



**STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES AND  
ENVIRONMENTAL CONTROL (“DNREC”)**

**ENFORCEMENT AND COMPLIANCE  
ANNUAL REPORT**

*Covering State Fiscal Years 2002 (7/1/01 to 6/30/02) and 2003 (7/1/02 to 6/30/03)*

**Report Issued: April 30, 2004**

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## **I. SECRETARY'S MESSAGE**

Fellow Delawareans:

I am pleased to present to you DNREC's first annual Enforcement and Compliance Report. Our agency has compiled this report for two important purposes: as a self-evaluation tool and to educate and inform the general public, legislators and DNREC's regulated community of our efforts in compliance assistance and environmental enforcement.

This report is intended to give the reader an overall snapshot of the work performed in the agency's various compliance assistance and enforcement programs charged with pollution control activities.

As you will see in the background section of the report, DNREC has adopted a progressive discipline approach throughout its programs. We strive to first promote environmental stewardship and responsibility through many means such as: environmental education and outreach, assisting small businesses in understanding and meeting complex regulatory requirements, on-site visits to aid businesses reduce or recycle wastes, and providing incentives to redevelop once contaminated properties.

Inevitably, in some circumstances, it becomes necessary to utilize administrative, civil, and criminal enforcement. Although these types of enforcement actions should only be used as a last resort, they are integral tools for the agency to protect human health and the environment and ensure continued compliance with Delaware's environmental laws and regulations.

The agency will continue to provide Delaware's citizens with updated enforcement and compliance information in the coming years, and we look forward to your feedback and suggestions regarding the content of future reports, through our website. Thank you for your interest.

John A. Hughes, Secretary  
Delaware Department of Natural Resources and  
Environmental Control

## **II. BACKGROUND**

### **Purpose of Annual Report**

The purpose of the first publication of the Department of Natural Resources and Environmental Control's ("DNREC's" or "Department's") Enforcement and Compliance Annual Report is to present Delaware's environmental enforcement and compliance efforts to its regulated community, lawmakers, and the public at large.

In its first annual report, DNREC has compiled information relating to enforcement and compliance programs from State Fiscal Years 2002 (7/1/01 to 6/30/02) and 2003 (7/1/02 to 6/30/03). Two fiscal years were chosen for the first publication for comparative purposes.

The information contained in the annual report will enable the public, regulated community and lawmakers to broadly view DNREC's efforts in making Delaware's environment safer and healthier for all of its citizens.

### **Relationship between Annual Report and DNREC's Compliance and Enforcement Response Guide ("CERG")**

In September 2002, DNREC published its first Compliance and Enforcement Response Guide ("CERG"). The CERG was developed and refined with public input over the course of a year, and was primarily meant to assist DNREC managers and staff in developing comprehensive compliance assurance strategies. An important secondary benefit of the Guide has been to inform the regulated community, elected officials and the general public about the manner by which DNREC conducts its compliance and enforcement activities.

The CERG has established a framework for DNREC's compliance and enforcement activities by setting forth the goals, principles and processes that managers and staff follow on a day-to-day basis. Its implementation focuses to improve the consistency, efficiency and effectiveness of DNREC's enforcement activities and to promote a centralized process for coordination of air, waste, water and other environmental violations. DNREC, through the CERG, has outlined its mission and goals relating to environmental enforcement by making its internal processes transparent to everyone.

The relationship between DNREC's Annual Report and its Compliance and Enforcement Response Guide is that the Annual Report gives the reader statistics and examples of how the agency has used the CERG's framework and guidance to encourage environmental stewardship, promote compliance, and resolve environmental violations for the time period covered by the report.

### **DNREC'S Mission, Goals, and Principles for Environmental Enforcement and Compliance**

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 priorities, values, capabilities 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 with an opportunity to demonstrate behavior beyond compliance. When enforcement is necessary, it should be fair, focused, visible and timely. DNREC uses this progressive discipline approach in making its enforcement decisions.

To further the progressive discipline approach, the following are DNREC's principles for environmental compliance and enforcement:

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 utilized by DNREC to assure compliance will be used proportional to the potential impact on human health and the environment in keeping with statutory responsibilities.
7. DNREC will support the development and use of alternative tools to traditional enforcement that achieve compliance and encourage going beyond compliance.
8. DNREC will trust, empower, and support its employees to make enforcement decisions and use discretion where appropriate.
9. DNREC will ensure that its employees are well trained and informed to make enforcement decisions that are fair, appropriate and substantively consistent across program areas.
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. DNREC will foster partnerships internally and externally to realize shared responsibilities in environmental stewardship.
13. Equity must result from the treatment of people of all races, income, and cultures with respect to the development, implementation, and enforcement of environmental laws, regulations and policies.

### **Content of Report**

***Please Note:*** The Enforcement and Compliance Annual Report does not include Division of Parks and Recreation or Division of Fish and Wildlife enforcement efforts. This report is intended to address compliance issues and enforcement of environmental pollution control activities.

### **III. EDUCATION, OUTREACH, POLLUTION PREVENTION, COMPLIANCE ASSISTANCE, AND HAZARDOUS SUBSTANCE CLEANUP ACT PROGRAMS**

#### **Environmental Education and Outreach**

DNREC believes that a multi-faceted approach is the best way to encourage and maintain compliance with environmental laws and regulations and to stimulate a sense of responsibility and stewardship that goes well beyond compliance. This section of the Annual Report presents an overview of DNREC's various education and outreach activities, with reference as applicable to the interaction between the approach and specific compliance assurance activities or objectives.

At times, education and outreach activities overlap with technical assistance activities. For example, a seminar might cover a topic in such a way that an attendee can learn how to implement improvements at their work facility based on the presentation, even though the primary focus of the seminar was more general education and outreach.

Throughout each year, DNREC staff frequently undertakes education and outreach activities. The majority of such activities are directed to the public at large as well as to a broad range of people more directly affected by environmental laws, such as municipal officials, industrial hazardous waste managers, pollution control facility operators, and individual property owners.

The activities are designed to elevate awareness and instill a sense of personal and corporate responsibility for compliance and, ultimately, to foster environmental stewardship. Routine inspections, permit application processing, and other DNREC endeavors also typically incorporate education and outreach. Thus, these activities also are a key component of DNREC's compliance assurance goal.

In addition to providing more general information to a larger audience, many education and outreach activities play a more direct role in promoting compliance with environmental laws and in addressing violations that have occurred. DNREC inspectors frequently carry fact sheets on topics that are anticipated to be of concern or benefit to property owners and facility managers. DNREC settlements of administrative enforcement actions sometimes include as a condition of settlement that the alleged violator:

- attend or sponsor a continuing education seminar covering the area from which the underlying violation arose;
- periodically provide the community with environmental performance reports; or implement an Environmental Management System (EMS).

#### **Pollution Prevention and Compliance Assistance**

The Office of the Secretary houses the Pollution Prevention Program, Clean Air Act Small Business Ombudsman and general permitting assistance programs. This office is responsible for preparing, coordinating, and disseminating informational material to the regulated community and the general public, for coordinating the Permitting Advisory Service, and for providing direct technical/compliance assistance to facilities.

An important feature of the Pollution Prevention and Compliance Assistance programs is the Permitting Advisory Service (“PAS”). The PAS is a forum for prospective and existing businesses located in Delaware who are seeking information concerning environmental permitting requirements. This service is unique to Delaware and has existed within DNREC for over 20 years, under various names. Individuals who have site plans or conceptual designs for commercial establishments, major manufacturing facilities, utility operations and the like may attend one of PAS’s monthly meetings. There, in one room, a business can meet regulators from all divisions in DNREC and receive advice and/or regulatory requirements likely to impact their project.

### **DNREC Small Business Ombudsman**

DNREC’s Small Business Ombudsman (“SBO”) position was created by the Clean Air Act Amendments of 1990 which required each state to implement a Small Business Assistance Program and employ an Ombudsman to administer the program. The SBO assists small businesses in understanding and complying with the requirements set forth by the Clean Air Act, as well as other environmental rules and regulations. This position ensures that the special needs of small businesses are not overlooked when new regulations are developed by the agency. DNREC’s SBO is a member of the Delaware Small Business Resource Partnership, which is a consortium of State and Non-profit agencies that serve small businesses in Delaware. The SBO works with small businesses by answering questions on the phone, through e-mails, and in person, as well as through training workshops and seminars.

### **Pollution Prevention Program (“P2”)**

DNREC’s Pollution Prevention Program (“P2”) provides non-regulatory compliance assistance to businesses and industrial facilities in identifying and implementing cost effective waste reduction opportunities.

This program promotes movement to the top of the Waste Management Hierarchy, from managing wastes to reducing or eliminating waste generation by: source reduction, recycling, treatment, and disposal. Changes in waste management practices to source reduction/pollution prevention approaches often result not only in environmental benefits, but economic benefits as well. If waste is not generated, there are no costs involved in its handling or disposal. Investments in source reduction are often recouped through reduced waste management costs in addition to potential process and product development.

This program is confidential and is offered to any business (small or large), industry or governmental agency.

### **Brownfields, HSCA Enforcement and Voluntary Cleanup Programs**

The Site Investigation and Restoration Branch of DNREC is responsible for performing and overseeing the investigation and cleanup of contaminated sites located in the State of Delaware. This includes the cleanup of former industrial properties that may be highly contaminated, as well as sites that have a lower level of contamination that may pose a long term risk to human health and the environment.

Delaware has been successful in solving these problems by using our non-traditional Voluntary Cleanup and Brownfields Program, as well as implementing a Hazardous Substance Cleanup Act (“HSCA”) Enforcement Program as needed. Since 1991 DNREC has identified approximately 324 sites in Delaware as potential hazardous substance release sites that have required investigation and cleanup of chemical contamination found in the environment.

Delaware has worked cooperatively with responsible parties under our Voluntary Cleanup and Brownfields Programs to address performing investigation and cleanup at potential contaminated properties. Both the Voluntary Cleanup and Brownfields programs have been successful in attracting businesses to areas where infrastructure already exists and incentives for redevelopment are needed. Since the inception of the programs, 167 sites have entered the program; 112 sites are currently undergoing cleanup; and 69 sites have been cleaned up for reuse. This has resulted in the reuse of 1,400 acres of abandoned and/or underutilized properties.

If under the Brownfields and Voluntary Cleanup Programs owners and developers do not perform cleanup activities necessary for protecting human health and the environment as directed by the program, the Department will use its statutory and regulatory authorities associated with a more traditional enforcement program and legally require potential responsible parties to perform any necessary work to mitigate a release of a hazardous substance. In some cases, the Department may undertake the work itself and recover its costs from various responsible parties.

### **Promoting Compliance**

In order to promote compliance with its environmental laws and regulations, DNREC’s environmental programs have focused on several program areas that assist regulated parties improve and achieve compliance. Examples are as follows:

- The Air Quality Management section, of the Division of Air and Waste Management, conducted a compliance workshop for the state’s dry cleaners and created a Dry Cleaner’s Compliance Calendar which assists dry cleaners in identifying important compliance dates and to organize information needed to fulfill compliance requirements. The section’s efforts have resulted in outstanding improvements in Dry Cleaner compliance. In 2000, approximately 10% of dry cleaners were in compliance, in 2001 approximately 90% of dry cleaners were in compliance and in 2002 approximately 95% of dry cleaners were in compliance. Each of the state’s 72 dry cleaners are inspected at least once per year and violators are inspected on a more frequent basis to help them achieve compliance.
- The Groundwater Discharges section, of the Division of Water Resources, has recently begun to offer compliance assistance to Inland Bays residents that utilize on-site septic systems. The assistance is being offered to help reduce excess nutrients to the Inland Bays Watershed originating from septic systems in the area. Residents of the Inland Bays that have not had their septic tanks pumped in the past two years can have their systems inspected by a DNREC staff member at no cost and have a licensed Class F Liquid Waste Hauler pump-out their system for half of the normal fee. This initiative has been paid for through federal grant monies.
- The Sediment and Stormwater program, in the Division of Soil and Water Conservation, has developed a Certified Construction Reviewer (“CCR”) program which trains private inspectors to conduct sediment and stormwater compliance inspections at construction

sites. The inspectors that receive CCR certifications contract with private land developers to inspect construction projects to ensure compliance with state and local laws relating to sediment and stormwater systems at the sites. This program has not only assisted developers with timely compliance, but has also saved the Department over \$100,000 annually in staff hours associated with performing the inspections, travel time, and paperwork.

