



North Carolina Department of Environment and Natural Resources

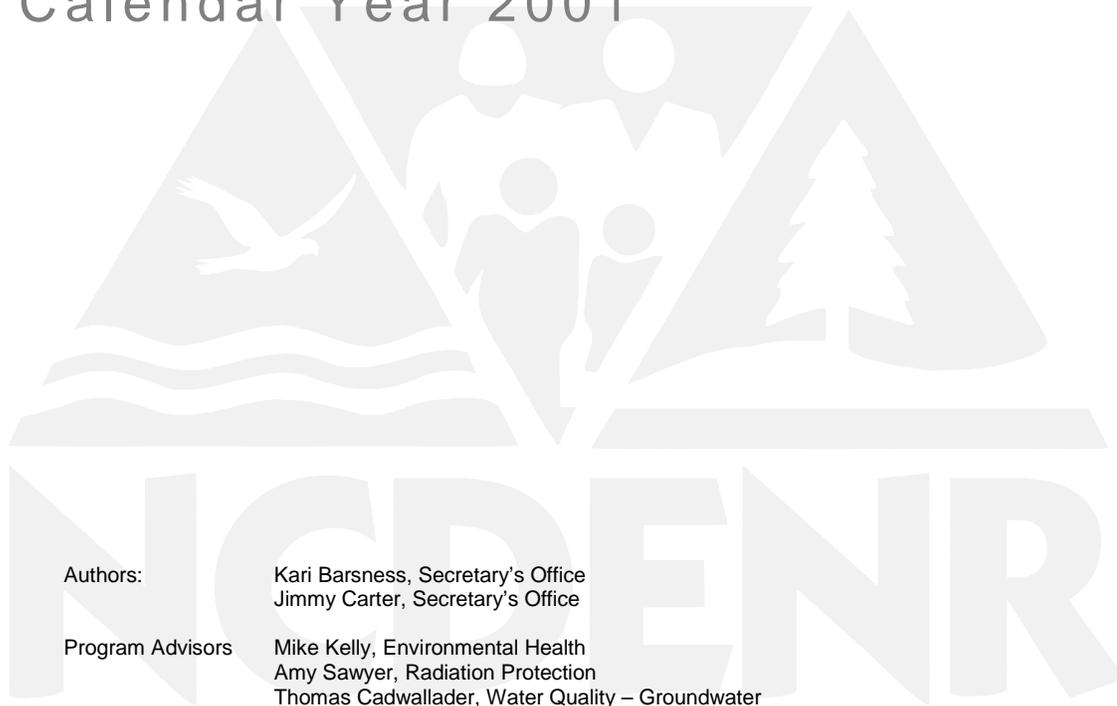
Environmental Regulatory Compliance Activity in Calendar Year 2001

Readers are invited to send comments, questions and suggestions for improvements.

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North Carolina Department of Environment and Natural Resources Environmental Regulatory Compliance Activity in Calendar Year 2001



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TABLE OF CONTENTS

INTRODUCTION	4
MEASURES	7
Timeliness	8
Penalty Assessments	10
Penalty Collections	11
Uncollectible Penalties	13
Penalties Not Yet Collected	14
Enforcement Cases Closed by AGO	15
Response to Penalty Assessments	16
Penalty Reductions	18
Compliance Rate	19
NPDES Compliance Rate	20
Sanitary Sewer Overflows	21
Return to Compliance Rate	22
Penalties to Non-Permitted Sites	23
Repeat Violations	24
Most Common Violations	26
Workload	28
Forestry and Enforcement	30
APPENDICES	32
A DENR Enforcement Primer	33
B Enforcement Profiles by Program	36
C Definitions of Measures	41
D Program Descriptions	45
E Compliance Contacts	49
F Enforcement Principles	50
G Process Flowchart	51

Introduction

In the fall of 2001, at the direction of Governor Easley, the Department of Environment and Natural Resources (DENR) launched an annual reporting system of compliance activities in 20 regulatory programs across six divisions. The report addressed timeliness of enforcement actions, penalty amounts, compliance rates and several related measures for calendar year 2000. This second report presents the same data for calendar year 2001, refining some measure to provide a more accurate picture and adding some new measures, such as penalty collection rates.

In the original year 2000 report, it became clear that there is no single compliance profile in DENR. The breadth of program responsibilities is wide, and the communities regulated by those programs are diverse. DENR programs regulate activities with impacts ranging from one acre (for example, land-disturbing activities at a construction site) to the entire state (mobile air emissions). Regardless of the spectrum of regulation, DENR has the responsibility to manage all compliance programs in an open way that allows any interested person to find out what is happening in the program and to evaluate its strength, its fairness and its effectiveness.

This report is DENR's effort to provide a window into the department's enforcement programs and to develop information to guide future decision-making on program direction. The report's desired outcome is to provide a fact-based evaluation and management system that can be effectively communicated to all who are interested in knowing DENR's role in managing compliance with environmental laws.

In presenting this report, it should be noted that two years worth of data is not sufficient to demonstrate conclusive trends. Furthermore, department-wide averages can be misleading due to disparities among programs. Nevertheless, this report can help the department – and the public – begin to

recognize areas where enforcement programs are operating effectively as well as those areas that should be targeted for improvement.

Enforcement Strategy

Governor Easley has called for "Truth in Penalties" to encourage responsible environmental behavior through enforcement programs that are strong, effective and fair, so that:

- serious violations of environmental laws are met with serious consequences;
- penalties are consistently and vigorously assessed and collected and
- the public has full confidence in environmental enforcement.

In support of the governor's enforcement priorities, Secretary Bill Ross has directed division heads who oversee enforcement programs to:

- ensure that penalties and other enforcement strategies reflect the seriousness of a violations;
- narrow the gap between assessment amounts and collection;
- improve timeliness of enforcement decisions and
- make the enforcement process and enforcement information easily accessible to the public.

To track progress in these areas, the department has established this annual report and is in the process of finalizing an information system that will make enforcement information more readily available to the public.

Trends

The report for 2001 shows the department is doing a good job of collecting penalties, and the gap between penalties assessed and expected collections has narrowed (an overall collection rate of 89 percent in 2001 versus 69 percent in 2000).

Introduction

On the flip side, it appears the penalty collection process is taking too long in many programs. Among the eight programs reporting timeliness of enforcement actions in 2001, the number of days to collect penalties (from the date of discovering a violation until the penalty was paid in full) ranged from 110 days to 577. Enforcement programs are determining the source of these delays and their ability to control them. For example, the appeals process – over which the Department does not have direct control – can be very time consuming. Each division will also be determining an appropriate timelines for enforcement action. Enough time must be taken to build a solid case, but even a solid case becomes less effective if not pursued with reasonable quickness. In the mean time, programs are already working to shorten the time frames in the enforcement process through various approaches, including delegation of enforcement actions to regional offices and streamlining when necessary.

Based on a five-year rolling average, the overall number of repeat violators increased (931 for 1997-2001, compared to 901 for 1996-2000). More than two-thirds of those repeat violations occurred in two programs. Division directors have started to document the use of increased penalties for willful and repeat violators.

Both the total number of civil penalties issued and the total amount of penalties assessed dropped between 2000 and 2001. The department issued 1,509 civil penalties in 2001, compared to 2,010 in 2000 – a 25 percent decrease. The amount of penalties assessed in 2001 was just over \$5.2 million dollars, compared to \$6.1 million assessed in 2000. Ideally, a reduction in penalties assessed could be traced to a higher level of compliance in the regulated community. Nevertheless, such data merits careful review, given the potential impact of tight budget restrictions on enforcement levels. Some of this drop can also be explained due to variations in enforcement strategies from year to year. (For example, in 2000 the

Public Water Supply staff executed a targeted enforcement initiative on transient water supply systems that was not repeated in 2001, which yielded around 400 penalties.)

Status of Enforcement

Since completion of the first annual compliance report, DENR has worked to improve enforcement measures, assess program needs, and formalize departmental expectations for implementing the new enforcement strategy. For the past two years, DENR enforcement staff has been working to develop criteria that go beyond measuring enforcement activity to increase understanding of the productivity and results of enforcement. The major criteria developed so far include:

- compliance rate
- return to compliance rate
- amount of penalty reductions
- repeat violator rate
- penalty collection rate
- timeliness of enforcement actions

To understand enforcement processes and program needs better, DENR staff completed two assessment projects last year. First, the department created process flowcharts for all DENR enforcement programs. These flowcharts cover the enforcement process from discovery of violation to penalty payment or other final action and help us understand the details of enforcement programs. Second, the department and the Attorney General's office organized meetings with DENR inspectors and managers in all seven regional offices to solicit perspectives on enforcement-related activities.

DENR wants to make continuous improvements in its compliance programs. The department has focused efforts over the last year on looking for ways to increase the strength, fairness and effectiveness of our enforcement programs, and on complementing that effort with the development of some new technical assistance

Introduction

and incentive activities.

As one complement to the enforcement program, DENR announced the Environmental Stewardship Initiative in April 2002 on Earth Day. This program recognizes businesses, industrial facilities and other organizations that go beyond compliance and embrace the concept of stewardship.

Truth in Penalties and Environmental Stewardship are expected to lead to compliance improvements in all areas of enforcement. DENR, the regulated community, environmental groups, business, industry and citizens all are responsible for ensuring that North Carolina's environment is healthy and natural resources are abundant. DENR continues to work toward more effective enforcement programs, and we can achieve continued improvements through cooperation and resolve.

Measures

The following sections of the report provide a set of measures that DENR has begun to institutionalize to understand better the activities and accomplishments of its programs over time.

The measures included in this report are:

- timeliness of enforcement actions;
- penalty assessments (number of penalties, total dollar amount, average penalty, highest penalty) in 2000 and 2001;
- penalty collections;
- uncollectible penalties (i.e., the responsible party is unable to pay);
- penalties not yet collected. (Some penalties are paid over time rather than in one sum and may not be “paid in full” for several years.);
- enforcement cases closed by the AGO;
- response to penalty assessments: paid in full without contesting, remissions, appeals to OAH, ignoring correspondence with the state and informal settlements – a measure of the options regulated entities have exercised when presented with a penalty;
- penalty reductions made by DENR, commissions, and judges;
- compliance rates;
- return to compliance rates;
- penalties to non-permitted sites (i.e., violations discovered by complaints)
- repeat violations;
- most common violations;
- workload;
- forestry site evaluations; and

Measures in the 2001 report cover 20 regulatory programs housed in six different divisions. As with last year’s report, some data gaps exist, but this year more programs have begun collecting data and are able to report. The department will continue working with non-reporting programs to make the information more complete.

The 20 programs represented in this report are:

- DIVISION OF AIR QUALITY
 - AIR QUALITY
- DIVISION OF COASTAL MANAGEMENT
 - COASTAL MANAGEMENT
- DIVISION OF ENVIRONMENTAL HEALTH
 - FOOD, LODGING & INSTITUTIONAL SANITATION
 - MAMMOGRAPHY
 - ON-SITE WASTEWATER
 - PUBLIC WATER SUPPLY
 - RADIOACTIVE MATERIALS
 - SHELLFISH SANITATION
 - SLEEP PRODUCTS
 - TANNING
 - X-RAY
- DIVISION OF LAND RESOURCES
 - DAM SAFETY
 - EROSION AND SEDIMENT CONTROL
 - MINING
- DIVISION OF WASTE MANAGEMENT
 - HAZARDOUS WASTE
 - SOLID WASTE
 - UNDERGROUND STORAGE TANKS (UST)
- DIVISION OF WATER QUALITY
 - GROUNDWATER
 - NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
 - NON-DISCHARGE

Measures: Timeliness – Program Notes

Once a violation is discovered either through an inspection or self-monitoring reports, various steps occur before the involved agency decides whether or not to take an enforcement action and, if taken, before the action is resolved. Typically, a notice of violation (NOV) is issued to the responsible party (RP), acknowledging and describing the type of violation. The NOV may give a deadline for correcting the violation and returning to compliance.

An inspector visits the site again after the compliance deadline. If the RP is still out of compliance, a civil penalty may be assessed. The RP can voluntarily pay the penalty in full, appeal the case to the Office of Administrative Hearings (OAH), seek remission through the division director and environmental commission or seek informal settlement with the division.

If the penalty is appealed to OAH, the alleged violator has the right to an administrative hearing before an administrative law judge (ALJ). The ALJ makes a recommended decision, after which DENR or the commission makes a final agency decision. Usually the final agency decision can be appealed to the North Carolina Superior Court, whose decision can also be appealed. At any time during those steps, the parties can agree between themselves to settle the case (informal settlement). The penalty amount decided at the final level of appeal becomes the “established” penalty amount, which is the amount the program expects to collect. After the penalty is paid in full and the facility return to compliance, the department closes the case.

Penalty assessments do not automatically follow an NOV. For example, most programs afford a first time violator the opportunity to respond to the NOV and return to compliance before a penalty is assessed. In these cases, when violations continue or the violator does not respond, the enforcement process begins. Also, in more serious cases, a penalty may be issued immediately after the violation is discovered, without issuing a NOV.

The average number of days from discovery of a violation to a civil penalty paid in full varied widely across programs in 2001. The

fewest number of days occurred in the Radioactive Materials Program, at 110 days. The Mining Program took the longest, an average of 577 days.

The enforcement process varies from program to program. Some programs have streamlined their processes such as delegating authority for civil penalty assessments to regional offices and using a fast track concept to speed up the review of less complicated enforcement cases. Programs are reviewing their enforcement processes and will implement ideas that will improve the time between the steps in the enforcement process.

Across all programs, the time it took to assess civil penalties varied substantially. It took the Radioactive Materials Program, the Division of Coastal Management (DCM) and the Solid Waste Program an average of 55, 56 and 61 days, respectively, to issue civil penalties. Air Quality took an average of 156 days. Some programs, such as Groundwater and Tanning, each took over 200 days on average. The Non-discharge Program took an average 329 days to issue penalty assessments.

For establishing penalties, the range was between eight days for the Radioactive Materials Program to 221 days for the Tanning Program.

The range across the department to collect penalties once they were established varied considerably, between 10 days for DCM and 375 days for the Mining Program. This number may be misleading, however, since not all penalties paid in full without being contested are paid in a single payment. Some violators are placed on a payment plan, which extends the time it takes for them to pay in full. Others simply ignore all correspondence with the state. These cases are turned over to the AGO for collection, and it may take several months or years before money is actually collected. The data include both scenarios.

Nine of the 20 programs reported this information in 2000, so the data may not accurately show trends across the department. In future years, when all programs report information, trends will be more accurately reflected.

Timeliness of Penalty Collections in 2000 and 2001

Program	Number of Penalties Assessed ¹	Number of Penalties Paid in Full ²	Average Number of Days from Violation Discovery to Penalty Paid in Full		Average Number of Days from Violation Discovery to NOV Issuance		Average Number of Days from NOV Issuance to Penalty Assessment		Average Number of Days from Penalty Assessment to Penalty Establishment ³		Average Number of Days From Penalty Establishment to Penalty Paid in Full ⁴	
			2000	2001	2000	2001	2000	2001	2000	2001	2000	2001
AIR QUALITY	399	215 ⁵	-	378	39	48	125	156	104	143	30	128
Permitted Facilities	-	107	-	344	-	76	-	169	-	107	-	72
Open Burning	-	98	-	415	-	18	-	151	-	170	-	177
Other	-	10	-	368	-	49	-	75	-	45	-	240
COASTAL MANAGEMENT	83	146	-	-	5	- ⁶	35	56	-	0 ⁷	-	10
DAM SAFETY	0	0	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
EROSION AND SEDIMENT CONTROL	94	18	-	-	-	-	-	-	-	-	-	-
FOOD, LODGING & INSTITUTIONAL SANITATION	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
GROUNDWATER	65	9	-	297 ⁸	15	13 ⁹	88	206 ¹⁰	177	0 ¹¹	n/a	124
HAZARDOUS WASTE	13	-	-	-	0 ¹²	-	328 ¹³	-	137	-	56	-
MAMMOGRAPHY	-	0	-	n/a	-	n/a	-	n/a	-	n/a	-	n/a
MINING	8	8	-	577	-	8	115	114	-	161	10	375
NPDES	660	375	-	-	-	-	-	- ¹⁴	-	93	-	-
NON-DISCHARGE	106	29	-	354	-	16	-	329	-	114	-	85
ON-SITE WASTEWATER	16	0	-	n/a	-	n/a	78	n/a	-	n/a	30	n/a
PUBLIC WATER SUPPLY	435	-	-	-	5	-	151	-	-	-	0	-
RADIOACTIVE MATERIALS	0	4	n/a	110	n/a	13	n/a	55	n/a	8	n/a	34
SHELLFISH SANITATION	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
SLEEP PRODUCTS	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
SOLID WASTE	5	2	-	111	6	0	196	61	n/a	0 ¹⁵	n/a	50
TANNING	35	4	-	548	11	10	423	293	179	221	30	24
UST	90	31	-	-	-	-	-	-	-	80	-	52
X-RAY	1	1	n/a	232	n/a	14	n/a	142	n/a	60	n/a	16

n/a means not applicable. The Food, Lodging & Institutional Sanitation, Shellfish Sanitation and Sleep Products programs do not issue civil penalties. (-) means that the programs do not currently collect the data or that data retrieval systems are not in place to report the information.

