



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

**ENFORCEMENT AND COMPLIANCE
ANNUAL REPORT**

Covering State Fiscal Year 2004 (7/1/03 to 6/30/04)

Report Issued: February 18, 2005

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I. SECRETARY'S MESSAGE

Fellow Delawareans:

I am pleased to present to you DNREC's second 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. It was compiled from the Delaware Environmental Navigator - **DEN** – which is the Department's dynamic database that brings together core environmental information into one place where it is easily accessible to those within DNREC and the public. Currently it contains a variety of information on 10,980 regulated facilities and is accessed by at least 152 citizens everyday for more than 14 minutes each session. This valuable tool for improving access to information was made possible through the support of the General Assembly which appropriated the essential funding from penalty and general funds.

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 in reducing or recycling 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 Delaware Department of Natural Resources and Environmental Control's ("DNREC's" or "Department's") Enforcement and Compliance Annual Report is to present environmental enforcement and compliance efforts to its regulated community, lawmakers, and the public at large for the preceding State Fiscal Year.

This Annual Report reflects information from DNREC's enforcement and compliance programs from State Fiscal Year 2004 (7/1/03 to 6/30/04). Additionally, for comparative purposes, program information for Fiscal Years 2002 (7/1/01 to 6/30/02) and 2003 (7/1/02 to 6/30/03) is also included in the Appendix to the report.

The information contained in the annual report will enable the public, regulated community and lawmakers to broadly view DNREC's efforts in assuring that regulated entities are complying environmental laws and regulations.

Relationship between DNREC's 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.

The most current version of DNREC's Guide can be found at the following web link:

<http://www.dnrec.state.de.us/dnrec2000/Admin/Enforcement/Guide/CandEGuide.htm>

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 environmental compliance and enforcement of regulated 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 request a meeting of the PAS. 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 federal 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 provides free confidential advice on how to reduce waste generation and improve profitability. This help is available 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 633 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, 179 sites have entered the program; 136 sites are currently undergoing cleanup; and 43 sites have been cleaned up for reuse. This has resulted in the reuse of 1,600+ 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 Office of the Small Business Ombudsman and the Office of Pollution prevention have environmental programs have focused on several program areas that assist regulated parties improve and achieve compliance. Examples are as follows: undertaken a grant program from EPA which self-certifies Auto Body Shops in Delaware. The Auto Body Self-Certification Program is designed to explain to auto body shops the environmental requirements, such as permits, that apply to their businesses in an easy to understand format. The program employs a multi-media approach which informs the businesses of air, waste, and water program requirements. The program uses workshops, workbooks, and a self-certification form to educate the businesses of their compliance requirements. The program also goes a step further by identifying and suggesting ways to improve auto body businesses through energy efficiency and pollution prevention. The program planning began in March, 2003, and has a completion date of March 15, 2005. The auto body shops had until February 15, 2005 to submit permit applications and self-certifications forms to participate in the project.