#### **IV. ENVIRONMENTAL REGULATORY PROGRAM SUMMARIES**

The following charts present basic information about DNREC's environmental regulatory programs in an "at-a-glance" format. These programs conduct various compliance inspections at sites and facilities to detect violations of environmental requirements. The charts reflect information gathered for FY03.<sup>1</sup>

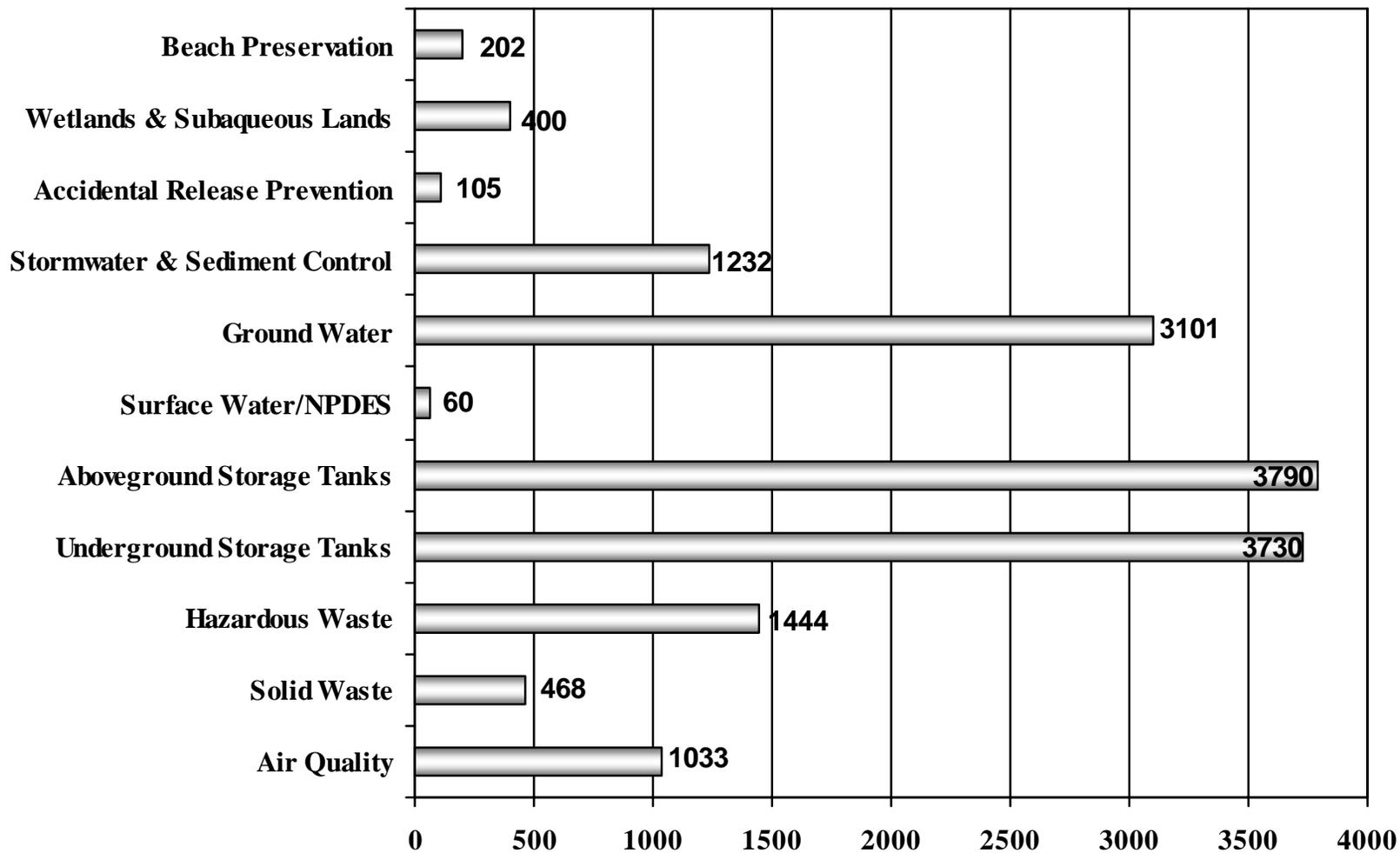
The following regulatory programs are highlighted in this section:

1. Air Quality Management
2. Solid Waste Management
3. Hazardous Waste Management
4. Underground Storage Tank Management
5. Aboveground Storage Tank Management
6. Beach Preservation
7. Wetlands and Subaqueous Lands
8. Surface Water Discharges (NPDES)
9. Ground Water Discharges
10. Sediment and Storm Water Management
11. Accidental Release Prevention

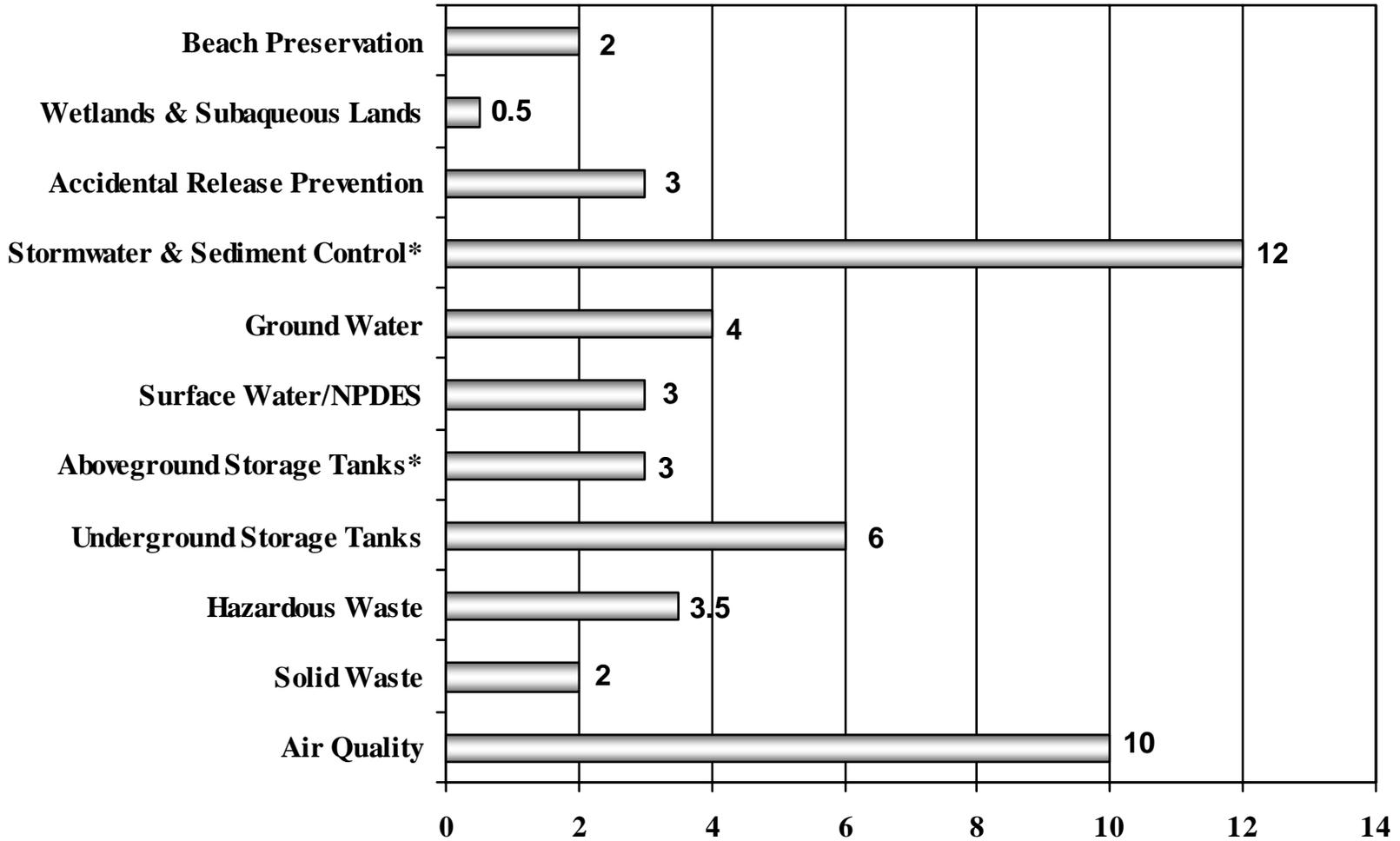
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<sup>1</sup> Due to the large amount of information gathered from these programs, please see the Appendix section of the Annual Report for detailed information from FY02 and FY03 for the noted programs.