¹Timeliness in 2000 is based on penalties assessed in 2000.

²Timeliness in 2001 is based on penalties paid in full in 2001.

³This measure only includes penalty assessments where the violator sought some type of settlement by appealing to OAH, seeking remission or seeking informal settlement. Penalties that are not contested have the same penalty assessment date and the penalty establishment date – i.e. zero days from assessment to establishment. For this reason non-contested cases are excluded here (they are included in penalty establishment to penalty paid in full) since they would skew the average downward. However, if the program did not have ANY contested cases in the year, then zero days is reported.

⁴This measure also includes the average number of days from penalty assessment to penalty paid in full if the violator did not seek a penalty reduction. Some of the violators paid their penalties in installments, which increased the time to pay in full.

⁵242 cases were paid in full in 2001. Of these, 22 had no NOV date listed and 5 others had no violation date listed. These records were considered incomplete and were not used in this analysis. Therefore only 215 cases are considered here.

⁶The violation discovery date is not tracked. Field representatives/inspectors typically issue NOV within 2 weeks of discovery.

⁷DCM did not have ANY contested cases in 2001, therefore zero days is reported. See footnote #3.

⁸If one outlier is removed, then the average is 152 days.

⁹If one outlier is removed, then the average is 9 days.

¹⁰If one outlier is removed, then the average is 66 days.

¹¹Groundwater did not have ANY contested cases in 2001, therefore zero days is reported. See footnote #3.

¹²The Hazardous Waste program issues on the spot "ticket" NOV's at the time of the inspection, therefore zero days is reported.

NOV and penalty assessments are contained in the same document

¹³It took 2,212 days to negotiate a consent agreement for one particular case. If this case were excluded, the average time to assess a penalty would be 156 days.

¹⁴NOV's and civil penalties are contained within the same document.

¹⁵Solid Waste did not have ANY contested cases in 2001, therefore zero days is reported. See footnote #3.

Measures: Penalty Assessments – Program Notes

The Public Water Supply (PWS) Program issued 43 penalties in 2001, compared to 435 in 2000 when there was a focused effort on transient water supply systems that failed to meet monitoring requirements. Similarly, in DAQ, 119 of 399 civil penalty assessments in 2000 were the result of facilities not submitting emission inventories. Every three years, all facilities permitted by DAQ are required to submit emission inventories to the division.

The highest penalty assessment in 2001 occurred in the Hazardous Waste (HW)

Program; \$131,000. In 2000, DAQ had the highest penalty assessment at \$198,194. This unusually high penalty was assessed for a facility with over 200 violations and a poor compliance history.

HW's average penalty dropped from \$58,153 in 2000 to \$16,669 in 2001. DAQ's average penalty assessment almost doubled in 2001, from \$2,784 to \$4,630. Emission inventories not being submitted on time in 2000, with fines of less than \$1000, contributed to the lower average in 2000.

Civil Penalty Assessments in 2000 and 2001								
Program	No. Penalties Assessed		Total Dollar Amount Assessed		Average Dollar Amount Assessed		Highest Dollar Amount Assessed	
	2000	2001	2000	2001	2000	2001	2000	2001
AIR QUALITY	399	243	\$1,110,935	\$1,125,038	\$2,784	\$4,630	\$198,194	\$97,111
Permitted Facilities	236	134	\$915,882	\$962,098	\$3,881	\$7,180	\$198,194	\$97,111
Open Burning	143	103	\$180,542	\$158,764	\$1,263	\$1,541	\$36,365	\$16,329
Other	20	6	\$14,571	\$4,176	\$729	\$696	\$1,651	\$1,651
COASTAL MGMT	83	210	\$29,550	\$67,115	\$356	\$320	\$1,000	\$1,000
DAM SAFETY	0	1	n/a	\$4,350	n/a	\$4,350	n/a	\$4,350
EROSION AND SEDIMENT CONTROL	94	79	\$1,002,955	\$652,622	\$10,670	\$8,261	\$121,440	\$100,810
FOOD, LODGING & INSTITUTIONAL SANITATION	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
GROUNDWATER	65	40	\$135,125	\$138,400	\$2,097	\$3,460	\$21,200	\$14,000
HAZARDOUS WASTE	13	27	\$755,983	\$450,062	\$58,153	\$16,669	\$147,998	\$131,000
MAMMOGRAPHY	0	0	n/a	n/a	n/a	n/a	n/a	n/a
MINING	8	2	\$83,940	\$6,950	\$10,493	\$3,475	\$55,800	\$4,600
NPDES	660	635	\$1,526,740	\$1,091,488	\$2,313	\$1,719	\$78,167	\$31,692
NON-DISCHARGE	106	77	\$628,450	\$518,425	\$5,929	\$6,733	\$55,750	\$53,500
ON-SITE WASTEWATER	16	5	\$8,880	\$14,100	\$550	\$2,820	\$7,200	\$5,000
PUBLIC WATER SUPPLY	435	43	\$201,380	\$84,520	\$453	\$1,966	\$5,040	\$25,500
RADIOACTIVE MATERIALS	0	8	n/a	\$35,750	n/a	\$4,469	n/a	\$10,000
SHELLFISH SANITATION	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
SLEEP PRODUCTS	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
SOLID WASTE	5	3	\$41,995	\$16,350	\$8,399	\$5,450	\$13,625	\$6,250
TANNING	35	18	\$51,050	\$21,250	\$1,459	\$1,181	\$3,050	\$3,250
UST	90	116	\$561,184	\$989,214	\$6,235	\$8,528	\$28,278	\$33,235
Inspections	–	78	–	\$651,425	–	\$8,352	–	\$33,235
Release/Incident	–	38	–	\$337,789	–	\$8,889	–	\$29,723
X-RAY	1	2	\$750	\$4,650	\$750	\$2,325	\$750	\$3,900

n/a means not applicable. (–) denotes that data was not available for this program. The Food, Lodging & Institutional Sanitation, Shellfish Sanitation and Sleep Products programs do not issue civil penalties. In 2000 and 2001, the Mammography program issued no civil penalties.

Measures: Penalty Collections – Program Notes

Civil penalties are assessed throughout the year, but many penalties assessed in one year will not be resolved in that same year. Penalty assessments that are not resolved by the end of the calendar year are identified as penalties not established.

The concept of “established” simply means those penalties that have gone through remission, appeal or settlement and are considered the final penalty DENR expects to

collect.

In 2001, two programs, DCM and Groundwater, are expecting to collect 100 percent in 2001. DAQ and the X-Ray Program should collect 95 percent and 89 percent, respectively. HW, Tanning and Mining expect to collect 65 percent, 47 percent and 40 percent, respectively. HW’s percentage is low in part because it withdrew a penalty assessment of \$131,000 when a facility filed for bankruptcy.

Penalties Established and Collected of Penalties Assessed in 2000

Programs	Total Dollar Amount of Penalties Assessed in 2000	Total Dollar Amount of Penalties Assessed in 2001 of All Penalties Established as of 12/31/01 (excludes penalties NOT yet established)	Total Dollar Amount of Penalties Established through Settlement, Agreement or Final Action as of 12/31/01	Percent of Original Penalty Assessments that the Department Expects, as of 12/31/01, to Collect	Total Dollar Amount of Penalties Collected as of 12/31/01
AIR QUALITY	\$1,110,935	\$1,102,715	\$968,780	88%	\$804,730
COASTAL MGMT	\$29,950	–	–	–	\$38,450
DAM SAFETY	\$0	n/a	n/a	n/a	\$0
EROSION AND SEDIMENT CONTROL	\$1,002,955	\$895,320	\$289,677	32%	\$252,677
FOOD, LODGING & INSTITUTIONAL SANITATION	n/a	n/a	n/a	n/a	n/a
GROUNDWATER	\$135,125	–	–	–	\$28,461
HAZARDOUS WASTE	\$755,983	\$729,583	\$466,739	64%	\$269,778
MAMMOGRAPHY	\$0	n/a	n/a	n/a	\$0
MINING	\$83,940	\$83,940	\$42,700	51%	\$17,885
NPDES	\$1,526,740	\$1,526,740	\$1,220,356	80%	\$1,141,363
NON-DISCHARGE	\$628,450	\$587,450	\$573,239	98%	\$475,216
ON-SITE WASTEWATER	\$8,800	\$8,800	\$8,800	100%	\$7,650
PUBLIC WATER SUPPLY	\$210,380	\$210,380	\$1,676,840 ¹	797%	\$15,430
RADIOACTIVE MATERIALS	\$0	n/a	n/a	n/a	\$0
SHELLFISH SANITATION	n/a	n/a	n/a	n/a	n/a
SLEEP PRODUCTS	n/a	n/a	n/a	N/a	n/a
SOLID WASTE	\$41,995	\$41,995	\$29,000	69%	\$14,000
TANNING	\$51,050	–	–	–	\$2,852
UST	\$561,184	–	–	–	\$64,978
X-RAY	\$750	\$750	\$250	33%	\$250

n/a means not applicable. The Food, Lodging & Institutional Sanitation, Shellfish Sanitation and Sleep Products programs do not issue civil penalties. In 2000, the Dam Safety, Mammography and Radioactive Materials programs issued no civil penalties. (–) means that the programs do not currently collect the data or that data retrieval systems are not in place to report the information.

¹This number is higher than the amount assessed, because PWS assesses per day penalties. Per day penalties do not become determined until the original penalty amount is established.

Penalties Established and Collected of Penalties Assessed in 2001					
Program	Total Dollar Amount of Penalties Assessed in 2001	Total Dollar Amount of Penalties Assessed in 2001 of All Penalties Established as of 12/31/01 (excludes penalties NOT yet established)	Total Dollar Amount of Penalties Established through Settlement, Agreement or Final Action as of 12/31/01	Percent of Original Penalty Assessments that the Department Expects, as of 12/31/01, to Collect	Total Dollar Amount of Penalties Collected as of 12/31/01
AIR QUALITY	\$1,125,038	\$677,230	\$646,421	95%	\$560,524
COASTAL MGMT	\$67,115	\$61,865	\$61,865	100%	\$60,815
DAM SAFETY	\$4,350	\$0	\$0	Uncertain	\$0
EROSION AND SEDIMENT CONTROL	\$652,622	-	-	-	\$155,635
FOOD, LODGING & INSTITUTIONAL SANITATION	n/a	n/a	n/a	n/a	n/a
GROUNDWATER	\$138,400	\$94,800	\$94,800	100%	\$14,930
HAZARDOUS WASTE	\$450,062	\$328,325	\$216,269	65%	\$6,645
MAMMOGRAPHY	\$0	n/a	n/a	n/a	n/a
MINING	\$6,950	\$6,950	\$2,800	40%	\$2,800
NPDES	\$1,091,488	-	\$993,579	-	\$684,342
NON-DISCHARGE	\$518,425	\$403,025	\$296,525	74%	\$194,013
ON-SITE WASTEWATER	\$14,100	\$0	\$0	Uncertain	\$0
PUBLIC WATER SUPPLY	\$84,520	\$84,520	\$152,270 ¹	180%	\$27,540
RADIOACTIVE MATERIALS	\$35,750	\$20,750	\$17,000	82%	\$17,000
SHELLFISH SANITATION	n/a	n/a	n/a	n/a	n/a
SLEEP PRODUCTS	n/a	n/a	n/a	n/a	n/a
SOLID WASTE	\$16,350	\$10,850	\$10,850	100%	\$10,850
TANNING	\$21,250	\$19,500	\$9,100	47%	\$1,200
UST	\$989,214	\$591,276	\$460,245	78%	\$344,250
Inspections	\$651,425	\$392,670	\$317,643	81%	-
Release/Incident	\$337,789	\$198,606	\$142,602	72%	-
X-RAY	\$4,650	\$4,650	\$4,150	89%	\$250

n/a means not applicable. The Food, Lodging & Institutional Sanitation, Shellfish Sanitation and Sleep Products programs do not issue civil penalties. In 2001, the Mammography program issued no civil penalties. (-) means that the programs do not currently collect the data or that data retrieval systems are not in place to report the information. In the Dam Safety and On-Site Wastewater programs, uncertain means that 0% of the assessments have been established; therefore it is uncertain how much the programs expect to collect.

¹This number is higher than the amount assessed because PWS assesses per day penalties. Per day penalties do not become determined until the original penalty amount is established.

Measures: Uncollectible Penalties – Program Notes

DENR and the Attorney General's Office (AGO) work to collect outstanding (i.e. established but unpaid) penalties. The AGO typically obtains a judgment for the DENR program in Superior Court against the violator, which allows the state to place property liens in the amount of the penalty.

Programs will not know immediately after assessment that the penalty amounts may become uncollectible. A penalty may be uncollectible for several reasons, such as the violator filed for bankruptcy or does not have any assets to levy. It may take several years before the department finally determines that the penalty is uncollectible. Once this is determined, the program will close the case without collection. Since uncollectible penalties are uncertain until later in the

process, the dollar amount of uncollectible penalties may increase over time.

2001 is the first year DENR has reported on penalties that its programs are not able to collect. Because it can take several years to determine if a penalty is uncollected, the report cannot yet show reliable trends.

Uncollectible Penalties, for Penalties Assessed in Years 1996 – 2001

Program	1996	1997	1998	1999	2000	2001
AIR QUALITY	\$37,971	\$5,952	\$4,682	\$3,586	\$10,329	\$742
COASTAL MANAGEMENT	\$2,100	\$2,550	\$12,650	\$150	\$0	\$200
DAM SAFETY	\$0	\$0	\$0	\$0	\$0	\$0
EROSION AND SEDIMENT CONTROL	\$0	\$0	\$20,960	\$17,325	\$0	\$0
FOOD, LODGING & INSTITUTIONAL SANITATION	n/a	n/a	n/a	n/a	n/a	n/a
GROUNDWATER	\$0	\$0	\$2,200	\$6,000	\$0	\$0
HAZARDOUS WASTE	\$0	\$0	\$38,296	\$13,333	\$126,400	\$156,000
MAMMOGRAPHY	\$0	\$0	\$0	\$0	\$0	\$0
MINING	\$0	\$0	\$18,250	\$0	\$0	\$0
NPDES	-	-	-	\$13,289	\$1,208	\$0
NON-DISCHARGE	\$13,250	\$0	\$9,500	\$0	\$4,000	\$0
ON-SITE WASTEWATER	-	-	-	-	-	-
PUBLIC WATER SUPPLY	-	-	-	-	-	-
RADIOACTIVE MATERIALS	\$0	\$0	\$0	\$0	\$0	\$0
SHELLFISH SANITATION	n/a	n/a	n/a	n/a	n/a	n/a
SLEEP PRODUCTS	n/a	n/a	n/a	n/a	n/a	n/a
SOLID WASTE	\$7,100	\$124,500	\$0	\$0	\$0	\$0
TANNING	\$1,250	\$0	\$0	\$1,500	\$0	\$6,750
UST	-	-	-	-	-	\$0
X-RAY	\$0	\$0	\$0	\$0	\$0	\$0

n/a means not applicable. (-) means that the programs do not currently collect the data or that data retrieval systems are not in place to report the information.

Measures: Penalties Not Yet Collected – Program Notes

These numbers below represent the dollar amount that the enforcement programs have not yet collected from penalties assessed in years 1996 – 2001.

Only four programs, Air Quality, Non-Discharge, Public Water Supply and Radioactive Materials, have more than \$10,000 left to collect from 1996. In 1997, five programs, Air Quality, Groundwater, NPDES, Non-Discharge and Public Water have more than \$10,000 left to collect. The highest amount of penalties that yet to be collected occurred in the Public Water Supply Program. As of the end of 2001, the program still had not collected \$724,200 of penalties assessed in 1998.

It can take up to 3 to 5 years to close an enforcement case. That is why higher amounts are not yet collected in the most

recent years. Some violators will pay their penalty immediately without appealing. Others will contest the penalty using a variety of options: appealing to OAH, seeking remission or seeking informal settlement. Some contested cases can take a year or more before settlement.

Although the department and AGO work to collect penalties, if the violator does not have any money to pay or assets to seize, there is little that can be done to collect in full. Some penalties that have not yet been collected may become uncollectible in the future. Other violators are put on payment plans, so full payment can take years.

