncompliances

Noncompliance at a permitted facility is discovered through the monthly review of discharge self-monitoring reports and from on-site inspection observations. The most common noncompliances are: discharging without a permit; discharging from an unauthorized location; exceeding permitted limits; management practice violations; failing to conduct required monitoring; failing to operate and maintain treatment systems; and not complying with recordkeeping requirements. A single permitted facility may have multiple violations. Graph T.3-1 below illustrates the status of noncompliances for FY2015, FY2016 and FY 2017.

Graph T.3-1. Status of Noncompliances



In FY2016 and FY2017, the Enforcement Division received 188 citizen complaints regarding the Water Quality Act. The primary complaints were: three municipal waste water; six 310 or 318 Permits; eight animal or confined animal feeding operations (CAFOs); 26 MPDES Permits; and 145 water quality. Of those complaints:

- 33 were referred to the Water Protection Bureau;
- 14 were referred to outside agencies;
- 14 were closed with not enough information;
- 80 were closed with no violation;
- 39 were actively managed and closed;
- 7 remain active; and
- one complaint became a formal enforcement case.

The Enforcement Division sent 10 warning letters and 12 violation letters in FY2016 and FY2017. The letters were primarily regarding discharge without a permit and placement of a waste where it will impact water quality. In FY2016 and FY2017, the division received 65 complaints regarding spills impacting water. Most were regarding fuel or material releases from truck wrecks. The Enforcement Division sent 35 violation letters for the releases.

In FY2016 and FY2017, the Enforcement Division received 338 complaints regarding spills impacting soils. Most were regarding fuel releases from truck wrecks. The division sent seven warning letters and 191 violation letters for releases. Although the releases impacted soils only, if the releases are not mitigated they often migrate to ground and/or surface water, so they are reported here.

4. Enforcement Efforts

Montana Pollutant Discharge and Elimination System (MPDES) program staff monitors the compliance status of all facilities during compliance inspections and by evaluating self-monitoring reports. Permitted facilities are required to submit self-monitoring reports via NetDMR, a web-based tool for regulated permittees to submit data monitoring reports (DMRs). Any facility that exceeds permit effluent limits or fails to submit self-monitoring reports receives a violation letter issued by the data management program.

A facility will have an inspection conducted to assess the overall compliance status. Any violations from the compliance evaluation inspection are documented in a violation letter that request the permit holders to provide an explanation of what actions were taken to prevent recurrence of the violations. Most violations are resolved at the program level through the corrective actions of the permit holders. However, if a facility is consistently failing to meet permit limits due to failing treatment systems or improper operations, a formal enforcement action may be initiated to require the facility return to compliance.

During the reporting period, the Enforcement Division managed 88 Water Quality Act enforcement cases; 78 were ongoing from the previous period and 10 were new. Most of the cases were initiated for discharge without a permit, wastewater monitoring and reporting violations, and exceeding permit effluent limits. As of the end of this reporting period, one is in case development; one was withdrawn; one has a settlement offer; 49 are under order; three are under BER appeal and 33 were closed.

Because most of the violators are municipalities with outdated wastewater treatment systems, the DEQ chose to offer the communities administrative consent orders rather than issue unilateral orders with penalties. Most of the 49 cases under order are consent orders with municipalities under a compliance schedule to construct major upgrades to their wastewater treatment systems.

A total of \$459,419 of administrative penalties and \$20,021 of civil penalties was collected during the reporting period. This money goes into the General Fund.

5. Quantitative Trend Information

A notable water quality trend is the continuing decline in the number violations in relation to the increase in trainings, compliance assistance, and education and outreach provided throughout the state.