# NUMBER OF FACILITIES / SITES REGULATED FOR STATE FY03 BY PROGRAM

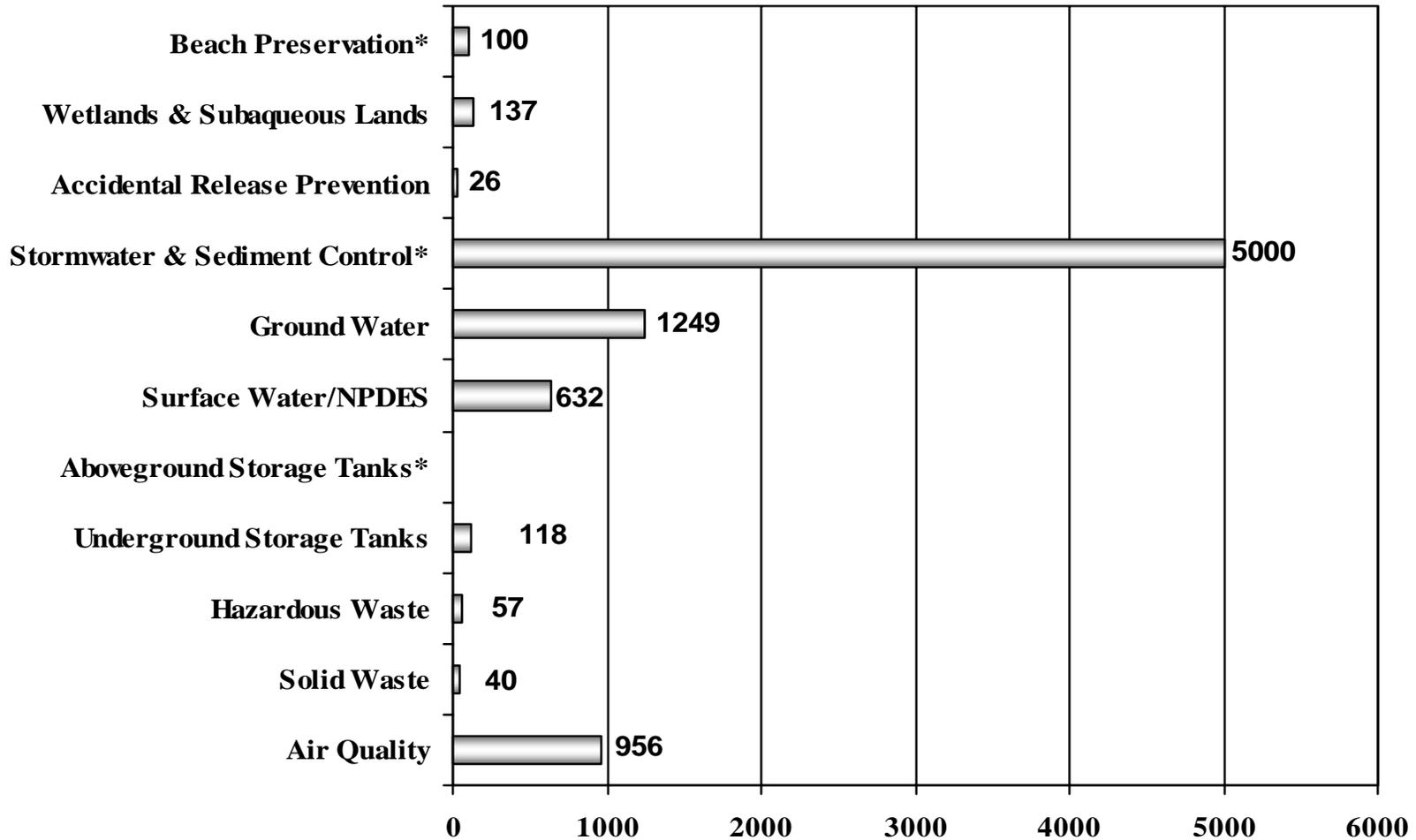


# FY03 FULL TIME EQUIVALENT (“FTE”) COMPLIANCE INSPECTOR POSITIONS BY PROGRAM



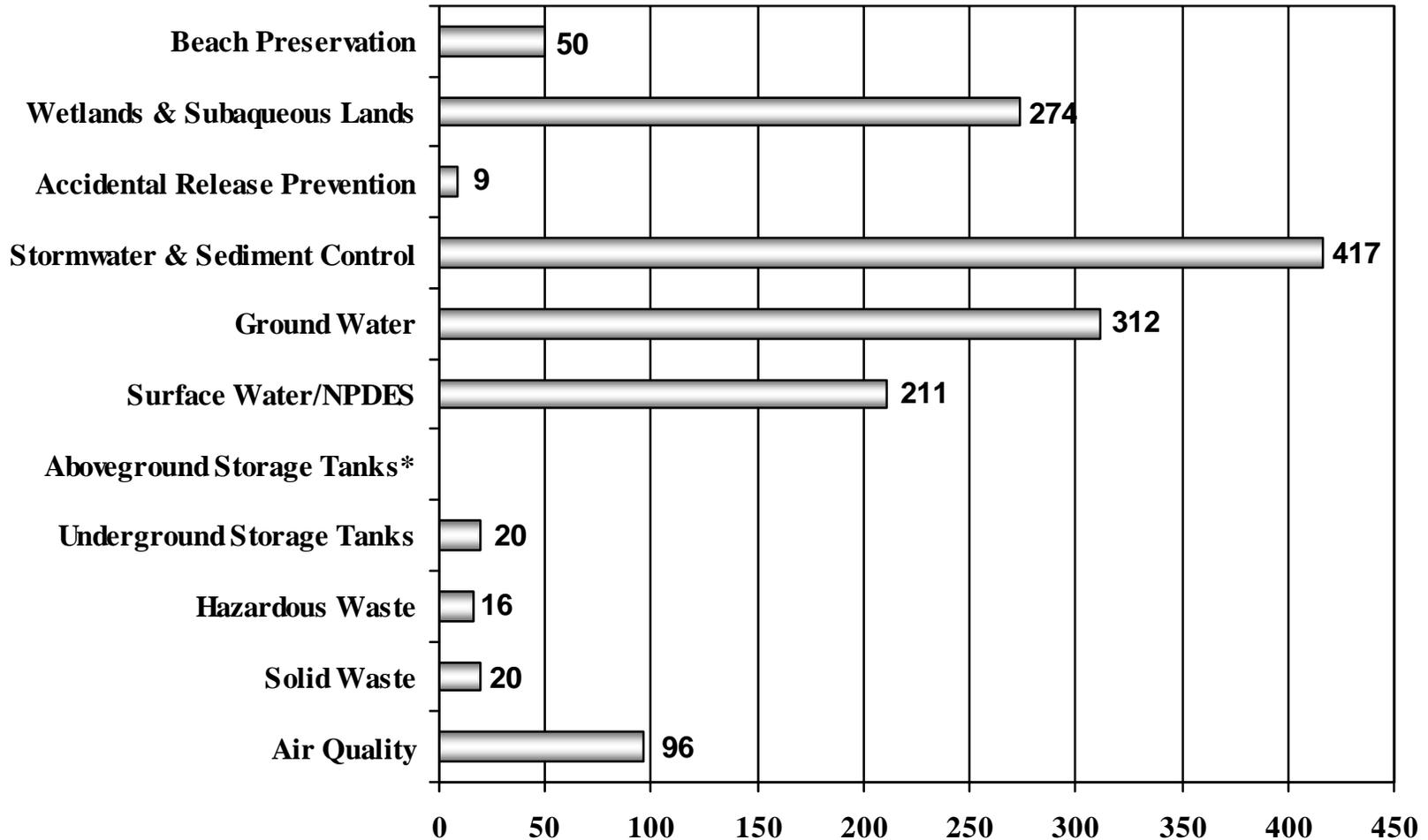
\*Please see Appendix Section of the Annual Report for more information regarding the noted programs.

# TOTAL NUMBER OF OFF-SITE AND ON-SITE COMPLIANCE INSPECTIONS PERFORMED BY PROGRAM FOR STATE FY03



\*Please see Appendix Section of the Annual Report for more information regarding the noted programs.

## COMPLIANCE INSPECTIONS PERFORMED PER FTE INSPECTOR FOR STATE FY03



\*Please see Appendix Section of the Annual Report for more information regarding the noted program.

## **V. ADMINISTRATIVE AND CIVIL ENFORCEMENT ACTIONS**

This section of the annual report summarizes the administrative and civil enforcement actions taken by DNREC in FY02 and FY03. Each summary reflects the actions issued in those fiscal year periods.

For more detailed information on each of the enforcement actions listed in the summary, please see the Department's Environmental Navigator database at: [www.dnrec.state.de.us/DNRECEis/](http://www.dnrec.state.de.us/DNRECEis/)

**DNREC ADMINISTRATIVE AND CIVIL ACTIONS ISSUED FOR  
STATE OF DELAWARE FISCAL YEAR 2002  
(7/1/01 TO 6/30/02)**

	<b>FACILITY / RESPONDENT / DEFENDANT</b>	<b>COUNTY IN WHICH VIOLATION OCCURRED</b>	<b>ORDER, CIVIL ACTION NUMBER, OR DATE OF SETTLEMENT AGREEMENT</b>	<b>MEDIA / TYPE(S) OF VIOLATIONS</b>	<b>PENALTY AMOUNT PAID</b>	<b>INVESTIGATIVE AND LEGAL COST RECOVERY</b>	<b>ENVIRONMENTAL IMPROVEMENT PROJECT (EIP)</b>
1.	Harry J. Drennan, Jr.	Sussex	2001-W-0027	Subaqueous Lands	\$450.00	None Assessed	N
2.	Eastern Shore Natural Gas Company	New Castle	2001-A-0028 Superseded by Amended Order No. 2001-A-0046	Air Quality	\$23,200.00	\$923.08	N
3.	Richard Weigle	Sussex	2001-W-0032	Subaqueous Lands	\$180.00	None Assessed	N
4.	Kaneka Delaware Corporation	New Castle	2001-A-0037	Air Quality	\$25,000.00	\$2,521.60	N
5.	Richard W. Eakle and Mary Ann Hess	Sussex	2001-W-0040	Subaqueous Lands	None Assessed	None Assessed	N
6.	Inland Paperboard & Packaging, Inc.	Kent	2001-A-0041 and Settlement Agreement dated 10/22/02	Air Quality	\$23,000.00	\$2,972.62	N
7.	DiPasquale v. E.I. DuPont de Nemours and Co.	New Castle	Civil Action No. 01C-10-288 CHT; NCC Superior Court; Complaint and Consent Order; Consent Order signed by Judge on 11/2/01.	Hazardous Waste and Solid Waste Management	None Assessed	Defendant paid \$7,000 in oversight funds for the term of the Consent Order.	N
8.	MHC, Inc.; d/b/a Mariner's Cove	Sussex	Administrative Penalty Assessment and Secretary's Order No. 2001-W-0050	Subaqueous Lands	\$500.00	None Assessed	N
9.	FMC Corporation	New Castle	Administrative Penalty Assessment and Secretary's Order	Air Quality	\$15,000.00	\$5,000.00	Y – Respondent performed \$30,000 on-site EIP
10.	Motiva Enterprises, LLC	New Castle	Administrative Penalty Assessment and Secretary's Order No. 2001-A-0053	Air Quality	\$150,000.00 and Stipulated Penalties	\$10,000.00	N

	<b>FACILITY / RESPONDENT / DEFENDANT</b>	<b>COUNTY IN WHICH VIOLATION OCCURRED</b>	<b>ORDER, CIVIL ACTION NUMBER, OR DATE OF SETTLEMENT AGREEMENT</b>	<b>MEDIA / TYPE(s) OF VIOLATIONS</b>	<b>PENALTY AMOUNT PAID</b>	<b>INVESTIGATIVE AND LEGAL COST RECOVERY</b>	<b>ENVIRONMENTAL IMPROVEMENT PROJECT (EIP)</b>
11.	SPI Polyols, Inc.	New Castle	Settlement Agreement signed 12/31/01 - (resolved violations in Order No. 2000-W-0051 and four subsequent violations)	NPDES/Surface Water	\$12,000.00	\$1,000.00	Y – EIP in the amount of \$100,000.00
12.	Ernest C. Davison	Kent County	Administrative Penalty Assessment and Secretary's Order No. 2002-W-0001	Subaqueous Lands	\$500.00	None Assessed	N
13.	American Minerals, Inc.	New Castle	Administrative Penalty Assessment and Secretary's Order No. 2002-W-0003; Superseded by Amended Order No. 2002-A-0007.	Air Quality	\$17,750.00	\$894.23	N
14.	Metal Masters Food Service Equipment Company	Kent	Administrative Penalty Assessment and Secretary's Order No. 2002-A-0006; Superseded by Amended Order No. 2002-A-0019	Air Quality	\$10,000.00	\$1,000.00	N
15.	Robert and Kathleen Baker	Sussex	Administrative Penalty Assessment and Secretary's Order No. 2002-W-0008	Subaqueous Lands	\$855.00	None Assessed	N
16.	Motiva Enterprises, LLC	New Castle	Stipulated Administrative Penalty Assessment and Secretary's Order	NPDES and Hazardous Waste	\$50,200.00 (to implement DNREC's environmental release database)	None Assessed	N
17.	Refuge Run Corporation	Kent	Notice of Conciliation Proceedings and Amended Secretary's Order No. 2002-A-0011 (to Order No. 2001-A-0004)	Solid Waste Management	None Assessed	None Assessed	N
18.	Hanover Foods Corporation	Kent	Administrative Penalty Assessment and Secretary's Order No. 2002-A-0014	Air Quality and Accidental Release Prevention	\$56,000.00 And Stipulated Penalties	\$19,000.00	N