Total Dollar Amount of Penalties Not Yet Collected of Penalties Assessed in Years 1996-2001

Program	1996	1997	1998	1999	2000	2001
AIR QUALITY	\$56,014	\$21,119	\$38,990	\$45,566	\$158,029	\$518,613
COASTAL MANAGEMENT	\$4,450	\$4,450	\$29,025	\$2,650	\$2,850	\$6,300
DAM SAFETY	\$0	\$0	\$0	\$0	\$0	\$4,350
EROSION AND SEDIMENT CONTROL	\$0	\$0	\$0	\$138,650	\$107,635	\$411,260
FOOD, LODGING & INSTITUTIONAL SANITATION	n/a	n/a	n/a	n/a	n/a	n/a
GROUNDWATER	\$3,863	\$20,148	\$166,861	\$77,740	\$91,543	\$123,470
HAZARDOUS WASTE	\$3,863	\$0	\$28,199	\$128,300	\$172,285	\$444,773
MAMMOGRAPHY	\$1,235	\$0	\$0	\$0	\$0	n/a
MINING	\$0	\$0	\$20,000	\$3,750	\$28,000	\$0
NPDES	\$0	\$13,350	\$82,374	\$157,568	\$77,785	\$309,237
NON-DISCHARGE	\$31,310	\$74,808	\$70,338	\$74,356	\$297,584	\$293,808
ON-SITE WASTEWATER	-	-	-	-	-	\$14,100
PUBLIC WATER SUPPLY	\$42,542	\$63,625	\$724,200	\$187,770	\$177,330	\$56,980
RADIOACTIVE MATERIALS	\$41,650	\$0	\$0	\$0	\$0	\$0
SHELLFISH SANITATION	n/a	n/a	n/a	n/a	n/a	n/a
SLEEP PRODUCTS	n/a	n/a	n/a	n/a	n/a	n/a
SOLID WASTE	\$0	\$4,750	\$10,625	\$0	\$22,000	\$5,500
TANNING	\$8,500	\$0	\$0	\$1,500	\$38,322	\$0
UST	-	-	-	-	-	\$644,964
X-RAY	\$0	\$0	\$0	\$0	\$0	\$0

n/a means not applicable. (-) means that the programs do not currently collect the data or that data retrieval systems are not in place to report the information.

Measures: Enforcement Cases Closed by AGO

Measure:	AGO Cases Closed in 2001		
Result:	OAH Appeals	163	75%
	Collections	40	18%
	Injunctions	14	6%
	Temporary Restraining Orders	1	<1%
	Total No. of Cases Closed	218	100%

The Attorney General's Office (AGO) represents the department when legal issues relating to enforcement arise. The AGO also assists the programs in remission cases. However, if an independent commission hears a remission case, DENR staff presents the case before the commission on behalf of the

program. When informal settlement occurs, the AGO often assists DENR with negotiations and drafting of legal documents.

The AGO represents the department in all court proceedings, including OAH cases. The AGO files court documents and seeks injunctions or temporary restraining orders on behalf of DENR. The AGO also pursues collection of civil penalties when violators do not pay.

Last year, the AGO closed 218 cases. Of these, 75 percent were OAH cases. Another 18 percent were collection cases. The remaining, less than 7 percent, were injunctions and temporary restraining orders.

Of the 218 cases closed last year, 203 were civil penalties (163 OAH + 40 collection). Of the 203 civil penalty cases, 112 were collected and 54 were uncollectible. [Thirty-seven cases were closed because the violator withdrew the petition to OAH.]

Out of 54 civil penalty cases closed last year, almost half of these cases – 20 of 54 – were deemed uncollectible because the violator had no assets for payment. Penalties in the 20 cases total \$101,631. Seventeen cases were closed because the penalty was rescinded, 11 violators filed for bankruptcy, three violators deceased and three were not paid for unknown reasons. The total amount of uncollectible penalties equals \$335,682.

Reasons for Uncollectible Penalties of AGO Cases Closed in 2001

Reason Penalty is Uncollectible	Number of Cases Closed	Amount Uncollectible
No Assets ¹	20	\$101,631
Penalty Rescinded	17	\$158,649
Bankruptcy	11	\$39,803
Violator Deceased ²	3	\$18,000
Unknown	3	\$8,360
Total	54	\$335,682

¹The penalty amount for one of these cases is unknown.

²The penalty amount for one of these cases is unknown.

Civil Penalty Cases Closed, Cases Collected and Uncollectible and Dollar Amount Uncollectible of AGO Cases Closed in 2001¹

Type of Case	Total Cases Closed	Total Cases Collected	Total Cases Uncollectible	Total Dollar Amount Uncollectible
OAH Cases	163	89	37	\$288,690
Collection Cases	40	23	17	\$46,992
Total Civil Penalty Cases	203	112	54	\$335,682

¹The total number of collected (112) and uncollected (54) civil penalty cases does not equal 203 because 37 OAH cases were closed when the petitioner withdrew the case. It is uncertain if civil penalties were collected by the respective DENR program.

Measures: Response to Penalty Assessments – Program Notes

Once a violator is assessed a penalty, he/she has several options. They are: appeal the penalty to the Office of Administrative Hearings (OAH), seek remission, seek informal settlement and pay the penalty in full. Violators ignore correspondence with the state at times as well.

Appeals to OAH

In all DENR regulatory programs, a violator has the option to appeal the penalty to OAH within 30, 60 or 90 days (depending on the program) and dispute the facts of the case. When appealed, the case is heard by an Administrative Law Judge (ALJ). The ALJ makes a recommendation to the final agency decision-maker. Depending on the program, the decision-maker could be an independent citizen commission, the DENR secretary or the state health director. The violator has the option to appeal the final agency decision to state Superior Court.

Remission Requests

Some DENR programs have a remission process that may be used if the violator stipulates that the facts of the case are not in dispute. In a remission request, the violator seeks a penalty reduction or withdrawal based on extenuating circumstances not considered when the penalty was issued.

Those seeking remission waive their right to appeal to OAH and must justify why their penalty amount should be reduced. DENR considers the justification and returns a decision. If not satisfied with the decision, the responsible party can take their case before an independent citizen commission that will make a decision based on the original assessment amount, not the reduced amount offered by DENR.

Informal Settlements

When seeking informal settlement, the responsible party meets with DENR personnel

to discuss the case and find common ground. The division director or his delegated agent has legal authority to reduce the penalty. If a settlement is reached, a consent agreement is drafted and signed by both parties. If the violator does not abide by the agreement, the program will refer the case to the AGO for further action.

Penalties Ignored

Some violators ignore correspondence with the department. When this occurs, the program refers the case file to the Attorney General's Office (AGO), which will send demand letters and may seek a judgment in Superior Court allowing the state to place liens on property in the amount of the required payment.

Of penalties assessed in 2001, across programs, the response to penalty assessments varied significantly. For uncontested and paid in full penalties, 88 percent of penalties assessed in DCM were paid in full without contesting. Sixty seven percent of Solid Waste penalties were paid in full. Zero percent of penalties in several programs were uncontested and paid in full. The percent seeking remission was 28 percent in UST. Again, in several programs zero percent sought remission. Seventy percent of penalty assessments in PWS were appealed to OAH, 60 percent of assessments in On-Site Wastewater were ignored by the violator and turned over to the AGO for collection and 100 percent in Mining sought informal settlement.

The programs also varied widely in the percent of assessments that were still outstanding at the end of the year. [Penalties assessed late in the year are considered outstanding if the violator took time in the following year to pay their penalty or seek other options. These options include appeals to OAH, seeking remission, or informal settlement.]

Penalty Appeal Options Taken by Violators when Civil Penalties are Assessed of Penalties Assessed in 2001

Program	Number of Penalties Assessed	Percent of Penalty Assessments Paid in Full without Contesting	Percent of Penalty Assessments that Seek Remission	Percent of Penalty Assessments that Appeal to OAH	Percent of Penalty Assessments Ignored (e.g. result in referral to the AGO for Collection)	Percent of Penalty Assessments that Seek Informal Settlement	Percent of Outstanding Cases
AIR QUALITY	243	42%	24%	4%	18%	2%	10%
COASTAL MGMT	210	88%	0%	0%	2%	0%	10%
DAM SAFETY	1	0%	0%	0%	0%	0%	100%
EROSION AND SEDIMENT CONTROL	79	23%	n/a	19%	13%	23%	23%
FOOD, LODGING & INSTITUTIONAL SANITATION	n/a	n/a	n/a	n/a	n/a	n/a	n/a
GROUNDWATER	40	15%	8%	8%	0%	n/a	70%
HAZARDOUS WASTE	27	26%	n/a	19%	11%	22%	22%
MAMMOGRAPHY	0	n/a	n/a	n/a	n/a	n/a	n/a
MINING	2	0%	n/a	0%	0%	100%	0%
NPDES	635	52%	27%	4%	2%	n/a	15%
NON-DISCHARGE	77	26%	25%	26%	0%	1%	22%
ON-SITE WASTEWATER	5	0%	0%	40%	60%	0%	0%
PUBLIC WATER SUPPLY	43	5%	n/a	70%	12%	14% ¹	0%
RADIOACTIVE MATERIALS	8	50%	n/a	0%	0%	13%	38%
SHELLFISH SANITATION	n/a	n/a	n/a	n/a	n/a	n/a	n/a
SLEEP PRODUCTS	n/a	n/a	n/a	n/a	n/a	n/a	n/a
SOLID WASTE	3	67%	n/a	0%	0%	0%	33%
TANNING	18	0%	n/a	11%	33%	28%	28%
UST	116	13%	28%	25%	19%	n/a	15%
Inspections	78	17%	29%	22%	19%	n/a	13%
Release/Incident	38	5%	26%	32%	18%	n/a	18%
X-RAY	2	0%	n/a	0%	50%	50%	0%

n/a means not applicable. These programs do not issue civil penalties. In 2001, the Mammography program issued no civil penalties. This measure is new for 2001.

Measures: Penalty Reductions – Program Notes

Each option for penalty reductions [OAH appeals, remission and informal settlement] has different persons who have the legal authority to reduce penalties.

For OAH cases, the final agency decision-maker is either an independent citizen commission, the DENR secretary or the state health director, depending on the program. The decision can be appealed to state Superior Court. When a violator seeks remission, the division director or his delegated agent makes a decision. The violator can then either pay the penalty amount or go before an independent citizen commission for a final agency decision. When a violator seeks informal settlement, the division director or his delegated agent is the final agency decision-maker.

The tables below shows the amount of reductions made by independent commissions, by DENR (the secretary, a division director or his delegated agent, or the state health director), or by a judge of penalties paid in full in 2001.

Ten programs had penalties reduced by DENR. The percent reduced from the original assessment amount was highest in Non-Discharge, at 77 percent. Only four programs had penalty reductions made by an independent citizen commission: Air Quality, Groundwater, NPDES and UST. The percent reduced for these programs are 20 percent, 25 percent, 32 percent and 44 percent, respectively. Only one program, Air Quality, had a judge make a final agency decision. The reduction was 14% of the original assessment amount.

Reductions Made by DENR, Commissions, and Judges of Penalties Paid in Full in 2001

Program	Original Assessment Amount Requesting and Receiving Penalty Reductions			Total Dollar Amount of Reductions			Percent Reduced		
	DENR	Commissions	Judges	DENR	Commissions	Judges	DENR	Commissions	Judges
AIR QUALITY	\$528,158	\$31,304	\$16,329	\$111,425	\$6,388	\$2,329	21%	20%	14%
COASTAL MANAGEMENT	n/a	n/a	n/a	\$0	\$0	\$0	n/a	n/a	n/a
DAM SAFETY	n/a	n/a	n/a	\$0	\$0	\$0	n/a	n/a	n/a
EROSION AND SEDIMENT CONTROL	\$163,635	n/a	n/a	\$49,480	\$0	\$0	30%	n/a	n/a
FOOD, LODGING & INSTITUTIONAL SANITATION	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
GROUNDWATER	n/a	\$400	n/a	n/a	\$100	\$0	n/a	25%	n/a
HAZARDOUS WASTE	\$463,393	n/a	n/a	\$249,044	\$0	\$0	54%	n/a	n/a
MAMMOGRAPHY	n/a	n/a	n/a	\$0	n/a	\$0	n/a	n/a	n/a
MINING	\$12,950	n/a	n/a	\$6,450	\$0	\$0	50%	n/a	n/a
NPDES	\$253,833	\$34,998	n/a	\$37,344	\$11,094	\$0	15%	32%	n/a
NON-DISCHARGE	\$10,500	n/a	n/a	\$8,100	\$0	\$0	77%	n/a	n/a
ON-SITE WASTEWATER	n/a	n/a	n/a	\$0	n/a	\$0	n/a	n/a	n/a
PUBLIC WATER SUPPLY	\$35,410	n/a	n/a	\$24,770	\$0	\$0	70%	n/a	n/a
RADIOACTIVE MATERIALS	\$5,000	n/a	n/a	\$3,750	n/a	\$0	75%	n/a	n/a
SHELLFISH SANITATION	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
SLEEP PRODUCTS	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
SOLID WASTE	n/a	n/a	n/a	\$0	n/a	\$0	n/a	n/a	n/a
TANNING	\$5,250	n/a	n/a	\$3,650	n/a	\$0	70%	n/a	n/a
UST	n/a	\$69,239	n/a	\$0	\$30,450	\$0	n/a	44%	n/a
Inspection Driven (2N)	(n/a)	(\$29,020)	(n/a)	(\$0)	(\$12,100)	(\$0)	(n/a)	(42%)	(n/a)
Release/Incident Driven (2L)	(n/a)	(\$40,219)	(n/a)	(\$0)	(\$18,350)	(\$0)	(n/a)	(46%)	(n/a)
X-RAY	\$750	n/a	n/a	\$500	n/a	n/a	67%	n/a	n/a

n/a means not applicable. The Food, Lodging & Institutional Sanitation, Shellfish Sanitation and Sleep Products programs do not issue civil penalties. Civil penalties are determined based on the information and facts (of the case) that are known at the time. New information discovered after assessment may be grounds for a penalty adjustment.

Measures: Compliance Rate – Program Notes

Over the past year, DENR has tried to improve the reliability of the compliance rate measure. As reported last year, the compliance rate was not reliable as a universal measure for all regulated entities. Inspections are not typically randomly driven, rather they are either targeted to those that may most likely be non-compliant or there is a predetermined inspection frequency due to statutory requirements. This means that the compliance rate resulting from these types of inspections cannot be generalized to all regulated entities within a program.

Although the programs are not always able to randomly select regulated entities for inspection each year (because of statutory requirements, lack of resources, obligations to federal authorities, etc.), we were still able to develop a better compliance rate compared to last year. Last year, compliance rate measure included all types of inspections: routine, follow-up and compliant. Follow-up inspections can skew the compliance rate upward by assuming that facilities will come back into compliance between their routine and follow-up inspections. Complaint-driven inspections can skew the rate downward since these facilities are more likely to be out of compliance – a condition that generated the complaint in the first place.

This year, the compliance rate only includes routine inspections. It still allows programs the flexibility to inspect facilities at risk for non-compliance. Again, this measure gives a result that is only valid for those facilities that are inspected or that submit routine monitoring reports. It is not a measure that reflects the uninspected population.

Since this is a new way to report compliance, several programs were not able to supply data for the 2001 report. However, that will change as databases are revised and new data are collected.

Six programs were able to report on compliance this year: Air Quality, Coastal Management, Groundwater, Hazardous Waste, Mining and Non-Discharge. The compliance rates were 93 percent in Coastal

Management and 92 percent in Mining. The Non-Discharge compliance rate was 88 percent, while the Hazardous Waste, Air Quality and Groundwater compliance rates were 78 percent, 73 percent and 73 percent, respectively.

Compliance Rate for 2001	
Program	Compliance Rate
AIR QUALITY	73% ¹
COASTAL MANAGEMENT	93%
DAM SAFETY	-
EROSION AND SEDIMENT CONTROL	-
FOOD, LODGING & INSTITUTIONAL SANITATION	-
GROUNDWATER	73%
HAZARDOUS WASTE	78%
MAMMOGRAPHY	-
MINING	92%
NPDES	- ²
NON-DISCHARGE	88%
ON-SITE WASTEWATER	-
PUBLIC WATER SUPPLY ³	Contamination: 97.59% Testing: 89.48%
RADIOACTIVE MATERIALS	-
SHELLFISH SANITATION	-
SLEEP PRODUCTS	-
SOLID WASTE	-
TANNING	-
UST	-
X-RAY	-

¹This number is estimated by assuming a conservative number of complaint driven inspections.

²The definition of the compliance rate used here is different than on page 30. NPDES is currently not able to provide a compliance rate based on this definition.

³The PWS program uses a different compliance rate measure that more accurately reflects their program. The first measure is based on public water systems that have not exceeded the maximum contaminant levels. The second measure is based on public water systems not failing to perform required testing.

(-) means that the programs do not currently collect the data or that data retrieval systems are not in place to report the information.