IV. DEPARTMENTAL SUMMARIES FOR ENVIRONMENTAL REGULATORY PROGRAMS

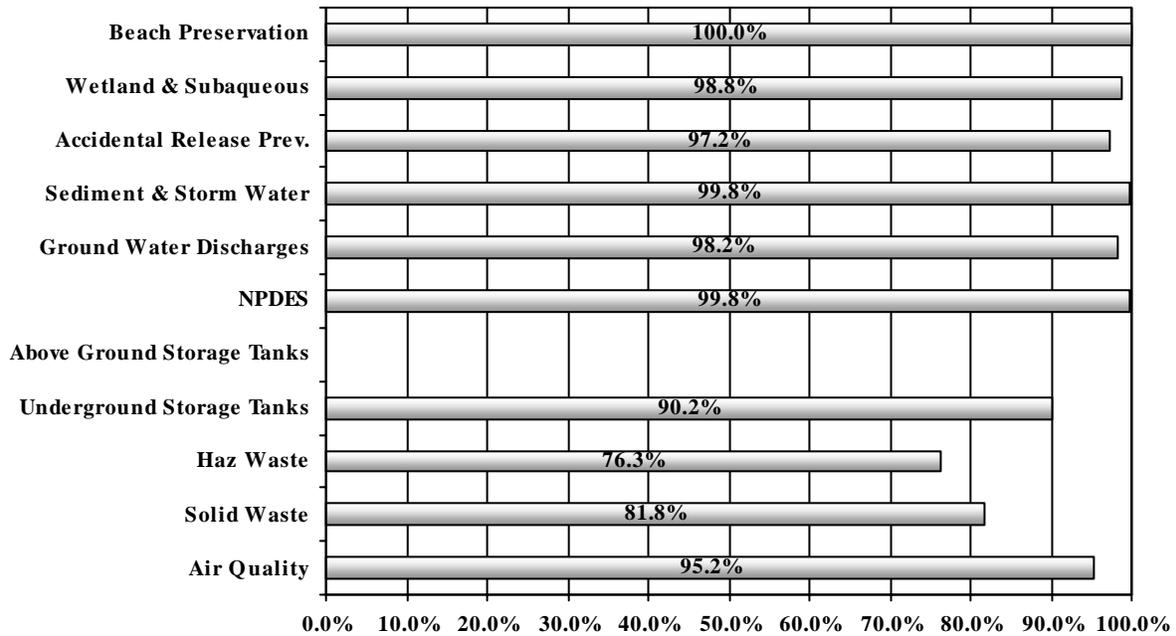
The following charts present basic information about DNREC's environmental regulatory programs in an "at-a-glance" format. These programs conduct various compliance inspections at sites and facilities to detect violations of environmental requirements. The charts reflect information gathered for FY04.¹

The following regulatory programs are highlighted in this section:

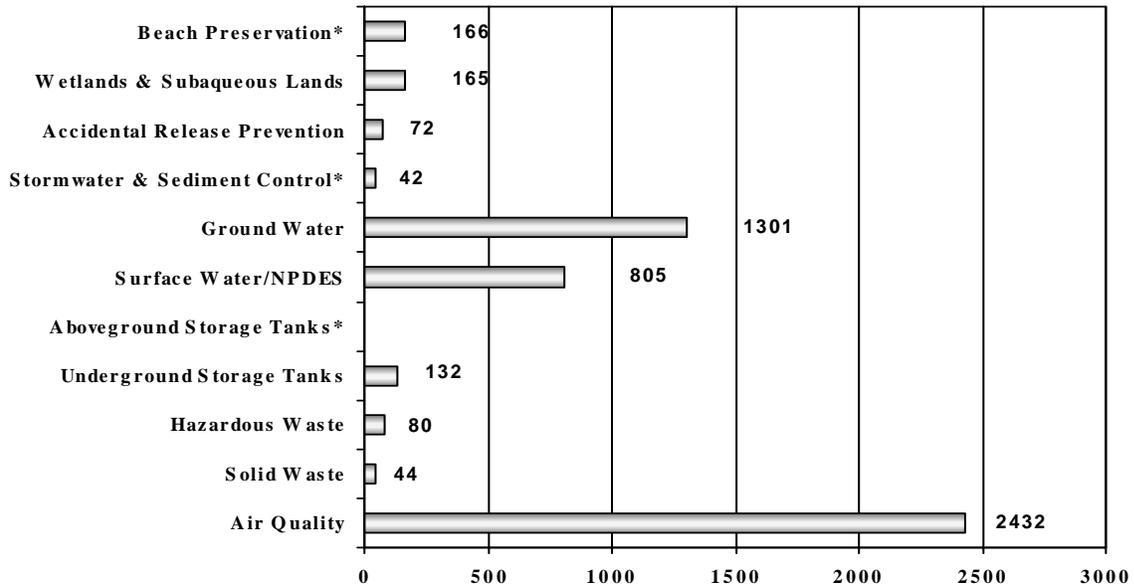
1. Air Quality Management
2. Solid Waste Management
3. Hazardous Waste Management
4. Underground Storage Tank Management
5. Aboveground Storage Tank Management
6. NPDES (Surface Water Discharges)
7. Ground Water Discharges
8. Sediment and Storm Water Management
9. Accidental Release Prevention
10. Wetlands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

¹ Due to the large amount of information gathered from these programs, please see the Appendix section of the Annual Report for detailed information from FY04, FY03, and FY02 for the noted programs.