	<b>FACILITY / RESPONDENT / DEFENDANT</b>	<b>COUNTY IN WHICH VIOLATION OCCURRED</b>	<b>ORDER, CIVIL ACTION NUMBER, OR DATE OF SETTLEMENT AGREEMENT</b>	<b>MEDIA / TYPE(S) OF VIOALTIONS</b>	<b>PENALTY AMOUNT PAID</b>	<b>INVESTIGATIVE AND LEGAL COST RECOVERY</b>	<b>ENVIRONMENTAL IMPROVEMENT PROJECT (EIP)</b>
19.	Concord Mobile Home Park	Sussex	Cease and Desist Order No. 2002-W-0015 (and Notice of Intent to Seal Non-Complying Equipment)	Waste Water	None Assessed	None Assessed	N
20.	General Chemical Corporation	New Castle	Administrative Penalty Assessment and Secretary's Order No. 2002-A-0020	Air Quality	\$10,000.00	\$1,038.12	N
21.	FasMart t/a Shore Stop Company, LLC	Kent, Sussex and New Castle	Notice of Conciliation Proceedings and Secretary's Order No. 2002-A-0017	Underground Storage Tanks	None Assessed	None Assessed	N
22.	Concord Mobile Home Park	Sussex	Cease and Desist Order No. 2002-W-0022	Waste Water	None Assessed	None Assessed	N
23.	Bayhealth Medical Center	Kent	Administrative Penalty Assessment and Secretary's Order No. 2002-A-0016; Superseded by Amended Order No. 2002-A-0024	Solid Waste	\$5,000.00	\$1,231.05	N
24.	H.Y. Mohammed, LLC d/b/a Ogletown Mobil	New Castle	Amended Administrative Penalty Assessment and Secretary's Order No. 2002-A-0028	Underground Storage Tanks	\$15,000.00	\$13,477.87	Y - \$2,500.00 toward on-site natural resources restoration project.
25.	Uniqema, Inc. / ICI Americas, Inc.	New Castle	Administrative Penalty Assessment and Secretary's Order No. 2002-A-0031	Air Quality	\$5,000.00	\$1219.31	N
26.	Air Liquide America Corporation	New Castle	Administrative Penalty Assessment and Secretary's Order No. 2002-A-0035	Air Quality	\$76,125.00	\$2,439.80	N
27.	Jerome and Virginia Reid	Sussex	Administrative Penalty Assessment and Secretary's Order No. 2002-W-0036	Subaqueous Lands	\$1,628.00	None Assessed	N

	<b>FACILITY / RESPONDENT / DEFENDANT</b>	<b>COUNTY IN WHICH VIOLATION OCCURRED</b>	<b>ORDER, CIVIL ACTION NUMBER, OR DATE OF SETTLEMENT AGREEMENT</b>	<b>MEDIA / TYPE(S) OF VIOLATIONS</b>	<b>PENALTY AMOUNT PAID</b>	<b>INVESTIGATIVE AND LEGAL COST RECOVERY</b>	<b>ENVIRONMENTAL IMPROVEMENT PROJECT (EIP)</b>
28.	Russell J. Baiocco	Sussex	Cease and Desist Order No. 2002-W-0039	Waste Water	None Assessed	None Assessed	N
29.	DiPasquale v. Melson; d/b/a/ Concord Mobile Home Park	Sussex	Administrative Penalty Assessment and Secretary's Order No. 2002-W-0040; Withdrawn and Civil Action filed in Sussex County Superior Court	Waste Water	Pending in Court – Judgment Received	Pending in Court; Judgment Granted; Collection of Judgment Pending	N
30.	City of Wilmington	New Castle	Notice of Conciliation and Secretary's Order No. 2002-W-0041	NPDES / Surface Water	Stipulated (if deadlines were not met)	None Assessed	N
31.	Dover Air Force Base	Kent	Settlement Agreement signed on 5/23/02 and Amended Administrative Penalty Assessment No. 00-A-0016	Hazardous Waste	\$6,250.00	\$300.00	Y – DAFB to expend \$20,700.00 for H/W Training program for staff and H/W storage equipment.
32.	DiPasquale v. Sunoco, Inc.	New Castle	Civil Complaint and Stipulation of Final Judgment; C.A. No. 02C-05-273; signed by Judge on 5/31/02.	Air Quality	\$390,000.00 (and Stipulated Penalties for future incidents)	\$10,000.00	Y – Plant upgrades and implementation of Environmental Management System at facility.

<b>TOTAL PENALTIES COLLECTED:</b>	<b>TOTAL COSTS RECOVERED:</b>
<b>\$893,638.00</b>	<b>\$80,017.68</b>

**DNREC ADMINISTRATIVE AND CIVIL ACTIONS ISSUED FOR  
STATE OF DELAWARE FISCAL YEAR 2003  
(7/1/02 TO 6/30/03)**

	<b>FACILITY / RESPONDENT / DEFENDANT</b>	<b>COUNTY IN WHICH VIOLATION OCCURRED</b>	<b>ORDER, CIVIL ACTION NUMBER, OR DATE OF SETTLEMENT AGREEMENT</b>	<b>MEDIA / TYPE(S) OF VIOALTIONS</b>	<b>PENALTY AMOUNT PAID</b>	<b>INVESTIGATIVE AND LEGAL COST RECOVERY</b>	<b>ENVIRONMENTAL IMPROVEMENT PROJECT (EIP)</b>
1.	DuPont White Pigment and Mineral Products	New Castle	Administrative Penalty Assessment and Secretary's Order No. 2002-A-0042	Air Quality	\$10,000.00	\$1,239.91	N
2.	Comcast Cablevision of New Castle County, LLC	New Castle	Administrative Penalty Assessment and Secretary's Order No. 2002-A-0044	Air Quality	\$5,000.00	\$361.93	N
3.	DNREC v. Motiva Enterprises, LLC	New Castle	Civil Complaint - C.A. No. 02-1293; U.S. District Court, District of Delaware (Sulfuric Acid Tank Explosion on 7/17/01)	Air, Hazardous Waste, Water, and Hazardous Substances	Pending in Court	Pending in Court	Pending in Court
4.	DiPasquale v. General Chemical Corporation	New Castle	Civil Complaint and Stipulation of Final Judgment; NCC Superior Court; Stipulation signed on 9/24/02	Air, Water, and Accidental Release Prevention	\$400,000.00	\$10,000.00	Y
5.	Richard C. and Kathryn Bennett	Sussex	Administrative Penalty Assessment and Secretary's Order No. 2002-W-0049	Subaqueous Lands	\$1,500.00	None Assessed	Y
6.	NRG Energy Center Dover, LLC	Kent	Administrative Penalty Assessment and Secretary's Order No. 2002-A-0051	Air	\$380,000.00	\$10,000.00	Y
7.	Christiana Materials, Inc.	New Castle	Administrative Penalty Assessment and Secretary's Order No. 2002-A-0054	Air	\$10,000.00	\$600.00	N
8.	Indian River Power, LLC	Sussex	Secretary's Order No. 2002-A-0058	Solid Waste	None Assessed	None Assessed	Y

	<b>FACILITY / RESPONDENT / DEFENDANT</b>	<b>COUNTY IN WHICH VIOLATION OCCURRED</b>	<b>ORDER, CIVIL ACTION NUMBER, OR DATE OF SETTLEMENT AGREEMENT</b>	<b>MEDIA / TYPE(S) OF VIOALTIONS</b>	<b>PENALTY AMOUNT PAID</b>	<b>INVESTIGATIVE AND LEGAL COST RECOVERY</b>	<b>ENVIRONMENTAL IMPROVEMENT PROJECT (EIP)</b>
9.	General Motors Corporation	New Castle	Administrative Penalty Assessment and Secretary's Order No. 2002-A-0061	Air Quality	Requested Hearing -Pending Negotiations	Pending Negotiations	Pending Negotiations
10.	Qwest Communications Corporation	New Castle	Administrative Penalty Assessment and Secretary's Order No. 2002-A-0062	Air Quality	\$25,000.00	\$1,646.37	Y
11.	Motiva Enterprises, LLC	New Castle	Notice of Conciliation and Secretary's Order No. 2002-A-0063	Air Quality	None Assessed	None Assessed	Y
12.	Jacob Bierig, Owner Delaware Veal Farms, Inc.	Kent	Order to Cease and Desist	Waste Water	None Assessed	None Assessed	Y
13.	New Castle County; Dept of Special Services	New Castle	Administrative Penalty Assessment and Secretary's Order No. 2003-A-004	Underground Storage Tank	\$15,000.00	None Assessed	Y
14.	WIK Associates a/k/a WIK, Inc.	New Castle	Administrative Penalty Assessment and Secretary's Order No. 2003-A-005	Underground Storage Tank	\$7,500.00	None Assessed	N
15.	Jacob Bierig, Owner Delaware Veal Farms, Inc.	Kent	Notice of Conciliation and Secretary's Order No. 2003-W-0006	Waste Water	None Assessed	\$7,735.15	Y
16.	City of Wilmington; Dept of Public Works	New Castle	Notice of Conciliation and Secretary's Order No. 2003-W-009	NPDES	Stipulated if Requirements Not Met	None Assessed	Y
17.	Uniqema, Inc. / ICI Americas, Inc.	New Castle	Administrative Penalty Assessment and Secretary's Order No. 2003-A-0012	Air Quality	\$7,500.00	\$1,755.26	N

	<b>FACILITY / RESPONDENT / DEFENDANT</b>	<b>COUNTY IN WHICH VIOLATION OCCURRED</b>	<b>ORDER, CIVIL ACTION NUMBER, OR DATE OF SETTLEMENT AGREEMENT</b>	<b>MEDIA / TYPE(s) OF VIOALTIONS</b>	<b>PENALTY AMOUNT PAID</b>	<b>INVESTIGATIVE AND LEGAL COST RECOVERY</b>	<b>ENVIRONMENTAL IMPROVEMENT PROJECT (EIP)</b>
18.	Magnus Environmental Corporation	New Castle	Notice of Conciliation and Administrative Penalty Order No. 2003-A-0013	Solid Waste	Stipulated - None collected as work was performed.	None Assessed	Y
19.	Oceanport Industries, Inc.	New Castle	Administrative Penalty Assessment and Secretary's Order No. 2003-A-0016	Air Quality	\$10,000.00	\$2,810.42	N
20.	The Narrows Homeowner's Association	Sussex	Amended Administrative Penalty Assessment and Secretary's Order No. 2003-W-0020 (Supersedes Order No. 2002-W-0005)	Subaqueous Lands	\$3,635.00	None Assessed	Y
21.	Daniel Wien	Sussex	Cease and Desist Order No. 2003-W-0026	Wetlands	None Assessed	None Assessed	Y
22.	Betty E. Jackson	Kent	Cease and Desist Order No. 2003-W-0036	Waste Water	None Assessed	None Assessed	Y

<b>TOTAL PENALTIES COLLECTED:</b>	<b>TOTAL COSTS RECOVERED:</b>
\$875,135.00	\$36,149.04

## **VI. CRIMINAL ENFORCEMENT**

The Division of Air and Waste Management Enforcement Section employs twelve fully sworn police officers (“Environmental Officers”) and two civilian employees. This section is the criminal enforcement arm of DNREC and is responsible for enforcing against those individuals and facilities which violate Delaware’s criminal environmental statutes. The section administers criminal enforcement activities for the Divisions of Soil and Water Conservation, Water Resources, and Air and Waste Management

Delaware’s criminal environmental laws establish what conduct is prohibited and what punishment can be imposed for violating those laws. Criminal laws define the degree of intent required for criminal liability. The degree of intent in a criminal case is much greater than the degree of intent needed to prove a civil or administrative action.