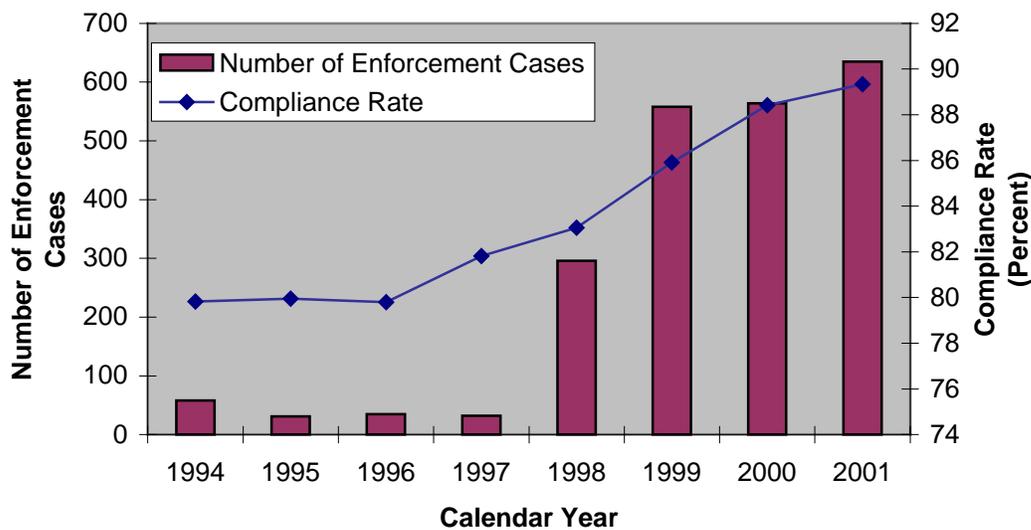
Measures: NPDES Compliance Rate

Measure:	Compliance Rate Related to Enforcement In 2001
Result:	90% Compliance in 2001

The graph below shows the relationship between compliance rate and the number of enforcement cases for the NPDES program over time. The number of enforcement cases jumped significantly, from about 30 in 1997 to 300 in 1998. In 1996 and before, the compliance rate was about 80 percent. In 1997, it increased to 82 percent and has been rising since then, reaching 90 percent in 2001.

This graph shows a clear relationship between the number of enforcement cases and the compliance rate. What is less certain is why the compliance rate started increasing before enforcement actions increased. Possible explanations include better coordination of inspection and enforcement activities between central and regional offices; facilities with poor compliance histories ceasing operation; and the regulated community being informed of the new Division of Water Quality (DWQ) enforcement policy before it took effect July 1, 1998. Any one or a combination of the three may have affected compliance in the NPDES program.

NPDES Program: Number of Enforcement Cases vs. Compliance Rate of NPDES Dischargers



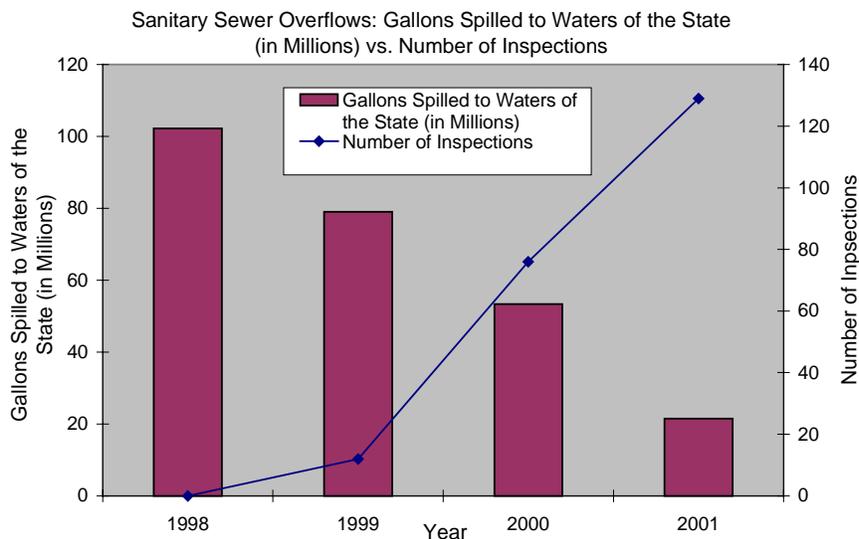
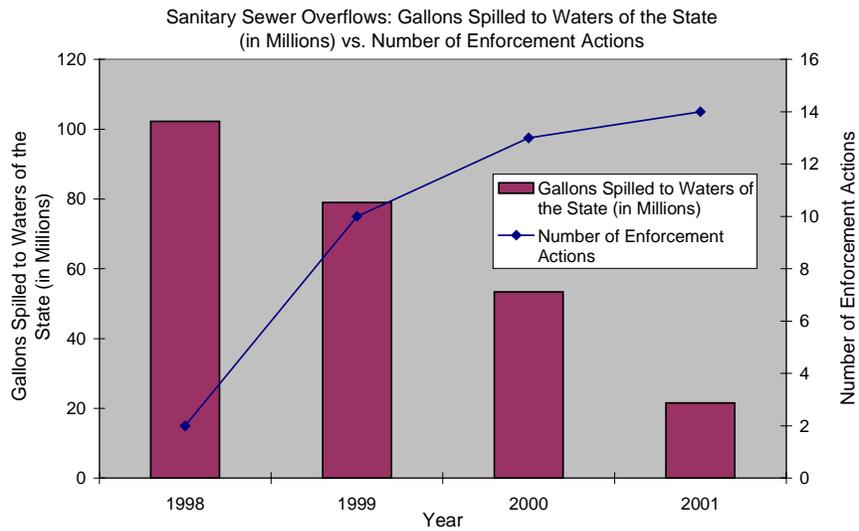
Measures: Sanitary Sewer Overflows

Measure:	Sanitary Sewer Overflows: Gallons Spilled vs. Number of Inspections and Enforcement Actions
Result:	79% Reduction in Millions of Gallons Spilled in Four Years

The two graphs below compare sanitary sewer overflows to the number of inspections and enforcement actions over time. As inspections and enforcement actions increase, spillage decreases. In fact, there has been a 79 percent reduction in millions of gallons spilled in just

four years. Regular inspections of sewer systems did not occur before 1999. Since then, water quality staff has conducted routine inspections, including about 130 in 2001. Enforcement actions have also increased, from two in 1998 to 14 in 2001. Since inspections have become routine and enforcement actions have increased, sanitary sewer overflows have decreased dramatically.

Several reasons may explain the decrease. Emergency plans for SSOs were emphasized in 1998, operation and maintenance of sewer systems was emphasized in 1999. Also, the new enforcement policy was implemented in DWQ in July of 1998.



Measures: Return to Compliance Rate – Program Notes

Measure:	Return to Compliance Rate	
Result:	Coastal Management	67%
	Erosion and Sedimentation Control	89%
	Groundwater	90%
	Hazardous Waste	90%
	Mining	83%
Several divisions were unable to measure this result, but will supply the data in future reports. NPDES and Public Water Supply are omitted from this measure because they are self-monitoring programs where violators usually return to compliance before the next reporting cycle.		

When a facility is found to be out of compliance, usually through inspection, DENR programs usually sets a deadline to return to compliance. An inspector visits the site again after the deadline to see if the facility has returned to compliance. If not, DENR usually escalates enforcement.

Ideally, an inspector will revisit any site found to be out of compliance. In reality, there is not enough staff and resources for this to occur. For example, some programs have statutory requirements that require a specified frequency of routine inspections in a given time period. In order to meet this statutory requirement, follow-up inspections may occur less frequently than desirable. This means that only the facilities with the most severe violations will be reinspected after their compliance deadline to check for compliance. The rest are usually not inspected again until the next inspection cycle and their violations are noted in their files and become part of that facility's compliance history.

In 2001, most return-to-compliance rates were between 80 percent and 90 percent. Coastal Management's rate was 67 percent.

Only five programs were able to provide data for this measure. In future years, when all programs are able to collect and report this information, trends should emerge.

NOTE: The NPDES and PWS Programs are unusual because they rely on self-monitoring reports from the facilities. Violations of effluent limits are not always known until DENR staff analyzes the monitoring reports. By this time, the violation may have already been corrected. The facility is expected to return to compliance immediately after discovering a violation, well before DENR staff receives and analyzes the monitoring reports.

Percent of Entities that Returned to Compliance by their Specified Deadline for Violations in 2001

Program	Percent
COASTAL MANAGEMENT	67%
EROSION AND SEDIMENT CONTROL	89%
GROUNDWATER	90%
HAZARDOUS WASTE	90%
MINING	83%

Measures: Penalties to Non-Permitted Entities – Program Notes

Measure:	Penalty Assessments at Non-Permitted Entities	
Result:	Number of Penalties Assessed in Department	1,156
	Percent Penalties Assessed at Non-Permitted Entities	0% - 100%

Activities in North Carolina that are regulated under environmental law or regulations usually require a permit, registration or certification from DENR. Those who fail to obtain these authorizations are out of compliance with environmental regulations and may be subject to enforcement action. Unauthorized activities include, but are not limited to: mining without a permit, drilling a well without being a certified well driller and unauthorized land-disturbance for property development. Often acting on a citizen's complaint, the appropriate DENR program conducts an inspection and assesses a penalty, if warranted.

Some programs spend substantial resources to deal with unauthorized activities. For example, the Solid Waste Program issued all their penalties for illegal dumping of waste from septic trucks. Groundwater, Erosion and Sediment Control and Air Quality issued 83 percent, 58 percent and 45 percent, respectively, of penalties to non-permitted entities.

Percent of Penalty Assessments in 2001 to Non-Permitted Entities		
Program	Number of Penalties Assessed in 2001	Percent of Penalties at non-Permitted Sites
AIR QUALITY	243	45%
COASTAL MANAGEMENT	210	-
DAM SAFETY	1	0%
EROSION / SEDIMENT CONTROL	79	58%
FOOD, LODGING & INSTITUTIONAL SANITATION	n/a	n/a
GROUNDWATER	40	83%
HAZARDOUS WASTE	(27)	(93%)
MAMMOGRAPHY	0	n/a
MINING	2	100%
NPDES	635	1%
NON-DISCHARGE	77	17%
ON-SITE WASTEWATER	5	0%
PUBLIC WATER SUPPLY	43	16%
RADIOACTIVE MATERIALS	8	0%
SHELLFISH SANITATION	n/a	n/a
SLEEP PRODUCTS	n/a	n/a
SOLID WASTE	3	100%
TANNING	18	0%
UST	116	-
X-RAY	2	0%

n/a means not applicable. The Food, Lodging & Institutional Sanitation, Shellfish Sanitation and Sleep Products programs do not issue civil penalties. In 2001, the Mammography program issued no civil penalties. (-) means that programs do not currently collect the data or that data retrieval systems are not in place to report the information.

NOTE: Data from Hazardous Waste are not comparable to that from other programs. The Hazardous Waste Section issues permits only to individuals or businesses that store hazardous waste on site for more than 90 days. Anyone else who treats, stores or disposes of such waste must register with the division and is subject to routine inspections, but is not required to get a permit.

Measures: Repeat Violations – Program Notes

Measure:	Repeat Violations in Years 1996 – 2000 and years 1997 – 2001 (Comparison of two five-year periods)	
Result:	1996 – 2000	0 - 358
	1997 – 2001	0 - 453

The highest number of repeat violations from 1997 through 2001 was in the NPDES Program, with 453. PWS was second highest, with 247. The rest of the programs each had fewer than 100 repeat violations. Dam Safety, Hazardous Waste, Mammography,

Radioactive Materials, Sleep Products, Tanning and the X-Ray programs had zero repeat violations. Typically, these programs issue a limited number of civil penalties each year making repeat violations less common over a five-year period.

From years 1996 through 2000, the data is similar, NPDES had the most repeat violations with 453. The next highest as PWS at 247. All other programs had fewer than 100 repeat violations during this time period.

Comparison of Repeat Violations in Years 1996 - 2000 and 1997 - 2001

Program	Number of Repeat Violations Between 1996 and 2000 of Enforcement Actions Taken During That Time	Number of Repeat Violations Between 1997 and 2001 of Enforcement Actions Taken During That Time
AIR QUALITY	–	–
COASTAL MANAGEMENT	53	81
DAM SAFETY	0	0
EROSION AND SEDIMENT CONTROL	96	40
FOOD, LODGING & INSTITUTIONAL SANITATION	–	–
GROUNDWATER	12	34
HAZARDOUS WASTE	1	0
MAMMOGRAPHY	–	0
MINING	4	15
NPDES	358 ¹	453 ¹
NON-DISCHARGE	73	30
ON-SITE WASTEWATER	–	–
PUBLIC WATER SUPPLY	243	247
RADIOACTIVE MATERIALS	0	0
SHELLFISH SANITATION	0	–
SLEEP PRODUCTS	–	0
SOLID WASTE	3	1
TANNING	0	0
UST	58	30
X-RAY	0	0

¹Data does not take into account Injunctions and Special Orders by Consent

n/a means not applicable. The Food, Lodging & Institutional Sanitation, Shellfish Sanitation and Sleep Products programs do not issue civil penalties. Violations include civil penalties, special orders by consent, injunctions, temporary restraining orders and stop work orders. Repeat violators are those that had two or more violations over a five-year period, on a rolling basis. (–) means that programs do not currently collect data or that data retrieval systems are not in place to report the information.

Measures: Repeat Violations (continued) – Program Notes

Measure:	Percent of Violators in 2000 that Repeated Violations in 2001
Result:	0 – 30%

The highest percent of repeat violations was in the NPDES program with 30 percent violators in 2000 repeating in 2001. Most of the violations in the NPDES program are from the self-monitoring program. These violations are either from the failure to submit monitoring report or from the regulated entity discharging pollution above the allowed limits set out in their permit or in the water quality

rules. The next highest percent of repeat violations is in the Non-Discharge program with 17 percent.

The rest of the programs were below 10 percent. Three programs, Hazardous Waste, Mining and Solid Waste had no repeat violations. The Sleep Products Program also shows no repeat violations. However, that program does not issue civil penalties, and it is uncommon for repeat violations to occur from other enforcement tools (e.g., special orders by consent, injunctions and temporary restraining orders).

Percent of Violators in 2000 That Repeated Violations in 2001

Program	Total number of violators in 2000	Number of violators in 2000 that were also violators in 2001	Percent of violators in 2000 that were also violators in 2001
AIR QUALITY	399	37	9%
COASTAL MANAGEMENT	162	7	4%
DAM SAFETY	0	n/a	n/a
EROSION AND SEDIMENT CONTROL	91	2	2%
FOOD, LODGING & INSTITUTIONAL SANITATION	–	–	–
GROUNDWATER	65	5	8%
HAZARDOUS WASTE	13	0	0%
MAMMOGRAPHY	–	–	–
MINING	8	0	0%
NPDES	660	196	30%
NON-DISCHARGE	77	13	17%
ON-SITE WASTEWATER	–	–	–
PUBLIC WATER SUPPLY	435	12	3%
RADIOACTIVE MATERIALS	–	–	–
SHELLFISH SANITATION	–	–	–
SLEEP PRODUCTS	0	0	0%
SOLID WASTE	5	0	0%
TANNING	–	–	–
UST	–	–	–
X-RAY	–	–	–

The percent repeat violator measure used here is different from that in 2000, therefore the 2000 percent repeat violator data is not shown here. Violations include civil penalties, special orders by consent, injunctions, temporary restraining orders and stop work orders. (–) means that programs do not currently collect the data or that data retrieval systems are not in place to report the information.

The Most Common Violations – Program Notes

The table below includes a list of the most common violations and their statute or rule reference for each program in 2001. In some programs, failure to apply for and receive a permit from the department was the most

common violations. Programs that were not able to provide data this year are currently revising databases so information will be available for future reports.

Top Three Most Common Violations in 2001		
Program	Type of Violation	Statute/Rule Reference
AIR QUALITY ¹	1) Open Burning 2) Failure to properly operate and maintain control equipment 3) Reporting and record-keeping violations	1) 15A NCAC 2D .1900 2) Permit condition 3) Permit condition
COASTAL MANAGEMENT	1) Unauthorized development 2) Violation of CAMA Permit 3) Violation of State Dredge & Fill Act	1) NCGS 113A-118 2) NCGS 113A-118 3) NCGS 113-229
DAM SAFETY	1) Maintenance 2) Excessive seepage 3) Impounding without permit	1) 2) 3)
EROSION AND SEDIMENT CONTROL	1) Land disturbance without approved E&SC plan 2) Insufficient measures to retain sediment on site 3) Failure to maintain E&SC measures	1) NCGS 113A-57(4) 2) NCGS 113A-57(3) 3) 15A NCAC .04B .0113
FOOD, LODGING & INSTITUTIONAL SANITATION	–	–
GROUNDWATER	1) 25 well drilling 2) Certification 3) Permit	1) 2) 3)
HAZARDOUS WASTE	1) Failure to provide the required annual training 2) Failure to label containers 3) Failure to place waste in containers	1) 15A NCAC 13A .0110 2) 15A NCAC 13A .0107 3) 15A NCAC 13A .0107
MAMMOGRAPHY	–	–
MINING	1) Mining without a permit 2) Erosion and sedimentation control violation 3) Failure to modify permit	1) 74-50(a) 2) 74-51(d)(6) 3) 74-52(c)
NPDES	1) Violation of effluent limits in permit issued in accordance with NCGS 143-215.1 2) Failure to monitor according to the permit 3) Failure to comply with whole effluent toxicity limitation	1) NCGS 143-215.1 2) Permit condition 3) Permit condition
NON-DISCHARGE	1) Overapplication 2) Crop differs from waste plan 3) Inadequate freeboard	1) 2) 3)

(–) means that programs do not currently collect the data or that data retrieval systems are not in place to report the information.