COMPLIANCE AT TIME OF REVIEW FOR STATE FY04 BY PROGRAM

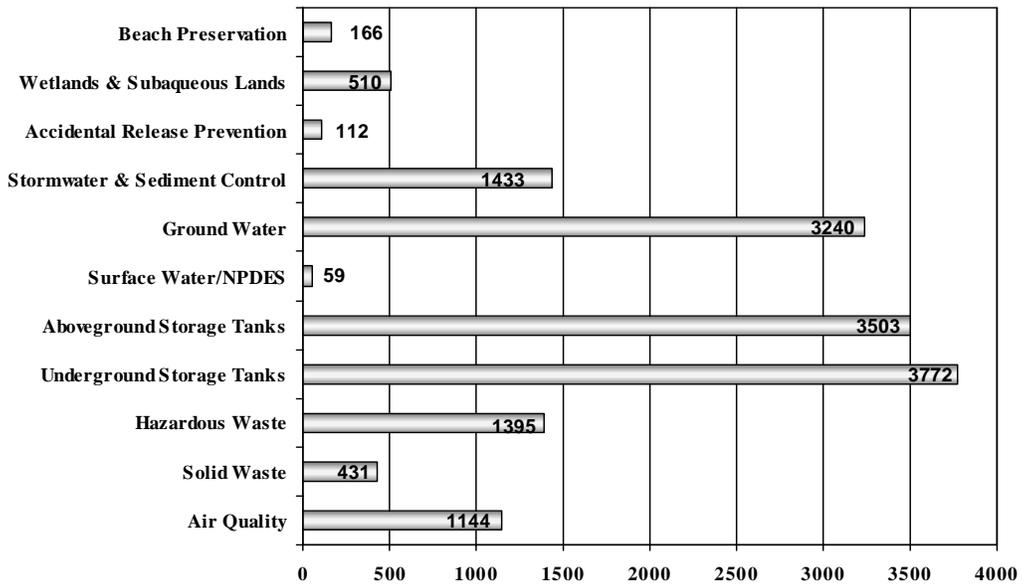


TOTAL NUMBER OF OFF-SITE AND ON-SITE COMPLIANCE INSPECTIONS PERFORMED BY PROGRAM FOR STATE FY04

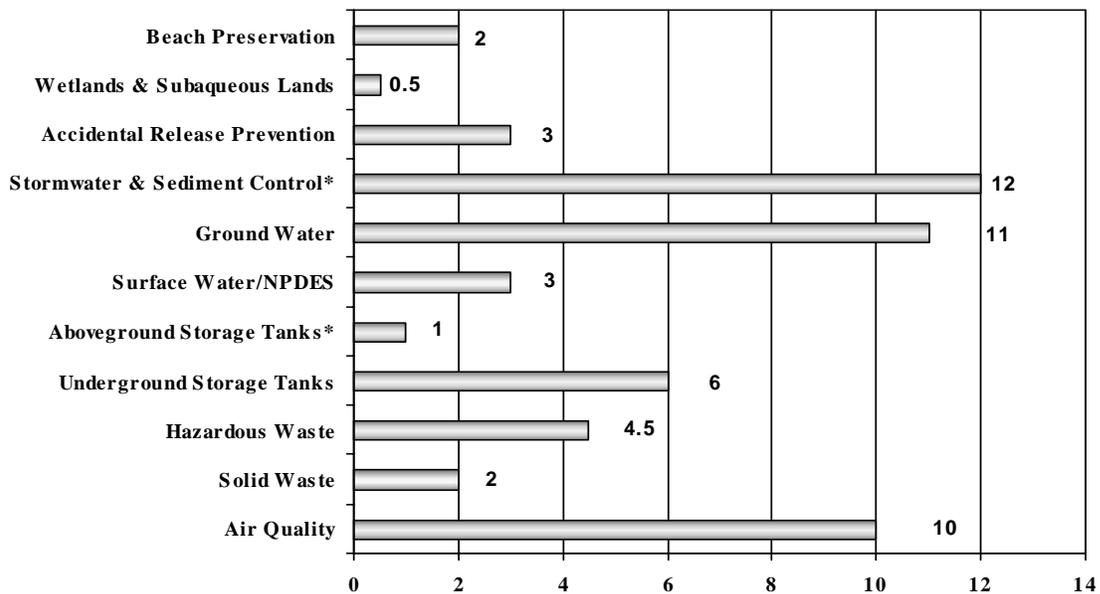


*Please see Appendix Section of the Annual Report for more information regarding the noted programs.