The responsibilities of the Enforcement Section are varied. Primarily, the section is responsible for receiving, investigating, and prosecuting criminal complaint referrals from regulators within DNREC and complaints received by citizens.

The section maintains a 24 hour contact line for reporting industrial permitting excursions, pollution events and citizen’s complaints. Information obtained through this number is used by the section to activate the Delaware Environmental Release Notification System. The Enforcement Section is also responsible for administering background investigations of companies that apply for environmental permits pursuant to 7 Del. C. Chapter 79.

The unit actively conducts public outreach programs community and governmental entities. Officers routinely visit schools and community associations to discuss environmental issues and enforcement program responsibilities. Outreach activities directed at governmental agencies detail the detection of environmental crimes and hazardous materials safety.

Environmental Officers in the Section are also members of the State Emergency Response Team and respond to environmental emergencies and hazardous materials incidents throughout the state on a 24 hour basis.

The following are statistics for FY02 and FY03 for the Enforcement Section:

**CRIMINAL ENFORCEMENT ACTIONS AND PENALTY STATISTICS**

**State FY02 - July 1, 2001 to June 30, 2002**

<b>Complaints Received (By Division)</b>	<b>Arrests<sup>2</sup></b>	<b>Criminal Penalties Collected in JP Court</b>	<b>Outreach Contacts</b>	<b>Background Investigations</b>
<b>Air and Waste 5178 Water Resources 889 Soil and Water 175  Total = 6242</b>	<b>327</b>	<b>\$16,478.00</b>	<b>272</b>	<b>279</b>

**State FY03 - July 1, 2002 to June 30, 2003**

<b>Complaints Received (By Division)</b>	<b>Arrests</b>	<b>Criminal Penalties Collected in JP Court</b>	<b>Outreach Contacts</b>	<b>Background Investigations</b>
<b>Air and Waste 3963 Water Resources 1899 Soil and Water 190  Total = 6052</b>	<b>462</b>	<b>\$16,705.00</b>	<b>198</b>	<b>86</b>

For more information on the Air and Waste Management Enforcement Section and Criminal Enforcement information, please go to the following link at DNREC's website:

[www.dnrec.state.de.us/DNREC2000/Divisions/AWM/EPO/epo.htm](http://www.dnrec.state.de.us/DNREC2000/Divisions/AWM/EPO/epo.htm)

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<sup>2</sup> Arrests are defined as summonses/tickets issued by Environmental Officers. Arrest totals include Voluntary Assessments issued for unclassified misdemeanors.

## **VII. ENVIRONMENTAL IMPROVEMENT PROJECTS**

In settlements of environmental enforcement cases, DNREC will require the alleged violators to achieve and maintain compliance with state environmental laws and regulations and to pay an administrative or civil penalty. To further DNREC goals to protect and enhance public health and the environment, in certain instances environmentally beneficial projects, or Environmental Improvement Projects (EIPs), may be included in the settlement. The primary purpose of using EIPs is to encourage and obtain environmental and public health protection and improvements that may not otherwise have occurred without the settlement incentives of an EIP.

In settling enforcement actions, DNREC requires alleged violators to promptly cease the violations and, to the extent feasible, remediate any harm caused by the violations. DNREC also seeks substantial monetary penalties in order to deter noncompliance. Without penalties, companies would have an incentive to delay compliance until they are caught and ordered to comply. Penalties promote environmental compliance and help protect public health by deterring future violations by the same violator and deterring violations by other members of the regulated community. Penalties help ensure a level playing field by ensuring that violators do not obtain an unfair economic advantage over their competitors who made the necessary expenditures to comply on time. Penalties also encourage companies to adopt pollution prevention and recycling techniques, so that they minimize their pollutant discharges and reduce their potential liabilities.

Alleged violators are sometimes offered the option of funding an environmental improvement project in lieu of a portion of a monetary penalty. Environmental Improvement Projects are a method to achieve environmental benefit while inspiring environmental and community responsibility by parties subject to enforcement actions. DNREC encourages the use of EIPs. While penalties play an important role in environmental protection by deterring violations and creating a level playing field, EIPs can play an additional role in securing significant environmental or public health protection and improvements. EIPs may not be appropriate in settlement of all cases, but they are an important part of DNREC's enforcement program. EIPs may be particularly appropriate to further the objectives in the statutes DNREC administers and to achieve other policy goals, including promoting pollution prevention.

Environmental Improvement Projects are defined as environmentally beneficial projects which a defendant/respondent agrees to undertake in settlement of an enforcement action, but which the defendant/respondent is not otherwise legally required to perform.

The key parts of this definition are elaborated on below:

- **“Environmentally beneficial”** means a EIP must improve, protect, or reduce risks to public health, or the environment at large. While in some cases an EIP may provide the alleged violator with certain benefits, there must be no doubt that the project primarily benefits the public health or the environment.

- **“In settlement of an enforcement action”** means: 1) DNREC has the opportunity to help shape the scope of the project before it is implemented; and 2) the project is not commenced until after the Agency has identified a violation (e.g., issued a Notice of Violation, Administrative Order, or Complaint).

- **“Not otherwise legally required to perform”** means the EIP is not required by any federal, state or local law or regulation. Further, EIPs cannot include actions that the defendant/respondent may be required to perform: as injunctive relief in the instant case; as part of a settlement or order in another legal action; or by state or local requirements. EIPs may include activities that the defendant/respondent will become legally obligated to undertake two or more years in the future. Such “accelerated compliance” projects are not allowable, however, if the regulation or statute provides a benefit (e.g., a higher emission limit) to the defendant/respondent for early compliance. Also, the performance of an EIP reduced neither the stringency nor timelines requirements of State environmental statutes and regulations. Of course, performance of an EIP does not alter the defendant/respondent’s obligation to remedy a violation expeditiously and return to compliance.

### **EIP Examples:**

A listing of EIPs associated with enforcement actions can be found in the right-hand column of the summaries listed in Section V of this report. A few detailed examples of EIPs performed recently are as follows:

- Division of Air and Waste Management - Air Quality Management –Through an enforcement action settlement, Qwest Communications, Inc. provided \$5,000 to the Department for the production and distribution of a fact sheet to the public regarding air quality issues in Delaware. The Department is using the funds to produce a brochure entitled "Protect Our Children's Health: Five Summertime Ozone Tips" for the 2004 Ozone Season.
- Division of Air and Waste Management – Solid Waste Management – Through an enforcement action settlement, Waste Management, Inc. paid \$25,000 for an EIP to partially fund a comprehensive recycling study of New Castle County which was commissioned by the Governor's Recycling Public Advisory Council. Also, through a 2001 Consent Decree, \$62,000 was provided by Motiva Enterprises, LLC, to perform outreach and education on recycling through a seasonal Community Relations Officer position and also funded recyclables collection training for Delaware’s municipalities and, on a limited scale, private waste haulers.
- Division of Water Resources - Surface Water Management – SPI Polyols, Inc., through an enforcement action EIP, reduced the likelihood of future leaks from its facility operations into its storm drain system. The company eliminated older, flexible hose transfers and installed new fixed transfer piping. The company also modified piping and storm water drains in the facility’s compressor area to eliminate the possibility of future oil contamination of the drains. The project exceeded \$100,000 in capital and installation costs.

## **VIII. New and Upcoming Initiatives for Environmental Enforcement**

### **Chronic Violator Regulation**

DNREC issued its final Chronic Violator Regulation in the March 1, 2004 publication of the Delaware Register of Regulations. The regulation became effective on March 11, 2004.

The final regulation defines criteria and establishes a process for determining when a facility or regulated party should be declared a chronic violator by virtue of its inability to maintain compliance with Delaware's permits, laws or regulations. It was developed by the Chronic Violators Regulatory Development Committee, which was created by Senate Substitute 1 of Senate Bill 33, which amended Titles 7 and 29 of the Delaware code with respect to notification of environmental releases, facility performance and establishment of the Community Involvement Advisory Council.

The final regulation, Secretary's Order authorizing the final regulation, hearing officer's report, and DNREC's response to public comments are available for review on DNREC's website under the *Rules, Regulations, Laws, Policies and Guidelines* section of the main website at the following link:

<http://www.dnrec.state.de.us/DNREC2000/Admin/Enforcement/CVRegorder2004A0004.pdf>

Additionally, the Secretary's Order and final regulation can also be viewed through the Register of Regulation's website at:

<http://www.state.de.us/research/register/march2004/Frame.htm>

### **Newly Enacted Environmental Laws**

During this year's and last year's legislative sessions a number of important environmental bills were signed into law to enhance and improve DNREC's enforcement capabilities:

- **House Bill 109** – This bill makes several improvements to Delaware's environmental enforcement statutes.
  1. The bill requires annual disclosure statements by entities whose compliance history makes them most likely to cause harm to the environment, rather than simply requiring statements at the time of permit applications.
  2. The bill requires the persons in charge of permit-holding entities with poor environmental records to submit sworn statements verifying the entity's compliance with DNREC standards.
  3. The bill allows DNREC to require independent audits of facilities found to be "chronic violators," in order to ensure that those facilities most consistently in violation of state regulations and standards undergo a rigorous outside review.
  4. The bill allows for tripling of fines against chronic violators who commit new violations that can be punished by fines. This fine provision will also allow the DNREC Secretary to assess higher penalties against companies, which the Secretary must now seek Court permission to assess.

The bill clarifies DNREC's ability to close facilities that have a pattern of committing violations of statutes or regulations, where those violations jeopardize public health or public safety.

- **Senate Bill 60** – This Bill makes a number of changes in Delaware's environmental enforcement codes, all designed to further deter individuals from engaging in activity that will pollute Delaware's environment. The major changes made by the Bill are:
  1. The Bill ensures that all non-confidential information regarding chronic violators is made available to the public.
  2. The Bill holds corporations and their agents criminally liable not only for intentional and knowing violations of DNREC statutes and regulations, but also reckless submissions of false statements to DNREC and reckless tampering with monitoring equipment. A reckless violation occurs when a person is aware of and consciously disregards a substantial and unjustifiable risk that a false statement or monitoring error exists or will result from the conduct. The risk must be of such a nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation.

The Bill also creates felony punishments for intentional or knowing violations of environmental laws and regulations, when those violations cause serious physical harm to a person or serious damage to the environment. It also establishes criminal sanctions, including felony sanctions, for some intentional or knowing violations by corporate officers.

- **House Bill 192** - In February, 2004, House Bill 192 was signed into law. The Community Environmental Project Fund is in addition to the Penalty Fund Account within the Department of Natural Resources and Environmental Control. The new Fund will consist of 25% of the civil and administrative penalties collected by DNREC, pursuant to its general enforcement authority, as well as specific statutory authority relating to sediment and erosion control, wetlands protection, coastal zone protection, chronic violators, and hazardous substance clean-up. This Act requires that all moneys within the new Fund to be applied to Community Environmental Projects, in the same community as where the violation occurred.

For the full text of the above noted legislation, please visit Delaware's Bill Tracking website located at:

<http://www.legis.state.de.us/billtracking>

## **IX. APPENDIX OF SPECIFIC PROGRAM INFORMATION**

Please note that the following specific program information has been gathered from both the “traditional” enforcement programs as well as the “non-traditional” compliance assistance programs. As such, some programs may have information noted that other programs do not. For example, the Air Quality Management section routinely conducts on-site compliance inspections at its regulated facilities to detect violations; on the other hand, the Pollution Prevention program conducts on-site inspections to determine how the regulated party can reduce pollution at its facility.