¹DAQ does not currently track this information for all NOVs issued, but only when violations lead to an enforcement action.

Top Three Most Common Violations in 2001 (continued)

Program	Type of Violation	Statute/Rule Reference
ON-SITE WASTEWATER	<ol style="list-style-type: none"> 1) Failure to provide or maintain an approved OSWS 2) Failure to obtain permits prior to repairing an OSWS 3) Failure to maintain contract with an OSWS Operator 	<ol style="list-style-type: none"> 1) NCGS 130A-335(a) and 15A NCAC 18A .1937, .1961(a) and permit condition 2) NCGS 130A-336, 337 3) 15A NCAC 18A .1961(b), (e) – (g) and (k)
PUBLIC WATER SUPPLY	<ol style="list-style-type: none"> 1) Monitoring failure 2) Public notification failure 3) Failure to properly construct, operate or maintain a public water system 	<ol style="list-style-type: none"> 1) NCGS 130A-326, 18C NCAC .1500 2) NCGS 130A-326, 18C NCAC .1523 3) NCGS 130A-326, 18C NCAC .0200-.1400
RADIOACTIVE MATERIALS	–	–
SHELLFISH SANITATION	–	–
SLEEP PRODUCTS	–	–
SOLID WASTE	<ol style="list-style-type: none"> 1) 2) 3) 	<ol style="list-style-type: none"> 1) 15A NCAC 13B 0201(a) 2) 15A NCAC 13B .0566(2) 3) 15A NCAC 13B .1626(7)(b)
TANNING	–	–
UST	<ol style="list-style-type: none"> 1) Temporary closure 2) Leak detection 3) Permit 	<ol style="list-style-type: none"> 1) 15A NCAC 2N .0801 2) 15A NCAC 2N .0502 3) NCGS 143-215.94U
X-RAY	–	–

Measures: Workload – Program Notes

Measure:	Workload Measures in 2001	
Result:	No. of Permitted Entities	0 – 20,700
	No. of Regulated Entities	247 – 24,000
	No. of Inspections	247 – 17,036
	No. of Inspector FTEs ¹	1.8 – 35.0
	Percent Complaint Inspections	2% - 19%
	¹ FTE – Full Time Equivalent	

In 2001, DENR regulated almost 113,000 entities across the state including individuals, government agencies, municipalities, businesses and industries. About 84,000 of those had active permits, licenses or certifications.

Among the regulated entities are wastewater treatment plants, public water supply systems, construction sites where land-disturbing activities occur, underground storage tank owners, pump and haul trucks transporting solid waste across the state, and tanning beds.

Each program has its own requirements for inspection frequency. Some requirements are by federal or state law and some programs have their own policies. The range of the number of inspections last year was 247 in the Mammography program (every regulated site inspected once) to 17,036 in the Erosion and Sediment program. Even with this high number of inspections, on average these sites are only inspected about once every four months.

At the beginning of each year, enforcement

staff determine which entities to include in their program's routine inspection schedule. The programs conduct roughly the same number of routine inspections each year.

There are two other types of inspections that are conducted by program inspectors: follow-up inspections and complaint inspections. Follow-up inspections occur when a previous routine inspection has shown the entity to be out of compliance. Typically, after a routine inspection, the inspector gives the entity a compliance deadline, then conducts a follow-up inspection to see whether the entity has returned to compliance. If not, enforcement is usually escalated.

A complaint inspection usually occurs when a citizen makes a complaint to the program. If the entity is out of compliance, a compliance deadline may be set, followed by another inspection. Of all inspections conducted last year, 6 percent were complaint driven. However, such inspections represented substantial resource expenditure in four programs: Groundwater, Hazardous Waste, Air Quality and Mining, with 13 percent, 17 percent, 18 percent and 19 percent of all inspections being complaint driven.

Number of Entities Permitted, Entities Otherwise Regulated, and Unplanned Inspections					
Program	Number of Permitted Entities in 2001	Number of Regulated Entities in 2001	Number of Inspections in 2001	Number of Inspector FTEs (Full Time Equivalents) in 2001	Percent Complaint - Driven Inspections in 2001
AIR QUALITY	3,275 ¹	10,670 ²	3,074	17.4	18% ³
COASTAL MANAGEMENT	3,196 ⁴	3,357	–	6.6	–
DAM SAFETY	0	5,107	1,726	9.0	–
EROSION AND SEDIMENT CONTROL ⁵	7,000	7,000	16,706	32.0	1%
FOOD, LODGING & INSTITUTIONAL SANITATION	–	–	–	–	–
GROUNDWATER	20,700	24,000	3,635	20.0	13%
HAZARDOUS WASTE	91	6,816	1,380	7.4	17%
MAMMOGRAPHY	247	247	247	2.5	–
MINING	923	938	872	3.0	19%
NPDES	20,544	20,552	17,036 ⁶	28.0	–
NON-DISCHARGE	3,437	3,540	2,928	22.0	2%
ON-SITE WASTEWATER ⁷	(46,429+)	(1,500,500+)	(21,652+)	(575.0)	–
PUBLIC WATER SUPPLY	2,387	7,886	6,381	35.0	–
RADIOACTIVE MATERIALS	710	710	400	1.8	–
SHELLFISH SANITATION	147	734 ⁸	841	4.0	5%
SLEEP PRODUCTS ⁹	850	850	1,422	3.5	2%
SOLID WASTE	1,280	1,552	1,500	8.0	–
TANNING	2,556	2,556	856	3.0	–
UST	10,536	10,536	1,729	10.0	2%
X-RAY	5,940	5,940	1,293	6.0	–

(–) means the program does not currently collect the data or that data retrieval systems are not in place to report the information. Regulated entities include all permitted entities as well as entities that failed to get permits (e.g., open burning, unauthorized development in sediment or DCM, etc.) or entities regulated without requiring a permit (e.g., hazardous waste generators).

¹This number represents the number of permitted entities as of 3/28/02. The number of permitted facilities is not expected to vary by more than 20% over the course of the year.

²This number includes permitted facilities (3,275), dry cleaners (413), gas stations (6,243) bulk gasoline plants (287) and open burners (452). The number of open burners is based on the number of open-burning NOV's issued in 2001.

³This number is an estimate by assuming that 5% of permitted facilities and 100% of open burning cases are complaint driven.

⁴This figure includes all individual major, general, and minor permits issued in 2001. It does not account for permits issued in previous years that may still be valid in 2001.

⁵The numbers for both permitted and regulated entities are estimated.

⁶This number includes both on-site inspections and discharge monitoring report (DMR) reviews.

⁷These OSWW figures are extrapolated from county reports for illustrative purposes only.

⁸This number does not include any business or restaurant that sells shellfish or crustacean meat.

⁹The numbers for permitted and regulated entities are estimated and include in state registered facilities, out-of-state registered facilities, and retail stores, among others.

Division of Forestry Resources and Enforcement

All land-disturbing activities, except agriculture, mining and forestry with a qualified exemption, are regulated under the Sedimentation Pollution Control Act (SPCA) of 1973 and its associated rules. The SPCA regulates land-disturbing activities one acre or larger in size that change the natural cover or topography and may cause or contribute to sedimentation. This includes residential, industrial, educational, institutional or commercial development, and road and highway construction or maintenance. Those subject to the SPCA are required to have, and abide by, a plan approved by the Division of Land Resources (DLR) that describes measures used to control erosion and keep sedimentation from leaving the disturbed site.

The production and harvesting of timber and timber products is exempt from the permitting requirements of the SPCA only if done in compliance with the Forest Practices Guidelines Related to Water Quality [15A NCAC II .0101 - .0209] to protect water quality. There are nine requirements ranging from streamside management zone establishment to reestablishment of ground cover once site-disturbing operations have

ceased. The Division of Forest Resources (DFR) has a memorandum of understanding (MOU) with DLR and agreements with other state agencies for eight of the nine guidelines. If DFR discovers a violation of 15A NCAC II .0205 (Prohibition of Waste Entering Streams, Waterbodies and Groundwater), the case is immediately referred to the Division of Water Quality (DWQ) for enforcement action.

Under the MOU, DFR staff conducts initial inspections, called site evaluations, contacts the operator and all other parties and initiates efforts to resolve non-compliance issues. DFR staff spends a substantial amount of time with the operators, offering technical assistance to reach compliance. If compliance cannot be achieved, the case is referred to the appropriate regulatory agency for formal enforcement. For example, DFR refers cases to DLR when an operator is out of compliance with the Sedimentation Pollution Control Act [see NCGS 113A-52.1(b)]. DLR then initiates formal enforcement action against the operator and other parties, issuing NOV's and/or civil penalty assessments.

Number of Site Evaluations Conducted and Percent Non-Compliance by Type in Years 2000 and 2001

Type of Site Evaluation	Total Number of Site Evaluations		Percent Non-Compliance	
	Calendar Year 2000	Calendar Year 2001	Calendar Year 2000	Calendar Year 2001
Citizen Complaints,	111	95	41%	53%
Active Harvest ¹	292	1051	15%	11%
Completed Harvest ¹	1247	2424	3%	5%
Other Activities ^{1,2}	42	103	5%	1%
Reforestation ¹	150	818	1%	0%
Total Site Evaluations³	4201	4491	5%	5%

¹Data for these measures were not collected until July 1, 2000.

²Examples of other activities include precommercial thinning, release and forest-road construction not associated with a harvest.

³The total number of site evaluations listed here does not equal the sum of the evaluation types in year 2000 because evaluation type data were not collected until July 2000.

Forestry Site Evaluations

Site evaluations ensure that owners of forest tracts are in compliance with Forestry Practice Guidelines Related to Water Quality (FPG). The Division of Forestry Resources (DFR) conducts evaluations at all stages of the life of forestlands. Evaluations are conducted, for example, during and after timber harvesting and during reforestation, pre-commercial thinning and forest road construction. DFR also conducts site evaluations in response to citizen complaints.

DFR conducted 4,201 site evaluations in 2000 and 4,491 in 2001. There were 352 reinspections from July through December in 2001, when DFR began collecting the data. DFR issued 225 notices of non-compliance in 2000, compared with 244 in 2001. The percentage of non-compliance was 5 percent in both 2000 and 2001. There were only 8 referrals for enforcement in 2000 and 13 in 2001. In 2000, half of the referrals were to the Division of Land Resources (DLR) for violating the Sedimentation Pollution Control Act. In 2001, only four of 13 referrals were to DLR. The other referrals were to the Division of Water Quality and DFR-Law Enforcement

(DLR-LE) for allowing waste into streams, waterbodies or groundwater, or for stream obstruction.

Of all the site evaluations conducted in 2001, over half occurred after harvest, a total of 2424. About 20 percent of evaluations, or 1051, occurred during active harvest. Another 18 percent, or 818, occurred during reforestation. The remaining evaluations were conducted during other types of management activities or as a result of a citizen complaint.

The non-compliance rate for citizen complaint evaluations was high. The rate was 41 percent in 2000 and 53 percent in 2001. Sites actively being harvested also had higher non-compliance rates: 15 percent in 2000 and 11 percent in 2001. The rest of the site evaluation types had low non-compliance rates, all equal to or less than the overall non-compliance rate.

In future years, it will be useful to track types of violations against types of site evaluations to better allocate staff resources. For example, it is already evident that more inspections should occur during active harvest to coincide with the higher non-compliance rate during that time.

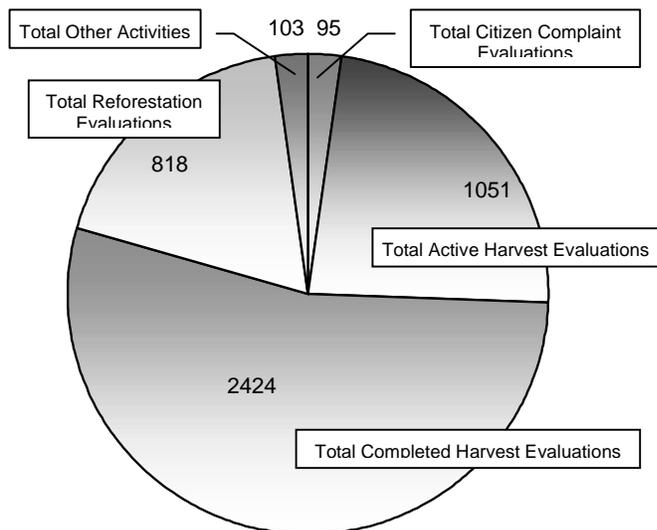
Site Evaluations, Non-Compliance and Referrals for Enforcement in Calendar Years 2000 and 2001

	Calendar Year 2000	Calendar Year 2001
Site Evaluations	4201	4491
Reinspections ¹	-	352
Notices of Non-Compliance	225	244
Percent Non-Compliance	5%	5%
Referrals for Enforcement	8	13
	4 DLR 1 DWQ 3 DFR-LE	4 DLR 5 DWQ 4 DFR-LE

¹Reinspections are follow-up inspections after the initial site evaluation. Reinspections were not tracked until July 1, 2001.

DLR Division of Land Resources
 DWQ Division of Water Quality
 DFR-LE Division of Forestry Resources, Law Enforcement

Types of Site Evaluations Occurring in 2001



APPENDICES

Appendix A – DENR Enforcement Primer

DENR Enforcement Primer

The year 2000 report included a great deal of introductory information designed to orient all readers to basic facts and definitions about DENR's enforcement programs. Information was located throughout the report in sidebar

boxes. In the 2001 report, this information has been retained and compiled into one section for easy reference. The next few pages answer questions about various enforcement processes, statutory requirements and general information about DENR's programs.

What are the maximum daily civil penalties in DENR?

- ▶ **Air Quality** – \$10,000 per day per violation [NCGS 143-215.114A (a)]
- ▶ **Coastal Management** – \$250 per day (minor development), \$2500 per day (major development) [NCGS 113A-126(d)]
- ▶ **Erosion and Sediment Control** – \$5,000 per day [NCGS 113A-64(a)(1)]
- ▶ **Dam Safety** – \$500 per day for each day of willful violation [NCGS 143-215.36.(b)(1) and(2)]
- ▶ **Hazardous Waste** – \$25,000 per day [15A NCAC 13B Section .0702]
- ▶ **Mining** – \$500 per day; Mining without a permit \$5,000 per day [NCGS 74-64(a)(1)a and b]
- ▶ **Non-Discharge** – \$10,000 per violation per day; \$25,000 if assessed in the past three years [NCGS 143-215.6A(a) and (b1)] NOTE: Repeat offenses will be considered for violations occurring within 5 years beginning October 1, 2002.
- ▶ **NPDES** – \$10,000 per violation per day; \$25,000 if assessed in the past three years [NCGS 143-215.6A(a) and (b1)] NOTE: Repeat offenses will be considered for violations occurring within 5 years beginning October 1, 2002.
- ▶ **Solid Waste** – \$5,000 per day; \$25,000 per day for medical waste disposed on water first violation, \$50,000 per day for subsequent violations [NCGS 130A-22(a)]; \$50 per violation per tire improperly disposed [NC GS 130A-309.62]; \$50 per violation for improper disposal of lead-acid batteries [NC GS 130A-309.70(c)]; \$100 for improper disposal of white goods or failure to remove refrigerants [NC GS 130A-309.84]
- ▶ **Oil Pollution/Hazardous Substance Control** – \$5,000 per day
- ▶ **On-Site Wastewater** – \$50 per day (<= 480 gallon systems); \$300 per day (>480 gallon systems) [NCGS 130A-22(c)]
- ▶ **Public Water Supply** – \$25,000 per day [NCGS 130A-22(b)]
- ▶ **Radiation Protection** – \$10,000 per day, with each day of continuing violation a separate violation [NCGS 104E-24(b)]
- ▶ **Underground Storage Tanks** – \$10,000 per day per violation [NCGS 143-215.6A]
- ▶ **Well Construction** – \$100 per day per violation [NCGS 87-94]

Who does enforcement in DENR?

Division of Air Quality – Regulates air pollution, including open burning, Title V permitting and state .0300 permits
Division of Coastal Management – Regulates development within areas of environmental concern in the 20 coastal counties
Division of Environmental Health – Regulates public water supplies, on-site wastewater systems, shellfish sanitation and restaurant sanitation grades
Division of Land Resources – Regulates mining, erosion and sedimentation control, and dam safety
Division of Radiation Protection – Monitors radiation sources from power plants and medical facilities
Division of Waste Management – Regulates solid waste disposal, hazardous waste management, underground storage tanks and superfund cleanups
Division of Water Quality – Regulates water pollution, including surface water quality, ground water quality, well-driller certifications, wetlands, storm water and municipal wastewater treatment, buffer requirements, sanitary collection systems and animal operations

See Appendix D for detailed descriptions.

How much does it cost to develop an enforcement case?

A true figure for this cost is not readily known. By law, civil penalty collections are distributed to public schools through the State School Technology Fund [NCGS Chapter 115C – 457.3]. DENR may keep the "cost of collection," up to 10 percent of the amount collected [NCGS Chapter 115C-457.2]. DENR cannot categorically attach a 10 percent cost-recovery fee to the penalty, but must show cost accounting. At a 10 percent recovery rate, tracking costs can exceed the potential collection.

DENR Enforcement Primer (continued)

How are penalties reduced from originally assessed amounts?

State law provides for review and possible reduction of civil penalty assessments through administrative processes including requests for penalty remission and formal appeals. Processes may vary from program to program, but a right to appeal exists under every program.

When an agency assesses a penalty and the violator chooses to appeal instead of pay the fine, the penalty will go through several different steps to reach a final resolution. Independent commissions, DENR's secretary, the Office of Administrative Hearings (OAH) and the courts can all play a role in determining the final amount of a penalty that is contested.

OAH conducts a hearing and issues a recommended decision. Depending on the program, the case then goes to the DENR secretary, the state health director or an independent citizen commission for final decision. If none of these avenues produce a result accepted by the violator, the case can then go to the courts for resolution.

Sometimes violators choose not to contest the factual circumstances that led to the penalty, but will pursue settlement of the case — either directly with the state agency or through the Attorney General's Office — to avoid lengthy administrative hearings or court action. Reductions in penalties may be established through penalty remission procedures established by independent commissions or through an even less formal negotiation process.

Programs that use a matrix analysis:

- ▶ Hazardous Waste
- ▶ NPDES
- ▶ Public Water Supply
- ▶ Solid Waste
- ▶ Underground Storage Tank

Programs that use a penalty tree:

- ▶ Air Quality
- ▶ NPDES
- ▶ Non-Discharge

Programs that use a matrix/tree in combination:

- ▶ Coastal Management.
- ▶ Groundwater Protection
- ▶ Radiation Protection

Programs that use a hybrid matrix:

- ▶ Erosion & Sedimentation Control
- ▶ Dam Safety
- ▶ Mining

Programs that apply maximum penalties in all cases:

- ▶ On-Site Wastewater

What factors are considered in determining the penalty amount?

Most programs are bound by statute or regulation to consider the following factors in determining the amount of a penalty:

- ▶ Degree and extent of harm;
- ▶ Duration and gravity of the violation;
- ▶ Effect on media (air, water, land);
- ▶ Effect on public health;
- ▶ Cost of rectifying the damage;
- ▶ Any money saved by noncompliance;
- ▶ Cause (i.e. whether the violation resulted from negligent, reckless, willful, or intentional act or omission);
- ▶ Compliance history (prior record) of the violator.

Where is the Penalty Assessment Computation Criteria found?

- ▶ **Air Quality** – NCGS 143-215.114A(c), 143B-282.1(b) and 15A NCAC 02J .06
- ▶ **Coastal Management** – NCGS 113A-126(d)(4) and 15A NCAC 07J .0409(f)(3)
- ▶ **Dam Safety** – NCGS 143-215.36(b)(3)
- ▶ **Erosion and Sediment Control** – NCGS 113A-64(a)(3) and 15A NCAC 04C. 0106
- ▶ **Hazardous Waste** – NCGS 130A-22(f) and 15A NCAC 13B Section .0702
- ▶ **Mining** – NCGS 74-64(a)(1)(c) and 15A NCAC 05K .0107
- ▶ **Non-Discharge** – NCGS 143-215.6A and 143B-282.1(b)
- ▶ **NPDES** – NCGS 143-215.6A and 143B-282.1(b)
- ▶ **Solid Waste** – NCGS 130A-22(f) and 15A NCAC 13B Section .0702
- ▶ **Oil Pollution/Hazardous Substance Control** – NCGS 143-215.91, recodified as NCGS 143-215.88A and B which references 143-215.6 recodified as 143-215.6A through 143-215.6C and 143B-282.1
- ▶ **On-site Wastewater** – NCGS 130A-22(b1), 15A NCAC 18A
- ▶ **Public Water Supply** – NCGS 130A-22(f) and 15A NCAC 18C .1906
- ▶ **Radiation Protection** – NCGS 104E-24(b)
- ▶ **Underground Storage Tanks** – NCGS 143-215.6A(c), which references 143B – 282.1(b)
- ▶ **Well Construction** – NCGS 87-94 references NCGS 143B-282.1(b) and NCGS 143-215.6A

NCGS – North Carolina General Statute

NCAC – North Carolina Administrative Code

Both can be found on the Internet at

<http://www.ncgov.com/asp/subpages/intention.asp?P=2&l=82>

DENR Enforcement Primer (continued)

What are Compliance Tools?

DENR uses various methods to ensure adherence to environmental laws and regulations. Depending on the awareness and willingness of the regulated entity, one tool may prove more effective than another.

Enforcement is a critical tool applied to those who violate environmental standards. Enforcement can escalate from a simple warning to a civil penalty or a court injunction and even to criminal prosecution. If a simple warning will correct the situation, compliance is achieved with minimal resources spent. If stronger legal remedy is required, the process becomes long and costly for all involved.

Education is offered in most programs to provide those regulated with a clear understanding of the requirements they face. DENR divisions offer workshops and training conferences to help everyone achieve a threshold understanding of conditions for compliance. Some programs advertise in the media and launch awareness campaigns to help increase understanding. Other types of education include videos, brochures, and videoconferences.

Technical Assistance is a tool available to those who would seek and benefit from guidance. Technical staffs are made available to answer questions, interpret regulations and give advice. Other types of technical assistance include fact sheets, manuals, videos, and checklists.

Performance Incentives can be positive, such as awards and recognition, or negative, such as publicly noticing violators. Both types of incentives can achieve the desired result of compliance.

What do we mean by "Sectors"?

Sectors are identifiable groups with common business practices who are likely to be subject to the same environmental requirements. Some readily distinguished sectors include universities, electroplating operations, dairy farms, textile industry and dry cleaners.

Sectors may be targeted for compliance purposes, including site visits, inspections, training and technical assistance that is tailored to meet their specific needs.

What is a penalty matrix?

Some programs calculate a penalty based on the relationship between the degree of harm caused or threatened by a violator and the extent that a violation deviates from the rules. The relationship is characterized as major, moderate or minor cells. At the intersection of the selected cell, a penalty range is isolated to guide the agency.

For example, a violation determined to be major for degree of harm and moderate in their deviation from the rules would be assessed from 60 – 80 percent of the maximum penalty. Factors that contribute to the gravity of the violation are offset by considerations for remission (e.g. good faith efforts to correct the violation).

Degree of Harm <input type="checkbox"/> Potential <input type="checkbox"/> Actual	Degree of Deviation from Requirement		
	MAJOR	MODERATE	MINOR
MAJOR	80 – 100%	60 – 80%	44 – 60%
MODERATE	32 – 44%	20 – 32%	12 – 20%
MINOR	6 – 12%	2 – 6%	1 – 2%
Degree of Harm Factors:		Degree of Deviation Factors:	
<input type="checkbox"/> Duration of Violation <input type="checkbox"/> Area of Impact (size) <input type="checkbox"/> Proximity to receptors <input type="checkbox"/> Sector impacts (air, land, water) <input type="checkbox"/> Health Impacts		<input type="checkbox"/> Administrative / Record Keeping <input type="checkbox"/> Indirect sector impact <input type="checkbox"/> Direct sector impact <input type="checkbox"/> Undermines statute / regulation	

Generic Penalty Matrix Worksheet

What is a penalty tree?

Some programs use a penalty tree to guide their decision-making. When the violation is identified, a table indicates the base penalty amount which can then be increased or decreased based on aggravating or mitigating factors [see side bar – *What factors are considered in determining the penalty amount? on page 34*].

2.0 NON-PERMITTED ACTIVITY		
Class	Violation	Amount
2.1	operating without a permit	\$4,000
2.2	failure to submit reports	\$500

Generic Penalty Tree

Appendix B – Enforcement Profiles by Program

NOTE: A more reliable compliance rate calculation has been used in 2001 than in 2000 and the repeat violation in 2001 is based on the most recent two years instead of the most recent five years.

Air Quality		
MEASURE	2000	2001
Number of Regulated Sites	3,622 ¹	10,670
Number of Inspectors [Full-Time Equivalents (FTEs)]	12	17.4
Number of Inspections per year	2,206	3,074
Compliance Rate Among Inspected Sites	64 %	73% ²
Percent Repeat Violators	–	–

¹The 2000 data only includes permitted entities and dry cleaners. If non-permitted entities are included, the number would be closer to the 2001 number.

²This number is estimated.

Coastal Management		
MEASURE	2000	2001
Number of Regulated Sites ¹	4,206	3,357
Number of Inspectors (FTEs)	6	6.6
Number of Inspections per year	8,412	–
Compliance Rate Among Inspected Sites	96 %	93%
Percent Repeat Violators	0.25%	4%

¹ At any one time during the year

Dam Safety		
MEASURE	2000	2001
Number of Regulated Sites	4,305	5,107
Number of Inspectors (FTEs)	11	9
Number of Inspections per year	1,764	1,726
Compliance Rate Among Inspected Sites	96 %	–
Percent Repeat Violators	–	n/a

Erosion & Sedimentation Control		
MEASURE	2000	2001
Number of Regulated Sites ¹	7000	7000
Number of Inspectors (FTEs)	34	32
Number of Inspections per year	15,445	16,706
Compliance Rate Among Inspected Sites	95 %	–
Percent Repeat Violators	0.1%	2%

¹ At any one time during the year

Groundwater		
MEASURE	2000	2001
Number of Regulated Sites	19,100	24,000
Number of Inspectors (FTEs)	24	20
Number of Inspections per year	2,947	3,635
Compliance Rate Among Inspected Sites	98 %	73%
Percent Repeat Violators	0.1%	8%

Hazardous Waste		
MEASURE	2000	2001
Number of Regulated Sites	6,605	6,816
Number of Inspectors (FTEs)	10	7.4
Number of Inspections per year	997	1,380
Compliance Rate Among Inspected Sites	83%	78%
Percent Repeat Violators	0.02%	–

Mammography		
MEASURE	2000	2001
Number of Regulated Sites	–	247
Number of Inspectors (FTEs)	–	2.5
Number of Inspections per year	–	247
Compliance Rate Among Inspected Sites	–	–
Percent Repeat Violators	–	–

M i n i n g		
MEASURE	2000	2001
Number of Regulated Sites	898	938
Number of Inspectors (FTEs)	3	3
Number of Inspections per year	779	872
Compliance Rate Among Inspected Sites	91%	92%
Percent Repeat Violators	0.1%	0%

N P D E S		
MEASURE	2000	2001
Number of Regulated Sites	18,000	20,552
Number of Inspectors (FTEs)	28	28
Number of Inspections per year	1,203	1,236
<i>(Number of Self-Monitoring Reports Reviewed)</i>	–	15,800
Compliance Rate Among Inspected Sites	93%	–
Percent Repeat Violators	0.4%	31%

N o n - D i s c h a r g e		
MEASURE	2000	2001
Number of Regulated Sites	3,473	3,540
Number of Inspectors (FTEs)	22	22
Number of Inspections per year	3,409	2,928
Compliance Rate Among Inspected Sites	85%	88%
Percent Repeat Violators	0.4%	17%

O n - S i t e W a s t e w a t e r		
MEASURE	2000	2001
Number of Regulated Sites ¹	1,502,970	1,500,000
Number of Inspectors (FTEs)	632	575
Number of Inspections per year	–	–
Compliance Rate Among Inspected Sites	–	–
Percent Repeat Violators	–	–

¹ On-Site Wastewater program is delegated to local government agencies. Number of regulated sites and number of inspectors reflect local government resources. All other data is based on state program activities alone.

Public Water Supply		
MEASURE	2000	2001
Number of Regulated Sites	7,695	7,886
Number of Inspectors (FTEs)	35	35
Number of Inspections per year	10,054	6,381
Compliance Rate Among Inspected Sites ¹	82%	98% 89%
Percent Repeat Violators	1.5%	3%

¹98% based on public water systems that have not exceeded maximum contaminant levels (MCL)
89% based on public water systems having no failure to perform required testing

Radioactive Materials		
MEASURE	2000	2001
Number of Regulated Sites	679	710
Number of Inspectors (FTEs)	1.8	1.8
Number of Inspections per year	395	400
Compliance Rate Among Inspected Sites	–	–
Percent Repeat Violators	0%	–

Shellfish Sanitation		
MEASURE	2000	2001
Number of Regulated Sites	149	734
Number of Inspectors (FTEs)	2	4
Number of Inspections per year	1,023	841
Compliance Rate Among Inspected Sites	100%	–
Percent Repeat Violators	0%	–

Sleep Products		
MEASURE	2000	2001
Number of Regulated Sites	–	850
Number of Inspectors (FTEs)	–	3.5
Number of Inspections per year	–	1,422
Compliance Rate Among Inspected Sites	–	–
Percent Repeat Violators	–	0%

Solid Waste		
MEASURE	2000	2001
Number of Regulated Sites	685	1552
Number of Inspectors (FTEs)	6.6	8
Number of Inspections per year	790	1,500
Compliance Rate Among Inspected Sites	98%	–
Percent Repeat Violators	0.1%	0%

Tanning Units		
MEASURE	2000	2001
Number of Regulated Sites	2,871	2,556
Number of Inspectors (FTEs)	3	3
Number of Inspections per year	1,142	856
Compliance Rate Among Inspected Sites	68.4%	–
Percent Repeat Violators	0%	–

Underground Storage Tanks		
MEASURE	2000	2001
Number of Regulated Sites	10,797	10,536
Number of Inspectors (FTEs)	13	10
Number of Inspections per year	2,122	1,729
Compliance Rate Among Inspected Sites	76.1%	–
Percent Repeat Violators	0.6%	–

X-Ray Machines		
MEASURE	2000	2001
Number of Regulated Sites	6,017	5,940
Number of Inspectors (FTEs)	7	6
Number of Inspections per year	1,544	1,293
Compliance Rate Among Inspected Sites	78.8%	–
Percent Repeat Violators	0%	–

Appendix C – Definitions of the Measures for this Report

MEASURE	DEFINITION
Number of Penalties Assessed in 2001	Number of Penalties Assessed in 2001
Total Dollar Amount of Penalties Assessed in 2001	Total Dollar Amount of Penalties Assessed in 2001.
Average Dollar Amount of Penalties assessed in 2001	Total dollar amount of penalties assessed in 2001/ Number of penalties assessed in 2001.
Highest Dollar amount of penalties assessed in 2001	Highest dollar amount of penalties assessed in 2001.
Total dollar amount of penalties established through settlement, agreement or final action as of 12/31/01 for penalties assessed in 2000	Established penalties include: (1) original assessment amounts for penalties assessments that have been ignored (did not pay, seek remission, or file to OAH within the specified deadline) (e.g. turned over to the AGO for collection) and no final decision on a penalty amount has been made; (2) original assessment amount of facilities that have paid their penalties in full or have started to pay by 12/31/01; (3) the reduced penalty amount of facilities that had their penalty reduced either through appeals, remission, or settlement by 12/31/01; (4) settlement amount for penalties that were turned over to the AGO for collection and a final decision on a penalty amount has been made by 12/31/01. If the facility sought penalty reduction in either 2000 or 2001 but a decision on the penalty amount has not been decided by 12/31/01, then exclude this from the established penalty amount.
Total dollar amount of penalties NOT established through settlement, agreement or final action as of 12/31/01 for penalties assessed in 2000	Penalty assessments not established include: (1) where the facility sought penalty reduction in either 2000 or 2001 but a decision on the penalty amount has not been decided by 12/31/01.
Total dollar amount of penalties established through settlement, agreement or final action as of 12/31/01 for penalties assessed in 2001	Established penalties include: (1) original assessment amounts for penalties assessments that have been ignored (did not pay, seek remission, or file to OAH within the 30/60 days) (e.g. turned over to the AGO for collection) and no final decision on a penalty amount has been made; (2) original assessment amount of facilities that have paid their penalties in full or have started to pay by 12/31/01; (3) the reduced penalty amount of facilities that had their penalty reduced either through appeals, remission, or settlement by 12/31/01; (4) settlement amount for penalties that were turned over to the AGO for collection and a final decision on a penalty has been made by 12/31/01. If the facility sought penalty reduction in 2001 but a decision on the penalty amount has not been decided by 12/31/01, then exclude this from the established penalty amount. If the penalty was assessed toward the end of the year and the facility has not taken any action by 12/31/01 AND the facility still had time (i.e. the 30/60 days) to seek a reduced penalty amount, then exclude this from the established penalty amount.
Total dollar amount of penalties NOT established through settlement, agreement or final action as of 12/31/01 for penalties assessed in 2001	Penalty assessments not established include: (1) penalty assessments in 2001 where the facility sought penalty reduction in 2001 but a decision on the penalty amount has not been decided by 12/31/01; (2) penalties assessed toward the end of 2001 and the facility has not taken any action by 12/31/01 AND the facility still had time (i.e. the 30/60 days) to seek a reduced penalty amount.
Total dollar amount of penalties collected of penalties assessed in 2001	Total dollar amount of penalties collected by 12/31/01 of penalties assessed in 2001. Please include payments made in full and any partial payments.
Total dollar amount of penalties not collected of penalties assessed in 2001	Total dollar amount of penalties not collected by 12/31/01 of penalties assessed in 2001. Please include cases where you have liens against property. Please exclude cases that you will not collect because of bankruptcy and other cases closed because you don't expect to collect money.
Total dollar amount of penalties not collected of penalties assessed in 2000	Total dollar amount of penalties not collected by 12/31/01 of penalties assessed in 2000. Please include cases where you have liens against property. Please exclude cases that you will not collect because of bankruptcy and other cases closed because you don't expect to collect money.
Total dollar amount of penalties not collected of penalties assessed in 1999	Total dollar amount of penalties not collected by 12/31/01 of penalties assessed in 1999. Please include cases where you have liens against property. Please exclude cases that you will not collect because of bankruptcy and other cases closed because you don't expect to collect money.