## Air Quality Management

Year Program Began: 1966

**Purpose/Mission:** The Air Quality Management (“AQM”) Section within the Division of Air and Waste Management implements the State of Delaware “Regulations Governing the Control of Air Pollution,” which satisfies the requirement of 7 Del. C. Chapter 60 to report and obtain approval for equipment which has the potential to discharge air contaminants into the atmosphere.

Program Information	FY02	FY03	Comments
<b>1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)</b>	897	1033	The numbers listed for both the FY02 and FY03 Universe are not complete. These numbers were based upon permit billings, which are compiled in the middle of the fiscal year. Therefore, this may exclude new sites or permits issued subsequent to the billing being compiled.
<b>2. Number of Full Time Equivalent (“FTE”) inspector positions that are employed by the program (FTEs are rounded up to next whole number if over 0.5).</b>	11	10	
<b>3. Does the program use off-site compliance monitoring activities to detect violations? (Office review of submissions from the facility/site or information from self-reporting requirements)</b>	Yes	Yes	No off-site record reviews for AQM Registrations or Dry Cleaners; all other program areas conduct off-site record reviews.
<b>4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?</b>	524	576	Numbers for AQM off-site reviews performed includes rounded/estimated amounts as not all programs gathered these types of statistics for FY02 and FY03
<b>5. How many off-site compliance monitoring activities resulted in a Notice of Violation (“NOV”) being issued?</b>	52	30	Numbers for FY02 include letters relating to stipulated penalties owed. Numbers for FY03 are lower than FY02 as issues at General Chemical and Sunoco were resolved via a Consent Order.
<b>6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).</b>	18	51	This number for FY03 is high, resulting from problems at General Chemical.
<b>7. How many on-site compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).</b>	530	380	FY03 numbers are smaller as dry cleaner inspections are conducted on a calendar year basis and the 2003 calendar year inspections were conducted at the end of 2003 and will not show up until State FY04. Also, in CY2002, the Motiva Terminal had every truck that entered the facility inspected with amounted to approximately 50 inspections.
<b>8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?</b>	47	59	FY02 data is not complete. Tracking of this information was significantly improved in FY03.
<b>9. How many on-site activities resulted in an NOV being issued?</b>	24	16	
<b>10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?</b>	27	4	FY02 numbers include 12 truck inspections that were turned over to the Environmental Officers for investigation.
<b>11. Does this program have classifications for higher level violations?</b>	Yes	Yes	High Priority Violations only for: Title V, Synthetic Minors, and Asbestos.
<b>12. What type of compliance assistance is offered to the program’s regulated community?</b>	See Comments	See Comments	Provides pre-permit application meetings, phone calls, pre and post inspection meetings, regulatory interpretation guidance, and workshops for Asbestos and Dry cleaning facilities.
<b>13. How many compliance assistance contacts has the program made each year?</b>	See Comments	See Comments	AQM does not currently gather these statistics.
<b>14. Did the program utilize Environmental Officers for criminal investigations?</b>	Yes	Yes	AQM did not utilize EOs for Dry Cleaner inspection program.
<b>15. Unique Aspects of this program</b>	See Comments	See Comments	AQM consist of the following categories of entities regulated: Title V, Synthetic Minors, Natural Minors, Registrations, Asbestos facilities, Dry cleaning facilities and Delivery vessels. The numbers reported for FY02 and FY03 are a combined total for all subcategories.

## Solid Waste Management

Year Program Began: 1974

**Purpose/Mission:** Delaware's Solid Waste Management program implements solid waste compliance activities and enforcement at the sites of solid waste generators and permitted facilities such as landfills, transfer stations, materials recovery and thermal recovery facilities and at approved recycling and composting sites. The solid waste program also implements compliance oversight and enforcement at infectious waste generator sites and infectious waste management facilities. Statewide program oversight and enforcement is attained through the application of regulatory, permitting and enforcement authorities within 7 Del. C. Chapter 60 and the Delaware Regulations Governing Solid Waste.

Program Information	FY02	FY03	Comments
1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)	454	468	
2. Number of Full Time Equivalent ("FTE") inspector positions that are employed by the program (FTEs are rounded up to next whole number if over 0.5).	2.0	2.0	
3. Does the program use off-site compliance monitoring activities to detect violations? (Office review of submissions from the facility/site or information from self-reporting requirements)	Yes	Yes	
4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?	11	17	
5. How many off-site compliance monitoring activities resulted in a Notice of Violation ("NOV") being issued?	2	6	
6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).	1	2	
7. How many <u>on-site</u> compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).	21	23	
8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?	0	2	
9. How many on-site activities resulted in an NOV being issued?	6	6	
10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?	0	1	
11. Does this program have classifications for higher level violations?	No	No	
12. What type of compliance assistance is offered to the program's regulated community?	See Comments	See Comments	Compliance Assistance and outreach to permit applicants; educational materials such as checklists to assist in the permitting process; on-site meetings; and telephone contacts.
13. How many compliance assistance contacts has the program made each year?	See Comments	See Comments	Program does not currently gather these statistics.
14. Did the program utilize Environmental Officers for criminal investigations?	Yes	Yes	
15. Unique Aspects of this program			

## Hazardous Waste Management

Year Program Began: 1980

**Purpose/Mission:** Delaware’s hazardous waste management program, authorized by the United States Environmental Protection Agency (EPA), implements statewide hazardous waste compliance activities and enforcement through the application of regulatory, permitting and enforcement authorities contained within 7 Del. C., Chapters 60 and 63 and *the Delaware Regulations Governing Hazardous Waste* (DRGHW). As an authorized state, Delaware implements its program in a manner consistent with EPA’s, including addressing enforcement actions consistent with EPA’s “1990 RCRA Civil Penalty Policy” (RCPP) and “Hazardous Waste Civil Enforcement Response Policy of March, 1996” (ERP). These policies provide guidance on timely and appropriate enforcement responses, escalation of enforcement actions for lack of compliance achievement, and calculation of gravity based penalties.

Program Information	FY02	FY03	Comments
<b>1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)</b>	1438	1444	
<b>2. Number of Full Time Equivalent (“FTE”) inspector positions that are employed by the program (FTEs are rounded up to next whole number if over 0.5).</b>	3.5	3.5	
<b>3. Does the program use off-site compliance monitoring activities to detect violations? (Office review of submissions from the facility/site or information from self-reporting requirements)</b>	Yes	Yes	
<b>4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?</b>	6	9	
<b>5. How many off-site compliance monitoring activities resulted in a Notice of Violation (“NOV”) being issued?</b>	1	0	
<b>6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).</b>	1	0	
<b>7. How many on-site compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).</b>	67	48	
<b>8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?</b>	1	1	
<b>9. How many on-site activities resulted in an NOV being issued?</b>	13	10	
<b>10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?</b>	1	2	
<b>11. Does this program have classifications for higher level violations?</b>	Yes - 2	Yes - 0	Two sites were identified as Significant Non-Compliers (“SNC”) in FY02, but none were designated for FY03. The designation of SNC is not attached to violations, but rather to a site/facility. Determining if a site is a SNC is based on several factors, including if violations resulted in human exposure to hazardous waste; if the violations substantially deviate from the permit, order, regulatory requirements; or inspections by Environmental Officers.
<b>12. What type of compliance assistance is offered to the program’s regulated community?</b>	See Comments	See Comments	Daily staffing of an information helpline; providing training/workshops addressing compliance requirements, educational materials to assist with explaining requirements; fact sheets for commonly asked questions; onsite compliance assistance visits; auto repair and auto body sector classroom instruction on hazardous waste management; waste minimization training and training other DNREC staff regarding hazardous waste and used oil management.

**Hazardous Waste Management Program, Con't**

<b>Program Information</b>	<b>FY02</b>	<b>FY03</b>	<b>Comments</b>
<b>13. How many compliance assistance contacts has the program made each year?</b>	250	108	These totals do not include telephone, mail, or e-mail contacts.
<b>14. Did the program utilize Environmental Officers for criminal investigations?</b>	Yes	Yes	
<b>15. Unique Aspects of this program</b>	See comments	See comments	The hazardous waste inspection program is conducted through unannounced inspections at the sites of generators and facilities. During SFY02, at the time of the first unannounced inspection 80% of inspected sites were found to be in compliance (This rate cannot be used to infer compliance at uninspected sites). This rate includes all on-site inspections regardless of generator category or permitted status. For those found in noncompliance, enforcement actions were taken. The average number of days required for sites to return to compliance was 31.9. During SFY03, at the time of the first unannounced inspection, 81% of sites were found in compliance (this rate cannot be used to infer compliance an uninspected sites). This rate includes all on-site inspections regardless of generator category or permitted status. For those found not to be in compliance, it required an average of 4.8 days to achieve compliance.

## Underground Storage Tank Management

Year Program Began: 1985

**Purpose/Mission:** The Underground Storage Tank (UST) program issues new tank installation and corrective action work plan approval letters, issues vapor recovery permits, collects annual fees, oversees the permanent closure of underground storage tanks, conducts or oversees the cleanup of leaking underground storage tank sites, handles requests for information on registered and regulated underground storage tank sites, and maintains an extensive database on UST, leaking UST and vapor recovery sites. The UST program ensures compliance with both the UST and vapor recovery federal and state laws and regulations to prevent releases from operating UST systems. This includes ensuring the proper operation and maintenance of leak detection, corrosion protection, overflow, spill, and vapor recovery systems and ensuring that a financial responsibility mechanism is in place at all operating and temporarily out of service UST facilities. The UST program also maintains and enforces a certification program for UST contractors conducting UST removal, retrofit, lining and installation work at UST sites.

Program Information	FY02	FY03	Comments
<b>1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)</b>	3728	3730	
<b>2. Number of Full Time Equivalent (“FTE”) inspector positions that are employed by the program (FTEs are rounded up to next whole number if over 0.5).</b>	6.0	6.0	
<b>3. Does the program use off-site compliance monitoring activities to detect violations? (Office review of submissions from the facility/site or information from self-reporting requirements)</b>	No	No	
<b>4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?</b>	N/A	N/A	
<b>5. How many off-site compliance monitoring activities resulted in a Notice of Violation (“NOV”) being issued?</b>	N/A	N/A	
<b>6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).</b>	N/A	N/A	
<b>7. How many <u>on-site</u> compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).</b>	116	118	These numbers do not include UST closure inspections, retrofit and new UST installation inspections, or inspections by the Environmental Protection Officers.
<b>8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?</b>	110	111	UST regulations do not require certain records be kept on-site. The number above includes letters of deficiency which request additional records and information not at the facility at the time of the inspection.
<b>9. How many on-site activities resulted in an NOV being issued?</b>	14	7	
<b>10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?</b>	1	0	Does not include enforcement actions pending or currently under legal review.
<b>11. Does this program have classifications for higher level violations?</b>	No	No	
<b>12. What type of compliance assistance is offered to the program’s regulated community?</b>	See Comments	See Comments	Quarterly newsletter, on-site meetings, on-site training, telephone and electronic assistance. The UST program has offered trade show and seminar public outreach activities frequently throughout the history of the program.
<b>13. How many compliance assistance contacts has the program made each year?</b>	See Comments	See Comments	The UST Program’s quarterly newsletter, <i>Think Tank</i> , is mailed to over 2000 contacts including all UST owners, operators, contractors and consultants in the UST database. One-on-one compliance assistance contacts are not currently tracked.

**Underground Storage Tank Management Program, Con't.**

<b>Program Information</b>	<b>FY02</b>	<b>FY03</b>	<b>Comments</b>
<b>14. Did the program utilize Environmental Officers for criminal investigations?</b>	Yes	Yes	
<b>15. Unique Aspects of this program</b>	See Comments	See Comments	Deficiency letters in the UST program are often used to acquire records or documentation not kept at the facility location. As a result, potential violations are noted in the letter but never become actual violations and thus do not result in a NOV or other type of enforcement action.