MEASURE	DEFINITION
Total dollar amount of penalties not collected of penalties assessed in 1998	Total dollar amount of penalties not collected by 12/31/01 of penalties assessed in 1998. Please include cases where you have liens against property. Please exclude cases that you will not collect because of bankruptcy and other cases closed because you don't expect to collect money.
Total dollar amount of penalties not collected of penalties assessed in 1997	Total dollar amount of penalties not collected by 12/31/01 of penalties assessed in 1997. Please include cases where you have liens against property. Please exclude cases that you will not collect because of bankruptcy and other cases closed because you don't expect to collect money.
Total dollar amount of penalties not collected of penalties assessed in 1996	Total dollar amount of penalties not collected by 12/31/01 of penalties assessed in 1996. Please include cases where you have liens against property. Please exclude cases that you will not collect because of bankruptcy and other cases closed because you don't expect to collect money.
Total dollar amount of uncollectible penalties of penalties assessed in 2001	Total dollar amount of uncollectible penalties of penalties assessed in 2001. Uncollectible penalties include penalty assessments that you will not collect because of bankruptcy and other cases closed because you don't expect to collect money.
Total dollar amount of uncollectible penalties of penalties assessed in 2000	Total dollar amount of uncollectible penalties of penalties assessed in 2000. Uncollectible penalties include penalty assessments that you will not collect because of bankruptcy and other cases closed because you don't expect to collect money.
Total dollar amount of uncollectible penalties of penalties assessed in 1999	Total dollar amount of uncollectible penalties of penalties assessed in 1999. Uncollectible penalties include penalty assessments that you will not collect because of bankruptcy and other cases closed because you don't expect to collect money.
Total dollar amount of uncollectible penalties of penalties assessed in 1998	Total dollar amount of uncollectible penalties of penalties assessed in 1998. Uncollectible penalties include penalty assessments that you will not collect because of bankruptcy and other cases closed because you don't expect to collect money.
Total dollar amount of uncollectible penalties of penalties assessed in 1997	Total dollar amount of uncollectible penalties of penalties assessed in 1997. Uncollectible penalties include penalty assessments that you will not collect because of bankruptcy and other cases closed because you don't expect to collect money.
Total dollar amount of uncollectible penalties of penalties assessed in 1996	Total dollar amount of uncollectible penalties of penalties assessed in 1996. Uncollectible penalties include penalty assessments that you will not collect because of bankruptcy and other cases closed because you don't expect to collect money.
Compliance Rate	<p>[(number of violation free initial inspections ÷ total number of initial inspections) × 100]. Include violations that result in either a NOV, penalty, injunction, stop work order, etc. Do not include violations that result from not paying registration fees.</p> <p>In most programs, the compliance rate will only include permitted facilities, because non-permitted facilities are not part of your <u>routine</u> inspection schedule. However if your program inspects, as part of your routine inspection schedule, regulated facilities (e.g. Hazardous Waste), then include these in your compliance rate number.</p>
Percent of entities that returned to compliance by their specified deadline	[(number of entities that returned to compliance by their specified deadline ÷ total number of entities that were given a compliance deadline) X 100]. Include all regulated facilities (i.e. permitted and non-permitted entities (if applicable)).
Number of repeat violators between 1997 and 2001 of enforcement actions taken between 1997 and 2001	Total number of regulated entities that had two or more violations between 1997-2001. Repeat violators can be from either permitted or non-permitted entities. For repeat violator measures, violators include: penalties, SOCs, injunction, etc. but excludes NOVs.
Of all violators in 2000, percentage that were also violators in 2001	<p>[(number of violators in 2000 that were also violators in 2001 ÷ total number of violators in 2000) X 100] Repeat violations can be from either permitted or non-permitted entities.</p> <p>For repeat violator measures, violators include: penalties, SOCs, injunction, etc. but excludes NOVs.</p>
Most common violations in 2001	<p>Top 3 violations that occur most frequently in 2001. Briefly describe the violation and give the site of either the statute or rule, (e.g. mining without a permit, N.C.G.S. 74-50(a)).</p> <p>These violations can come from either permitted or non-permitted entities. Also, these violations can come from any type of inspection (routine, complaint-driven, or follow-up). Finally, violations don't need to come from a formal enforcement action (e.g. NOV, penalty, etc.). In other words if you track violations in your database regardless of if a formal action was taken, you should use this information to answer this question. If you only track violations that resulted in formal action, use this information to answer this question.</p>
Of all penalty assessments in 2001, percent of the penalty assessments that come from entities that are not permitted (i.e. unauthorized activity)	[(number of penalty assessments in 2001 from non-permitted entities ÷ number of penalties assessed in 2001) × 100]. Permitted entities are entities that have an active permit in your program during any part of the year. Non-permitted entities are entities that you are aware of either because you have taken some action against them during

MEASURE	DEFINITION
	the year (e.g. open burning, unauthorized development in DLR or DCM, etc.) or because your program requires regulated (but NOT permitted) facilities to be certified or registered (e.g. hazardous waste).
Number of permitted entities in 2001	This is the total number of entities that have an active permit (or registration or certification) in your program during any part of the year.
Number of regulated entities in 2001	[regulated entities = permitted entities + non-permitted entities]. This will include all permitted entities PLUS all non-permitted entities. Non-permitted entities are entities that you are aware of either because you have taken some action against them during the year (e.g. open burning, unauthorized development in DLR or DCM, etc.) or because your program requires regulated (but NOT permitted) facilities to be certified or registered (e.g. hazardous waste).
Number of inspections in 2001	Include all types of inspections: routine (including monitoring reports, etc.), complaint and follow-up. Include every inspection regardless of if it was from a permitted or non-permitted facility.
Total number of inspector FTEs	This is the total number of FTEs (full time equivalents) that are responsible for inspection related activities.
Percent of inspections that are complaint driven	[(total number of complaint driven inspections ÷ total number of inspections) X 100]. Include every inspection regardless of if it was from a permitted or non-permitted facility.
Total dollar amount of reductions by a commission of penalties paid in full in 2001	Total dollar amount of reductions by a Commission of penalties paid in full in 2001. Please use the <u>very final</u> decision-maker (whom ever that is) as the person who was responsible for penalty remission.
Original assessment amount of reductions by a commission of penalties paid in full in 2001	Original assessment amount of reductions by a commission of penalties paid in full in 2001. Please use the <u>very final</u> decision-maker (whom ever that is) as the person who was responsible for penalty remission.
Total dollar amount of reductions by DENR (either director, or secretary, or another DENR employee) or State Health Director (for DEH programs) of penalties paid in full in 2001	Total dollar amount of reductions by DENR (either director, or secretary, or another DENR employee) or State Health Director (for DEH programs) of penalties paid in full in 2001. Please use the <u>very final</u> decision-maker (whom ever that is) as the person who was responsible for penalty remission.
Original assessment amount of reductions by DENR (either director, or secretary, or another DENR employee) or State Health Director (for DEH programs) of penalties paid in full in 2001	Original assessment amount of reductions by DENR (either director, or secretary, or another DENR employee) or State Health Director (for DEH programs) of penalties paid in full in 2001. Please use the <u>very final</u> decision-maker (whom ever that is) as the person who was responsible for penalty remission.
Total dollar amount of reductions a judge or state or federal court (either district, superior, appeals or supreme court) of penalties paid in full in 2001	Total dollar amount of reductions a judge or state or federal court (either district, superior, appeals or supreme court) of penalties paid in full in 2001. Please use the <u>very final</u> decision-maker (whom ever that is) as the person who was responsible for penalty remission.
Original assessment amount of reductions by judge or state or federal court (either district, superior, appeals or supreme court) of penalties paid in full in 2001	Original assessment amount of reductions by judge or state or federal court (either district, superior, appeals or supreme court) of penalties paid in full in 2001. Please use the <u>very final</u> decision-maker (whom ever that is) as the person who was responsible for penalty remission.
Percent of penalty assessments that are turned over to the AGO for collection of penalties assessed in 2001	[(number of penalty assessments that are turned over to the AGO for collection by 12/31/01 ÷ total number of penalty assessments in 2001) X 100]. The percentages for measures 46-50 may not add up to 100 because of outstanding cases (i.e. the penalty was assessed in the end of the year and the facility still had time to make a decision of what to do with their penalty assessment).
Percent of penalty assessments that seek remission of penalties assessed in 2001	[(number of penalty assessments where the violator sought remission by 12/31/01 ÷ total number of penalty assessments in 2001) X 100]. The percentages for measures 46-50 may not add up to 100 because of outstanding cases (i.e. the penalty was assessed in the end of the year and the facility still had time to make a decision of what to do with their penalty assessment). If your program does not have the statutory authority to use remission, then use 'not

MEASURE	DEFINITION
	applicable' instead of 0%.
Percent of penalty assessments that appeal to OAH of penalties assessed in 2001	[(number of penalty assessments where the violator appealed to OAH by 12/31/01 ÷ total number of penalty assessments in 2001) X 100]. The percentages for measures 46-50 may not add up to 100 because of outstanding cases (i.e. the penalty was assessed in the end of the year and the facility still had time to make a decision of what to do with their penalty assessment).
Percent of penalty assessments that seek informal settlement of penalties assessed in 2001	[(number of penalty assessments where the violator sought an informal settlement by 12/31/01 ÷ total number of penalty assessments in 2001) X 100]. The percentages for measures 46-50 may not add up to 100 because of outstanding cases (i.e. the penalty was assessed in the end of the year and the facility still had time to make a decision of what to do with their penalty assessment). If your program ONLY allows entities to seek informal settlement AFTER they have appealed to OAH, then use 'not applicable'.
Percent of penalty assessment cases where the facility paid their penalty in full without contesting their case (remission, appealing to OAH, informal settlement) of penalties assessed in 2001	[(number of penalty assessments where the facility paid their penalty in full by 12/31/01 without contesting their case (remission, appealing to OAH, informal settlement) ÷ total number of penalty assessments in 2001) X 100]. The percentages for measures 46-50 may not add up to 100 because of outstanding cases (i.e. the penalty was assessed in the end of the year and the facility still had time to make a decision of what to do with their penalty assessment).
Average number of days to collect penalties from violation awareness to penalties paid in full for penalties paid in full in 2001	(total number of days to collect all penalties from violation awareness to penalty paid in full ÷ number of penalties paid in full in 2001).
Average number of days from violation awareness to NOV issuance for penalties paid in full in 2001	(total number of days from violation awareness to NOV issuance (for facilities that subsequently received a penalty) for penalties paid in full in 2001) ÷ number of penalties paid in full in 2001). For the denominator, only include facilities that were issued a NOV first before receiving a penalty. This will ensure that the number of facilities in both the numerator and the denominator match. The number of facilities in the numerator and the denominator should match.
Average number of days from NOV to penalty assessment for penalties paid in full in 2001	(total number of days from NOV to penalty issuance for all facilities that were issued a penalty for penalties paid in full in 2001 ÷ number of penalties paid in full in 2001). Use the penalty assessment date, not the date when the green card (the postcard that is sent back to you when you use certified mail) was received by you.
Average number of days from penalty assessment to penalty establishment for penalties paid in full in 2001	(total number of days from penalty assessment to penalty establishment for all facilities that sought a penalty reduction for penalties paid in full in 2001 ÷ number of penalties paid in full in 2001). Please DO NOT include (in the numerator or denominator) the entities that paid the original assessment amount.
Average number of days to collect penalties from penalty establishment penalty paid in full for penalties paid in full in 2001 (or penalty assessment to penalty paid in full for facility that chose not to seek a penalty reduction)	(total number of days from establishment (or penalty assessment if facility did not seek a penalty reduction) to penalty paid in full for penalties paid in full in 2001 ÷ number of penalties paid in full in 2001). For the violators that paid their original assessment amount, include in this measure the time from penalty assessment to penalty paid in full. We will note that some of the cases that comprise this timeliness measure include penalty assessment to penalty paid in full.

Appendix D – Program Descriptions

PROGRAM (DIVISION)	PROGRAM DESCRIPTION	EXAMPLES OF REGULATED ENTITIES
Division of Air Quality (DAQ)	DAQ regulates the quality of air in North Carolina through technical assistance and enforcement of state and federal air pollution standards. The division issues permits, establishes ambient air quality standards, monitors the air quality of the state and implements a vehicle inspection/maintenance program in conjunction with the Division of Motor Vehicles (DOT).	<ul style="list-style-type: none"> • Industries with air emissions • Animal operations with liquid waste management systems • Mobile sources
Division of Coastal Management (DCM)	DCM carries out the state's Coastal Area Management Act, the Dredge and Fill Law, and the federal Coastal Zone Management Act of 1972 (CZMA) in the 20 coastal counties, using rules and policies of the NC Coastal Resources Commission (CRC). Areas of environmental concern (AECs) are the foundation of the CRC's permitting program for coastal development. An AEC is an area of natural importance: it may be easily destroyed by erosion or flooding; or it may have environmental, social, economic, or aesthetic values that make it valuable to our state.	<ul style="list-style-type: none"> • Those proposing any development (construction, excavation, filling) in the coastal area and within an AEC
Dam Safety (Division of Land Resources)	<p>The Dam Safety Program ensures the safety of the public from dam failures, the maintenance of water reservoirs and the maintenance of downstream minimum stream flows from dams. The Dam Safety Program performs inspections; reviews permit applications; and enforces the Dam Safety Law of 1967 to bring dams that pose a threat to human life or property into compliance with the requirements of the law.</p> <p>There are more than 5,000 dams on the state's inventory of dams; approximately 1,000 of which would cause probable loss of human life and/or extensive property damage in the event of dam failure. The program processes approximately 200 applications each year for the construction, repair modification, and removal of dams. The regional offices are responsible for inspection of dams and the initiation of enforcement for violations of the law.</p>	<ul style="list-style-type: none"> • Owners of dams
Erosion and Sedimentation Control (Division of Land Resources)	The Erosion and Sedimentation Control Program controls erosion and prevents offsite sedimentation pollution from land disturbing activities. The program began in 1974 following the 1973 passage of the Sedimentation Pollution Control Act by the North Carolina General Assembly. The act is a performance-oriented legislation that establishes four mandatory standards. The regional offices are responsible for the review and approval of erosion control plans, inspection of land-disturbing activities and the initiation of enforcement for violations of the Act. The Land Quality Section received approximately 3,200 new erosion and sediment control plans in FY 2001, and has approximately 7,000 active projects.	<ul style="list-style-type: none"> • Builders of homes, subdivisions, commercial property, etc.
Food, Lodging and Institutional Sanitation (Division of Environmental Health)	These responsibilities are accomplished through two separate regulatory programs: The Dairy and Food Protection Program and the Institutions, Pool and Tattoos Program. The purpose of the Food and Lodging program is to minimize the occurrence of foodborne illness and provide quality assurance to lodging sanitation. The purpose is accomplished largely through education of business management and personnel, and enforcement of health regulations. The state trains and delegates local health departments who, in turn, administer the program.	<ul style="list-style-type: none"> • Food establishments
Groundwater Section (GWS, Division of Water Quality)	GWS is the lead state agency for groundwater protection. Responsibilities include ground water pollution prevention, ground water quality classification and standards, review of permits for wastes that may enter the ground water, developing and implementing ground water clean-up requirements, promoting resource restoration, well construction rules, underground injection control, and ground water quality monitoring.	<ul style="list-style-type: none"> • Well contractors • Industrial and municipal wastewater treatment plants producing residuals needing disposal on land • Wastewater spray irrigation systems • Above-ground petroleum storage tank