## Aboveground Storage Tank Management

Year Program Began: 2002

**Purpose/Mission:** The aboveground storage tank (AST) program will issue approval letters for new AST installations and corrective action work plan approval letters, issue vapor recovery permits, collect annual fees, oversee the permanent closure of ASTs, conduct or oversee the cleanup of leaking AST sites, handle requests for information on registered and regulated AST sites, and maintain a database on AST and leaking AST sites. The AST program will ensure compliance with the state laws and regulations to prevent releases from operating AST systems. This will include ensuring the proper operation and maintenance of leak detection, corrosion protection, overfill, and spill prevention systems and ensuring that a financial responsibility mechanism is in place at all operating and temporarily out of service AST facilities

Program Information	FY02	FY03	Comments
<b>1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)</b>	3714	3790	The AST program was enacted in 2002 and the regulations will be effective in 2004.
<b>2. Number of Full Time Equivalent (“FTE”) inspector positions that are employed by the program (FTEs are rounded up to next whole number if over 0.5).</b>	N/A	3	The AST program is in the process of being developed and staff are being hired. Since the regulation has not yet been promulgated and no staff hired, there have been no inspections performed.
<b>3. Does the program use off-site compliance monitoring activities to detect violations? (Office review of submissions from the facility/site or information from self-reporting requirements)</b>	No	No	
<b>4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?</b>	N/A	N/A	
<b>5. How many off-site compliance monitoring activities resulted in a Notice of Violation (“NOV”) being issued?</b>	N/A	N/A	
<b>6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).</b>	N/A	N/A	
<b>7. How many on-site compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).</b>	N/A	N/A	
<b>8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?</b>	N/A	N/A	
<b>9. How many on-site activities resulted in an NOV being issued?</b>	N/A	N/A	
<b>10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?</b>	N/A	N/A	
<b>11. Does this program have classifications for higher level violations?</b>	N/A	N/A	
<b>12. What type of compliance assistance is offered to the program’s regulated community?</b>	See Comments	See Comments	This program has started compliance assistance efforts with articles in the <i>Think Tank</i> Quarterly Newsletter. Additional compliance assistance will be provided through the Quarterly Newsletter, on-site assistance, workshops and training sessions and meetings with the regulated community.
<b>13. How many compliance assistance contacts has the program made each year?</b>	N/A	N/A	
<b>14. Did the program utilize Environmental Officers for criminal investigations?</b>	N/A	N/A	Criminal authority and referrals will become applicable when the regulations are promulgated.
<b>15. Unique Aspects of this program</b>	See Comments	See Comments	The AST program is currently being developed. This is a state program with no federal requirements associated with it. Therefore, until the state regulations are promulgated, the only compliance requirements are to register the ASTs and cleanup any release from an AST that must be reported to the Department under the Reporting Regulations. The program will have more compliance and enforcement information in future years

## Surface Water Discharges Program (NPDES)

Year Program Began: 1973

**Purpose/Mission:** To protect and enhance the quality of Delaware's waters by regulating discharges into surface waters.

Program Information	FY02	FY03	Comments
<b>1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)</b>	62	60	
<b>2. Number of Full Time Equivalent ("FTE") inspector positions that are employed by the program (FTEs are rounded up to next whole number if over 0.5).</b>	3.0	3.0	
<b>3. Does the program use off-site compliance monitoring activities to detect violations? (Office review of submissions from the facility/site or information from self-reporting requirements)</b>	Yes	Yes	
<b>4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?</b>	See comments	See comments	The NPDES program does not currently gather these statistics. Daily Monitoring Reports (submitted by the facilities) are reviewed by the program as they are received.
<b>5. How many off-site compliance monitoring activities resulted in a Notice of Violation ("NOV") being issued?</b>	See comments	See comments	The NPDES program does not currently gather these statistics.
<b>6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).</b>	See comments	See comments	The NPDES program does not currently gather these statistics.
<b>7. How many <u>on-site</u> compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).</b>	651	632	
<b>8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?</b>	See comments	See comments	The NPDES program does not currently gather these statistics.
<b>9. How many on-site activities resulted in an NOV being issued?</b>	See comments	See comments	The NPDES program does not currently gather these statistics.
<b>10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?</b>	3	1	
<b>11. Does this program have classifications for higher level violations?</b>	See Comments	See Comments	Although the program has classifications for higher level violations, there has only been one major facility in significant non-compliance (as defined by EPA) in the last 24 quarters (six years).
<b>12. What type of compliance assistance is offered to the program's regulated community?</b>	See Comments	See Comments	No formalized compliance assistance offered by the program.
<b>13. How many compliance assistance contacts has the program made each year?</b>	N/A	N/A	No formalized compliance assistance offered by the program
<b>14. Did the program utilize Environmental Officers for criminal investigations?</b>	No	No	
<b>15. Unique Aspects of this program</b>			

## Ground Water Discharges Program

Year Program Began: 1968

**Purpose/Mission:** The Ground Water Discharges program is responsible for overseeing all aspects of the siting, design and installation of on-site wastewater treatment and disposal systems (septics). This is a three step process which includes the site evaluation, the design/permit application, and the construction/installation of the system. The program also regulates holding tanks, spray facilities, and innovative and alternative systems.

Program Information	FY02	FY03	Comments
<b>1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)</b>	3123	3101	FY02 and FY03 numbers indicate the number of new permits issued for on-site systems for the fiscal year. The current estimate of the total number of on-site wastewater treatment and disposal systems in operation state-wide is 70,000.
<b>2. Number of Full Time Equivalent (“FTE”) inspector positions that are employed by the program (FTEs are rounded up to next whole number if over 0.5).</b>	4.0	4.0	
<b>3. Does the program use off-site compliance monitoring activities to detect violations? (Office review of submissions from the facility/site or information from self-reporting requirements)</b>	No	No	
<b>4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?</b>	N/A	N/A	
<b>5. How many off-site compliance monitoring activities resulted in a Notice of Violation (“NOV”) being issued?</b>	N/A	N/A	
<b>6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).</b>	N/A	N/A	
<b>7. How many on-site compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).</b>	1238	1249	These numbers also include on-site inspections for holding tanks, spray facilities, small systems, large systems and innovative and alternative systems.
<b>8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?</b>	See comments	See comments	This information is not currently tracked, but will be in the future.
<b>9. How many on-site activities resulted in an NOV being issued?</b>	51	15	
<b>10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?</b>	15	8	
<b>11. Does this program have classifications for higher level violations?</b>	No	No	
<b>12. What type of compliance assistance is offered to the program’s regulated community?</b>	See comments	See comments	Low interest loan programs through the program’s Financial Assistance Branch; <i>Simply Septics</i> publication; Delaware On-Site Wastewater Recycling Association; outreach/presentations in schools.
<b>13. How many compliance assistance contacts has the program made each year?</b>	400	350	Numbers based on workshop attendees.
<b>14. Did the program utilize Environmental Officers for criminal investigations?</b>	Yes	Yes	
<b>15. Unique Aspects of this program</b>			

## Sediment and Storm Water Management

Year Program Began: 1991

**Purpose/Mission:** To provide for the management of storm water runoff from land development to the extent possible to minimize adverse impacts to state lands and waters.

Program Information	FY02	FY03	Comments
<b>1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)</b>	1031	1232	
<b>2. Number of Full Time Equivalent (“FTE”) inspector positions that are employed by the program (FTEs are rounded up to next whole number if over 0.5).</b>	12	12	Through this program, DNREC delegates inspection authority to authorized agencies at the local level. Those local agencies, through on-site inspections, refer violations to DNREC for the appropriate enforcement action. Of the 12 FTEs, only 1 FTE is an actual DNREC employee, while the other 11 FTEs are housed at the local agency levels..
<b>3. Does the program use off-site compliance monitoring activities to detect violations? (Office review of submissions from the facility/site or information from self-reporting requirements)</b>	Yes	Yes	This program utilizes self-policing inspections. Many agencies under DNREC’s umbrella are required to submit their own inspection reports to DNREC or its delegated agencies for review.
<b>4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?</b>	800	1000	These numbers are based on estimates from averaging statistics in other reports.
<b>5. How many off-site compliance monitoring activities resulted in a Notice of Violation (“NOV”) being issued?</b>	0	0	In this program, the off-site record review activity would not by itself trigger the issuance of a Notice of Violation. The agency requiring the inspection would conduct an on-site inspection if a problem was detected through the off-site records review.
<b>6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).</b>	0	0	
<b>7. How many on-site compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).</b>	3500	4000	These numbers reflect inspections conducted by the delegated agencies.
<b>8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?</b>	See comments	See comments	The program does not currently gather these statistics.
<b>9. How many on-site activities resulted in an NOV being issued?</b>	7	6	
<b>10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?</b>	2	1	
<b>11. Does this program have classifications for higher level violations?</b>	No	No	
<b>12. What type of compliance assistance is offered to the program’s regulated community?</b>	See comments	See comments	This program conducts contractor certification training and certified construction reviewer training.
<b>13. How many compliance assistance contacts has the program made each year?</b>	383	450	
<b>14. Did the program utilize Environmental Officers for criminal investigations?</b>	Yes	Yes	Environmental Officers also investigate sediment discharge complaints under the authority of 7 Del. C. Chapter 60.
<b>15. Unique Aspects of this program</b>	See comments	See comments	The sediment and storm water program is delegated locally through seven agencies. Those agencies all generate inspection reports. DNREC, for the most part, handles issuing enforcement actions when warranted. The figures in this program profile represent both tabulations from the agency reports and DNREC information.

## Accidental Release Prevention

Year Program Began: 1990

**Purpose/Mission:** The purpose of this program is to protect the lives and health of citizens living and working near facilities handling extremely hazardous substances.

Program Information	FY02	FY03	Comments
<b>1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)</b>	105	105	
<b>2. Number of Full Time Equivalent (“FTE”) inspector positions that are employed by the program (FTEs are rounded up to next whole number if over 0.5).</b>	3	3	
<b>3. Does the program use off-site compliance monitoring activities to detect violations? (Office review of submissions from the facility/site or information from self-reporting requirements)</b>	Yes	Yes	
<b>4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?</b>	1	2	
<b>5. How many off-site compliance monitoring activities resulted in a Notice of Violation (“NOV”) being issued?</b>	0	0	If there are questions regarding the facility’s risk management plan when it is submitted for review, the group conducts an on-site inspection. No enforcement is taken until there has been an on-site inspection.
<b>6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).</b>	0	0	If there are questions regarding the facility’s risk management plan when it is submitted for review, the group conducts an on-site inspection. No enforcement is taken until there has been an on-site inspection.
<b>7. How many <u>on-site</u> compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).</b>	29	24	
<b>8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?</b>	2	0	
<b>9. How many on-site activities resulted in an NOV being issued?</b>	2	0	
<b>10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?</b>	2	0	
<b>11. Does this program have classifications for higher level violations?</b>	No	No	
<b>12. What type of compliance assistance is offered to the program’s regulated community?</b>	See comments	See comments	Workshops, public hearings, on-site consultations, on-site presentations, public presentations, visits to our office, and telephone consultations.
<b>13. How many compliance assistance contacts has the program made each year?</b>	8	8	The program does not currently track number of on-site consultations, visits to our office, telephone contacts, or number of attendees at outreach activities.
<b>14. Did the program utilize Environmental Officers for criminal investigations?</b>	No	No	The program has criminal enforcement authority but did not use it for FY02 and FY03.
<b>15. Unique Aspects of this program</b>			The Delaware Accidental Release Prevention Regulation is a performance based regulation. The regulation outlines the requirements and the facility implements the prevention program considering the complexity of the operation, the amount of extremely hazardous substance involved, and the risk. Inspections are subjective and rely heavily on the expertise of the inspector. The program makes extensive use of negotiating skills to achieve compliance.