PROGRAM (DIVISION)	PROGRAM DESCRIPTION	EXAMPLES OF REGULATED ENTITIES
		systems <ul style="list-style-type: none"> • Parties causing groundwater pollution
Hazardous Waste Section (HWS, Division of Waste Management)	HWS ensures the safe management of hazardous waste in North Carolina. The section applies the adopted federal rules that incorporate the Resource Conservation and Recovery Act (RCRA) requirements and additional state rules. In addition, the section oversees the RCRA Used Oil regulations.	<ul style="list-style-type: none"> • Small and large quantity generators • Hazardous waste transporters • Treatment / storage / disposal facilities • Facilities that are in various states of closure and post-closure • Used oil facilities
Mammography (Division of Environmental Health)	<p>Congress enacted the Mammography Quality Standards Act in 1992 (MQSA) to ensure that all women have access to quality mammography for the detection of breast cancer in its earliest, most treatable stages. In the fall of 1998 Congress reauthorized MQSA, extending the program to 2002. The Act is amended by the Mammography Quality Reauthorization of 1998 (MQSRA).</p> <p>Congress charged the Food and Drug Administration (FDA) with developing and implementing MQSA regulations. In 1995 the FDA began enforcing when the FDA initiated an inspection program. In October of 1997, the FDA issued more comprehensive final regulations, which became effective on October 28, 1999. The final regulations of mammography exposure equipment were delayed until October 28, 2002.</p> <p>Facilities in North Carolina are accredited by the American College of Radiology (ACR) and then certified by the FDA. The same yardsticks measure all mammography facilities. FDA-trained State Inspectors conduct annual inspections of facilities to assure compliance to the MQSA regulations.</p>	<ul style="list-style-type: none"> • Hospitals • Physicians Offices • Imaging Practices
Mining Program (Division of Land Resources)	The purpose of the Mining Program, as authorized by The Mining Act of 1971, is to ensure that mining operations protect the environment and public safety during mining and reclaim the mined land after mining. The Mining Program regulates approximately 900 mines. The Land Quality Central Office processes approximately 325 applications for new mines, renewals, and transfers and releases each year, and initiates and coordinates enforcement. The regional offices are responsible for inspection of the mine sites.	<ul style="list-style-type: none"> • Mining operations
Non-Discharge Unit (Division of Water Quality)	The Non-Discharge Unit regulates a wide range of facilities that handle wastewater or biosolids but are <u>not</u> designed to discharge pollutants directly into a waterbody. The solids generated by any wastewater treatment facilities are regulated. The branch also oversees the Neuse and Tar Pamlico river basin buffer rules, wetlands development, and stream course modification. Oil and hazardous substances control, as they cannot be discharged, are regulated by the unit under the provisions of Article 21A.	<ul style="list-style-type: none"> • Animal farms • Municipal wastewater treatment plants that apply waste to land • Sewers • Industrial wastewater spray facilities • Developers that modify a stream course or move a wetland • Facilities that spill oil or hazardous materials in or near water
National Pollutant Discharge Elimination System (NPDES)Unit (Division of Water Quality)	NPDES is the federally established program for controlling point-source discharges of pollution. The Clean Water Act of 1972 initiated strict control of wastewater discharges giving enforcement responsibility to the Environmental Protection Agency (EPA). The EPA delegated permitting authority to the State of North Carolina in 1975. The NPDES Unit is responsible for administering the program for the state.	<ul style="list-style-type: none"> • Municipal wastewater treatment plants • Industrial wastewater treatment plants • Package wastewater treatment plants. • Single family

PROGRAM (DIVISION)	PROGRAM DESCRIPTION	EXAMPLES OF REGULATED ENTITIES
		residences <ul style="list-style-type: none"> • Municipal and industrial pre-treatment facilities • Stormwater discharges • Concentrated Animal Feeding Operations (CAFOs)
On-Site Wastewater Section (OSWS, Division of Environmental Health)	OSWS regulates all wastewater collection, treatment, and disposal systems that do not discharge to the ground surface or surface waters. The department has delegated the permitting (>50k permits/year) and enforcement of the laws and rules to authorized environmental health specialists in local health departments after appropriate training, testing and evaluation.	<ul style="list-style-type: none"> • Privies • Incinerating and composting toilets • Septic tank systems • Wastewater treatment plants and industrial process wastewater systems discharging to the subsurface • Modified, alternative, and innovative wastewater collection, treatment and disposal systems designed for subsurface disposal
Public Water Supply Section (PWS, Division of Environmental Health)	PWS promotes public health by ensuring that safe, potable water is available in adequate quantities to the residents and visitors of North Carolina served by public water systems by ensuring that such systems are properly located, constructed, and maintained. The section implements and enforces the provisions of the federal Safe Drinking Water Act in the state through a primacy agreement with the US Environmental Protection Agency.	<ul style="list-style-type: none"> • Public water systems with at least 15 service connections or that serve 25 or more individuals for 60 or more days per year
Radioactive Materials (Division of Environmental Health)	The Radioactive Materials Program regulates the receipt, possession, use, transfer, and disposal of radioactive material and particle accelerators. The program inspects specific licensees periodically and general licensees as required. The program reviews and certifies new sealed radioactive sources manufactured in North Carolina.	<ul style="list-style-type: none"> • Nuclear medicine facilities • Civil engineering firms • Industrial radiographers • Research facilities
Shellfish Sanitation Section (Division of Environmental Health)	The Shellfish Sanitation Section protects the consuming public from shellfish and crustacea that could cause illness. Rules and regulations following national guidelines have been implemented to ensure the safety of harvesting waters and the proper sanitation of establishments that process shellfish and crustacea for sale to the general public.	<ul style="list-style-type: none"> • Shellfish and crustacea harvesters that sell to the public
Sleep Products (Division of Environmental Health)	The Sleep Products Program insures that products containing hidden padding used for sleeping and reclining, such as mattresses, pillows, comforters, sleeping bags and sleeper sofas, do not contain materials that can cause harm or discomfort, comply with federal and state flammability requirements, and comply with NC and federal registration requirements. The program insures that used sleep products, particularly used mattresses, are made sanitary prior to resale and are properly labeled as used products. The program also inspects and certifies state-purchased sleep products used in college dormitories and other institutions for compliance with state purchasing specifications and registration requirements. This entirely fee supported program uses field inspectors who visit retail outlets, manufacturers and second hand stores to enforce the laws and rules of the program.	<ul style="list-style-type: none"> • Retail outlets • Manufacturers • Second hand stores
Solid Waste Section (SWS, Division of Waste)	SWS regulates safe management of solid waste in North Carolina through guidance, technical assistance, regulations, permitting, environmental monitoring, compliance evaluation, and enforcement.	<ul style="list-style-type: none"> • Landfills • Transfer stations • Incinerators

PROGRAM (DIVISION)	PROGRAM DESCRIPTION	EXAMPLES OF REGULATED ENTITIES
Management)	Waste types handled at these facilities include municipal solid waste, industrial waste, construction and demolition waste, land-clearing waste, scrap tires, and medical waste.	<ul style="list-style-type: none"> • Treatment and processing facilities • Compost facilities • Land application sites for a variety of non-hazardous solid waste types
Tanning (Division of Environmental Health)	The Tanning Inspection Program inspects tanning machines and facilities to ensure compliance with the regulations adopted by the Radiation Protection Commission to protect the public. The program provides technical assistance to registrants and operators to encourage responsible operation of tanning facilities.	<ul style="list-style-type: none"> • Beauty shops • Spas • Video stores • Home-based commercial tanning facilities.
Underground Storage Tank (UST) Section (Division of Waste Management)	UST Section issues permits, collects annual fees and handles requests for information for regulated and/or commercial Underground Storage Tanks. The UST Section ensures compliance with all relevant state and federal laws, policies, rules and regulations by assisting owners and operators in complying with the operation standards (standards for leak detection, spill and overfill detection, etc.) and inventory record-keeping. In addition, the UST Section is charged with overseeing the permanent closure activities of UST systems.	<ul style="list-style-type: none"> • Gas stations • Any facility that uses USTs
X-Ray (Division of Environmental Health)	The X-Ray Inspection Program inspects X-Ray machines and facilities to meet the regulations adopted by the Radiation Protection Commission to protect the public and workers against over-exposure to radiation. The program provides technical assistance to encourage x-ray exposure as low as reasonably achievable.	<ul style="list-style-type: none"> • Dental x-ray machines • Hospital x-ray machines • Industrial x-ray machines

Appendix E – Compliance Contacts

Compliance Contacts				
CONTACT	ORGANIZATION	VOICE NO.	FAX NO.	EMAIL ADDRESS
Mike Kelly	Environmental Health	919-733-2870		Mike.A.Kelly@ncmail.net
Amy Sawyer	Radiation Protection	919-571-4141	919-571-4148	Amy.Sawyer@ncmail.net
Tom Cadwallader	Groundwater	919-715-6173	919-715-0588	Tom.Cadwallader@ncmail.net
Helen Cotton	Hazardous Waste	919-733-2178 ext. 216	919-715-3605	Helen.Cotton@ncmail.net
Betty Gatano	Air Quality	919-733-1478	919-733-1812	Betty.Gatano@ncmail.net
Jan Hardy	Underground Storage Tanks	919-733-1321	919-733-9413	Jan.Hardy@ncmail.net
Sharon Johnson	Pollution Prevention	919-715-6509	919-715-6794	Sharon.M.Johnson@ncmail.net
Roy Brownlow	Coastal Management	252-202-2802	252-247-3330	Roy.Brownlow@ncmail.net
Marcia Lieber	NPDES	919-733-5083	919-733-9612	Marcia.Lieber@ncmail.net
John McFadyen	Public Water Supply	919-715-3225	919-715-6637	John.McFadyen@ncmail.net
Mell Nevils	Mining, Sedimentation, Dams	919-733-4574	919-733-2876	Mell.Nevils@ncmail.net
Steve Lewis	Non-Discharge	919-733-5083 ext. 539	919-733-0059	Steve.Lewis@ncmail.net
Mark Poindexter	Solid Waste	919-733-4996 ext. 252	919-733-4810	Mark.Poindexter@ncmail.net
Steve Steinbeck	On-Site Wastewater	919-715-3273	919-715-3280	Steve.Steinbeck@ncmail.net
ADDITIONAL RESOURCES				
CONTACT	ORGANIZATION	VOICE NO.	FAX NO.	EMAIL ADDRESS
Kari Barsness	Secretary's Office	919-715-4193	919-715-3060	Kari.Barsness@ncmail.net
Jimmy Carter	Secretary's Office	919-733-4908	919-715-3060	Jimmy.Carter@ncmail.net

Appendix F – Enforcement Principles

PRINCIPLES OF ENFORCEMENT

March 31, 2000

In an ideal world, regulation is replaced by stewardship; an inherent respect for the environment. In this concept of stewardship, everyone takes responsibility for their actions and the use of resources for the benefit of the community. In the real world, stewardship is sometimes compromised by conflicting capabilities, priorities, values, and perspectives. This creates the need for regulation and enforcement.

The challenge for regulators is to balance the use of compliance tools with the recognition of stewardship efforts. Regulated entities must be made aware of the conditions for compliance, made to feel the consequences of non-compliance, and provided an opportunity to demonstrate behavior beyond compliance. When enforcement is necessary, it should be fair, focused, visible, and timely.

The following principles are embraced to meet this challenge:

1. Compliance is the first step toward the ultimate goal of stewardship.
2. Enforcement will be balanced with education, technical assistance, and incentives to achieve compliance and encourage stewardship.
3. Enforcement will be an effective deterrent against future violations.
4. Enforcement actions will increase in severity for regulated entities with poor compliance histories.
5. The cost of non-compliance should be greater than the cost of compliance.
6. Resources will be used proportional to the potential impact on human health and the environment and in keeping with statutory responsibilities.
7. DENR will support the development and use of alternative tools to traditional enforcement that achieve compliance and encourage going beyond compliance.
8. DENR will trust, empower, and support its employees to make enforcement decisions and use enforcement discretion where appropriate.
9. DENR will ensure that its employees are well trained and informed to make enforcement decisions which are measurably consistent.
10. Enforcement policies, procedures, pertinent data, and other critical information will be accessible to any interested party.
11. Enforcement decisions will be defensible, documented, and proportional to the degree of potential harm.
12. DENR will foster partnerships internally and externally to realize shared responsibilities in environmental stewardship.

APPENDIX G – Process Flowcharts

What does a typical enforcement process look like?

First, it should be clarified that there is not really a “typical” process. All enforcement processes have been charted, but the size of these diagrams prohibits attaching the complete set to this report. DENR will place these process flowcharts on the departmental web site for review at: www.enr.state.nc.us

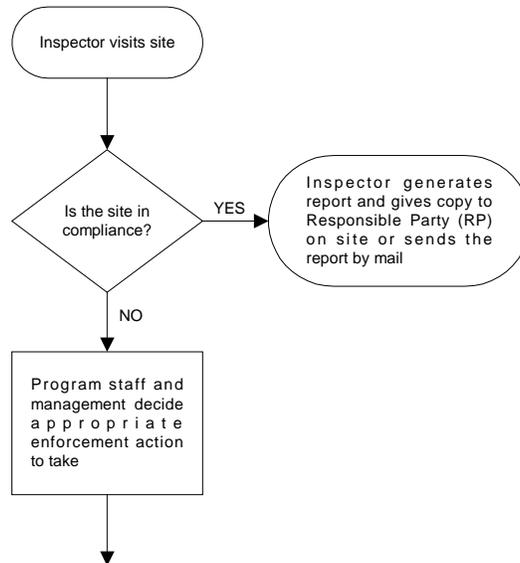
These flowcharts will be used in the next year to determine best management practices across divisions and to promote consistency.

PHASE 1 VIOLATION DISCOVERY

1.

Enforcement processes in DENR begin with the discovery of a violation. This discovery may be through an inspection of the regulated site, a complaint by a concerned citizen or it may come from routine monitoring reports that the responsible party (RP) is required to submit on a schedule.

When a violation is discovered, the inspector will consult with the supervisor to decide the next step of enforcement. Most programs have an enforcement coordinator in the central office who will work with the regional office staff to begin the enforcement process.

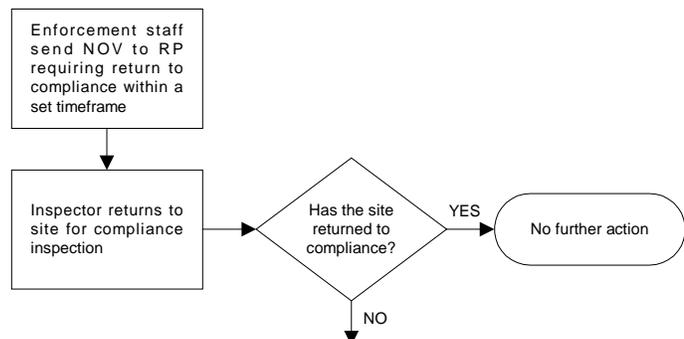


2.

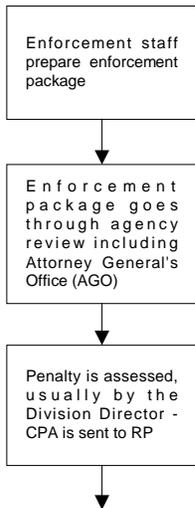
Depending on the nature of the violation, enforcement options may include a notice of deficiency (NOD), notice of violation (NOV), administrative order on consent (AOC), or a unilateral compliance order. First time violators usually receive an NOV with a deadline for compliance. If they do not meet the compliance deadline, if it is a repeat violator, or if the nature of the violation is serious, then enforcement escalates and will likely include a civil penalty assessment (CPA).

Some programs will use temporary restraining orders or injunctions to ensure environmental relief.

PHASE 2 VIOLATOR NOTIFICATION



**PHASE 3
AGENCY ASSESSMENT**



3.

If a CPA is going to be issued, enforcement staff will prepare an enforcement package that includes the inspection report, lab reports, photographs and any other information that supports the case. The enforcement package will be reviewed by internal staff and may be reviewed by the Attorney General's Office (AGO). Once the review is complete, division management (usually the division director) will assess a civil penalty.

4.

When an RP receives a penalty, they have several options available. The RP may pay the penalty, request a reduced penalty through informal settlement or remission, or the RP may appeal the decision to the Office of Administrative Hearings (OAH). Another option sometimes taken is to ignore the notice altogether. When this occurs, enforcement staff requests help from the local Sheriff to ensure that the notice is delivered to the RP. Most programs allow thirty days for initial response. If an appeal is to be filed with the OAH, it must be done before the thirty days are up.

**PHASE 4
VIOLATOR RESPONSE**