## Wetlands and Subaqueous Lands

Year Program Began: 1973

**Purpose/Mission:** To implement Delaware's Wetlands Act, Subaqueous Lands Act, and Water Quality Certification Regulations.

Program Information	FY02	FY03	Comments
1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)	350	400	These numbers are estimates as the program does not currently gather these statistics.
2. Number of Full Time Equivalent ("FTE") inspector positions that are employed by the program (FTEs are rounded up to next whole number if over 0.5).	0.5	0.5	
3. Does the program use off-site compliance monitoring activities to detect violations? (Office review of submissions from the facility/site or information from self-reporting requirements)	No	No	
4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?	N/A	N/A	
5. How many off-site compliance monitoring activities resulted in a Notice of Violation ("NOV") being issued?	N/A	N/A	
6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).	N/A	N/A	
7. How many <u>on-site</u> compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).	125	137	
8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?	See comments	See comments	This program does not currently gather these statistics.
9. How many on-site activities resulted in an NOV being issued?	See comments	See comments	This program does not currently gather these statistics.
10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?	7	3	
11. Does this program have classifications for higher level violations?	No	No	
12. What type of compliance assistance is offered to the program's regulated community?	N/A	N/A	
13. How many compliance assistance contacts has the program made each year?	N/A	N/A	
14. Did the program utilize Environmental Officers for criminal investigations?	Yes	Yes	
15. Unique Aspects of this program			

## Beach Preservation Program

Year Program Began: 1972

**Purpose/Mission:** The purpose of the Beach Preservation program is to enhance, protect and preserve public and private beaches of the State, to mitigate beach erosion and to minimize storm damage through the regulatory program.

Program Information	FY02	FY03	Comments
<b>1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)</b>	161	202	Please note: The program regulates all shoreline properties along the Atlantic Ocean coast, between the Delaware/Maryland state line, and Pickering Beach, Delaware. These numbers represent the number of permits and approvals for beach construction in the time periods noted.
<b>2. Number of Full Time Equivalent (“FTE”) inspector positions that are employed by the program (FTEs are rounded up to next whole number if over 0.5).</b>	2	2	
<b>3. Does the program use off-site compliance monitoring activities to detect violations? (Office review of submissions from the facility/site or information from self-reporting requirements)</b>	No	No	
<b>4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?</b>	N/A	N/A	
<b>5. How many off-site compliance monitoring activities resulted in a Notice of Violation (“NOV”) being issued?</b>	N/A	N/A	
<b>6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).</b>	N/A	N/A	
<b>7. How many <u>on-site</u> compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).</b>	See comments	See comments	The program conducts on-site compliance inspections twice weekly along the entire shoreline. As part of the inspections the program does drive-by inspections of each property to make sure that there are no unauthorized construction activities. For those properties that have active approvals or permits, the program visits the sites to ensure compliance with applicable rules and regulations.
<b>8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?</b>	35	16	
<b>9. How many on-site activities resulted in an NOV being issued?</b>	N/A	N/A	NOVs are not issued under this program; only Letters of Warning or Deficiency.
<b>10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?</b>	1	0	
<b>11. Does this program have classifications for higher level violations?</b>	No	No	
<b>12. What type of compliance assistance is offered to the program’s regulated community?</b>	See comments	See comments	The program meets with property owners on a regular basis to inform them of what they need to do to bring their violations into compliance. We occasionally hold workshops regarding program requirements and provide education materials.
<b>13. How many compliance assistance contacts has the program made each year?</b>	See comments	See comments	Although this program does not currently gather these statistics, program staff speaks with approximately 20 property owners, surveyors, developers, or engineers, etc. per day, through phone calls, on-site visits, and scheduled meetings. Additionally, other meetings, calls, etc., relating to dune and beach preservation, construction, and maintenance activities are also handled through the program.
<b>14. Did the program utilize Environmental Officers for criminal investigations?</b>	Yes	Yes	
<b>15. Unique Aspects of this program</b>			

## Brownfields, HSCA Enforcement and Voluntary Cleanup Programs

Year Program Began: 1990

**Purpose/Mission:** The mission of this program is to protect public health, welfare and the environment by investigation and remediating hazardous substance release sites and promoting reuse of such sites.

Program Information	FY02	FY03	Comments
<b>1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)</b>	See Comments	See Comments	Total number of Brownfields, HSCA Enforcement and Voluntary Cleanup Program sites: 594 as of Jan. 2004.
<b>2. How many Full Time Equivalent (“FTE”) inspector positions are employed by the program? (FTEs are rounded up to next whole number if over 0.5)</b>	20	20	Total number of technical compliance staff.
<b>3. Does the program use off-site compliance monitoring activities to detect violations?</b>	N/A	N/A	Beginning in FY04, yes, there will be Operations & Maintenance off-site inspections.
<b>4. If yes to 3 above, how many off-site activities were conducted by the program?</b>	N/A	N/A	
<b>5. How many off-site activities resulted in a Notice of Violation being issued?</b>	N/A	N/A	
<b>6. How many off-site activities resulted in an enforcement action above a Notice of Violation (“NOV”) being issued?</b>	N/A	N/A	
<b>7. How many on-site compliance monitoring activities were performed by the section?</b>	N/A	N/A	
<b>8. How many on-site activities resulted in a Notice of Deficiency or Letter of Warning?</b>	N/A	N/A	
<b>9. How many on-site activities resulted in an NOV being issued?</b>	N/A	N/A	
<b>10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?</b>	N/A	N/A	
<b>11. Does this program have classifications for higher level violations?</b>	N/A	N/A	
<b>12. What type of compliance assistance is offered to the program’s regulated community?</b>	See Comments	See Comments	One-on-one meetings, guidance documents, preparation and review of scope of work documents relating to environmental investigations and cleanup activities, and workshops relating to regulatory requirements.
<b>13. How many compliance assistance contacts has the program made each year?</b>	See Comments	See Comments	Approximately 150 contacts per year, based on 30 technical consulting firms attending various workshops.
<b>14. Did the program utilize Environmental Officers for referral of criminal investigations?</b>	Yes	Yes	
<b>15. Unique Aspects of this program</b>			Through the Brownfields and Voluntary Cleanup programs DNREC works cooperatively with developers and responsible parties to ensure program requirements are met.

## **Pollution Prevention Program**

**Year Program Began: 1990**

**Purpose/Mission:** The purpose of the Pollution Prevention (P2) program is to incorporate the practice of P2 with DNREC activities and operations and to serve as the P2 provider for industry, business, governmental bodies and citizens of Delaware. The P2 program is an independent DNREC program operating within the Office of the Secretary.

<b>Program Information</b>	<b>FY02</b>	<b>FY03</b>	<b>Comments</b>
<b>1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)</b>	See comments	See comments	The universe of the P2 program is any industry, business, government agency and/or citizen of Delaware. Statistics are not currently collected to fully define the program universe.
<b>2. Number of Full Time Equivalent (“FTE”) inspector positions that are employed by the program (FTEs are rounded up to next whole number if over 0.5).</b>	2	2	
<b>3. Does the program use off-site compliance monitoring activities to detect violations? (Office review of submissions from the facility/site or information from self-reporting requirements)</b>	No	No	
<b>4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?</b>	N/A	N/A	
<b>5. How many off-site compliance monitoring activities resulted in a Notice of Violation (“NOV”) being issued?</b>	N/A	N/A	
<b>6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).</b>	N/A	N/A	
<b>7. How many on-site compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).</b>	25	30	The on-site compliance monitoring activities for this program are not designed to detect violations, but rather how the business/agency/industry/citizen can minimize or eliminate pollution at the site.
<b>8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?</b>	N/A	N/A	
<b>9. How many on-site activities resulted in an NOV being issued?</b>	N/A	N/A	
<b>10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?</b>	N/A	N/A	
<b>11. Does this program have classifications for higher level violations?</b>	No	No	
<b>12. What type of compliance assistance is offered to the program’s regulated community?</b>	See comments	See comments	On-site Compliance Assistance visits, Pollution Prevention visits, training, program education/outreach, workshops, and educational materials.
<b>13. How many compliance assistance contacts has the program made each year?</b>	74	3602	These totals (FY02 and FY03) include on-site visits, mailings, and workshop attendance. Information concerning phone and e-mail consultations are not maintained.
<b>14. Did the program utilize Environmental Officers for criminal investigations?</b>	No	No	
<b>15. Unique Aspects of this program</b>	See comments	See comments	The P2 program is non-regulatory and offers compliance and P2 assistance to all applicable entities in Delaware.

## Small Business Assistance Program

Year Program Began: 1995

**Purpose/Mission:** The purpose of the Small Business Assistance program is to help small businesses understand and comply with the requirements of the Clean Air Act. The Small Business Ombudsman is part of the program. The ombudsman acts as an advocate for small businesses interacting with DNREC concerning issues related to regulations and compliance with the Clean Air Act. The program is independent of DNREC's regulatory programs and operates under the Office of the Secretary.

Program Information	FY02	FY03	Comments
<b>1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)</b>	See comments	See comments	The program's universe consists of any small business in the State of Delaware. Small businesses are defined as a business that is: 1) owned or operated by a person employing 100 or fewer individuals, 2) a small business under the Small Business Act; 3) is not a major stationary source, 4) does not emit 50 tons or more per year of any regulated pollutant and emits less than 75 tons per year of all. Statistics are not currently collected to determine the number of businesses that meet the above criteria.
<b>2. Number of Full Time Equivalent ("FTE") inspector positions that are employed by the program (FTEs are rounded up to next whole number if over 0.5).</b>	1	1	
<b>3. Does the program use off-site compliance monitoring activities to detect violations? (Office review of submissions from the facility/site or information from self-reporting requirements)</b>	N/A	N/A	The program is non-regulatory and does not perform compliance inspections to detect violations.
<b>4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?</b>	N/A	N/A	
<b>5. How many off-site compliance monitoring activities resulted in a Notice of Violation ("NOV") being issued?</b>	N/A	N/A	
<b>6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).</b>	N/A	N/A	
<b>7. How many <u>on-site</u> compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).</b>	14	16	These on-site visits are compliance assistance visits and are non-regulatory on-site activities.
<b>8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?</b>	N/A	N/A	
<b>9. How many on-site activities resulted in an NOV being issued?</b>	N/A	N/A	
<b>10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?</b>	N/A	N/A	
<b>11. Does this program have classifications for higher level violations?</b>	N/A	N/A	
<b>12. What type of compliance assistance is offered to the program's regulated community?</b>	See comments	See comments	On-site audits, office consultations, phone/e-mail consultations, workshops/training classes, trade assn meetings, educational materials, and permitting advisory service for permit applicants.
<b>13. How many compliance assistance contacts has the program made each year?</b>	231	245	Totals for FY02 and FY03 include phone, e-mail, site visits and workshops/training classes. Number of attendees was not formally collected.

Small Business Assistance Program, Con't.

Program Information	FY02	FY03	Comments
14. Did the program utilize Environmental Officers for criminal investigations?	No	No	
15. Unique Aspects of this program	See comments	See comments	The SBAP is a non-regulatory program. SBAP offers compliance assistance through various means to small businesses. Small businesses must voluntarily choose to participate in services offered by this program. SBAP also does outreach to small businesses through publications and other types of newsletters, mailings, and flyers.