**NUMBER OF FACILITIES / SITES REGULATED FOR STATE FY04
BY PROGRAM**



**FY04 FULL TIME EQUIVALENT (“FTE”) COMPLIANCE INSPECTOR
POSITIONS BY PROGRAM**



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

DNREC MULTI-YEAR COMPLIANCE ANALYSIS
STATE OF DELAWARE FISCAL YEARS 2003 AND 2004
(7/1/02 TO 6/30/03 AND 7/1/03 TO 6/30/04)

	PROGRAM UNIVERSE	TOTAL COMPLIANCE MONITORING ACTIVITIES CONDUCTED	COMPLIANCE MONITORING ACTIVITY AS % OF UNIVERSE	TOTAL ENFORCEMENT ACTIONS FROM THESE ACTIVITIES	COMPLIANCE AT TIME OF REVIEW	
Air Quality						
	FY03	1,033	956	92.5%	101	89.5%
	FY04	1,144	2,432	212.6%	111	95.2%
Solid Waste						
	FY03	468	40	8.5%	15	62.5%
	FY04	431	44	10.2%	8	81.8%
Hazardous Waste						
	FY03	1,444	57	3.9%	12	78.9%
	FY04	1,395	80	5.7%	19	76.3%
Underground Storage Tanks						
	FY03	3,730	118	3.1%	7	94.1%
	FY04	3,772	132	3.5%	13	90.2%
Above Ground Storage Tanks						
	FY03	3,790	N/A	N/A	N/A	N/A
	FY04	3,503	0	N/A	0	N/A
NPDES / Surface Water						
	FY03	60	632	1053.0%	1	99.8%
	FY04	59	805	1364.4%	2	99.8%
Septic /Ground Water Disch.						
	FY03	3,101	1,249	40.3%	23	98.2%
	FY04	3,240	1,301	40.2%	24	98.2%
Sediment and Storm Water						
	FY03	1,232	5,000	405.8%	7	99.9%
	FY04	1,433	5,700	397.8%	10	99.8%
Accidental Release Prevention						
	FY03	105	26	24.8%	0	100.0%
	FY04	112	72	64.3%	2	97.2%
Wetlands and Subaqueous						
	FY03	400	137	34.3%	3	97.8%
	FY04	510	165	32.4%	2	98.8%
Beach Preservation						
	FY03	9,200	478,400	5200.0%	0	100.0%
	FY04	9,200	478,400	5200.0%	0	100.0%

V. ADMINISTRATIVE AND CIVIL ENFORCEMENT ACTIONS

This section of the annual report summarizes the administrative and civil enforcement actions taken by DNREC in FY04. The summary reflects the actions issued in the fiscal year period.

For more detailed information on each of the enforcement actions listed in the summary, please see the Department's Environmental Navigator database at:

<http://www.dnrec.state.de.us/DNRECeis/>

**DNREC ADMINISTRATIVE AND CIVIL ACTIONS ISSUED FOR
STATE OF DELAWARE FISCAL YEAR 2004
(7/1/03 TO 6/30/04)**

	FACILITY / RESPONDENT/ DEFENDANT	COUNTY IN WHICH VIOLATION OCCURRED	ORDER, CIVIL ACTION NUMBER, OR DATE OF SETTLEMENT AGREEMENT	MEDIA / TYPE(S) OF VIOALTIONS	PENALTY AMOUNT PAID	INVESTIGATIVE AND LEGAL COST RECOVERY	ENVIRONMENTAL IMPROVEMENT PROJECT (EIP)
1.	MacDermid, Inc.	New Castle (Middletown)	Notice of Administrative Penalty Assessment and Secretary's Order No. 2003-A-0040	Air Quality	\$27,500.00	\$1,314.62	Y
2.	Kaneka Delaware Corporation	New Castle (Delaware City)	Notice of Administrative Penalty Assessment and Secretary's Order No. 2003-A-0042	Air Quality	\$5,000.00	\$1,980.00	N
3.	USFilter Operating Services, Inc. and City of Wilmington, Dept of Public Works	New Castle (Wilmington)	Notice of Administrative Penalty Assessment and Amended Order No. 2003- A-0043. See also Order No. 2004-W-061 (combined)	Water – NPDES	\$18,000.00	\$3,000.00	Y
4.	Perry Townsend	Sussex (Frankford)	Order to Cease and Desist No. 2003-W-0045	Water- Ground Water/Septic	N/A	N/A	N/A
5.	Air Products and Chemicals, Inc.	New Castle (New Castle)	Notice of Administrative Penalty Assessment and Secretary's Order No. 2003- A-0050 and Settlement Agreement	Air Quality	\$10,000.00	\$1,080.63	Y
6.	The Bentech Group of Delaware, Inc.	New Castle (New Castle)	Notice of Administrative Penalty Assessment and Secretary's Order No. 2003- A-0051	Air Quality	\$3,000.00	N/A	N
7.	New Castle County – Dept of Special Services	New Castle (New Castle)	Notice of Conciliation and Secretary's Order No. 2003- A-0053	Water – NPDES	N/A	N/A	Y
8.	Motiva Enterprises, LLC	New Castle (Delaware City)	Notice of Administrative Penalty Assessment and Secretary's Order No. 2003- A-0055	Air Quality and Accidental Release Prevention	\$100,000.00	N/A	Y

	FACILITY / RESPONDENT/ DEFENDANT	COUNTY IN WHICH VIOLATION OCCURRED	ORDER, CIVIL ACTION NUMBER, OR DATE OF SETTLEMENT AGREEMENT	MEDIA / TYPE(S) OF VIOALTIONS	PENALTY AMOUNT PAID	INVESTIGATIVE AND LEGAL COST RECOVERY	ENVIRONMENTAL IMPROVEMENT PROJECT (EIP)
9.	Power Systems Composites, LLC	New Castle (Newark)	Notice of Administrative Penalty Assessment and Secretary's Order No. 2003- A-0060	Air Quality	\$10,000.00	\$970.43	N
10.	K.C. Burnham & Associates, Inc.	Sussex (Seaford)	Notice of Administrative Penalty Assessment and Secretary's Order No. 2004- W-0001	Water-Ground Water/Septic	Public Hearing requested on 2/17/04 but not scheduled as negotiations are currently on-going. (\$81,000.00)	(\$2,400.00)	N/A
11.	Motiva Enterprises, LLC	New Castle (Delaware City)	Notice of Administrative Penalty Assessment and Secretary's Order No. 2004- A-0003 (and Amended Order No. 2004-A-0025)	Air Quality	\$40,000	\$6,262.00	N
12.	Tilcon Delaware, Inc.	Sussex (Seaford)	Notice of Administrative Penalty Assessment and Secretary's Order No. 2004- A-0008	Air Quality	\$8,500.00	\$1,005.03	Y
13.	Dow Reichhold Specialty Latex, LLC	Kent (Cheswold)	Notice of Administrative Penalty Assessment and Secretary's Order No. 2004- A-0009	Air Quality	\$5,000.00	\$1,940.00	N

	FACILITY / RESPONDENT/ DEFENDANT	COUNTY IN WHICH VIOLATION OCCURRED	ORDER, CIVIL ACTION NUMBER, OR DATE OF SETTLEMENT AGREEMENT	MEDIA / TYPE(s) OF VIOLATIONS	PENALTY AMOUNT PAID	INVESTIGATIVE AND LEGAL COST RECOVERY	ENVIRONMENTAL IMPROVEMENT PROJECT (EIP)
14.	Delaware Solid Waste Authority (Cherry Island Landfill)	New Castle (Wilmington)	Notice of Conciliation and Administrative Penalty Order No. 2004-A-0010	Air Quality and Solid Waste	Public Hearing requested on 3/24/04 but not scheduled as negotiations are currently on-going. (\$135,000.00)	(\$7,515.76)	N/A
15.	Contractor Materials, LLC	New Castle (New Castle)	Notice of Administrative Penalty Assessment and Secretary's Order No. 2004-A-0013 (and Amended Order No. 2004-A-0043)	Air Quality	\$12,250.00	\$1,554.00	N
16.	Hardcore Composites, LLC	New Castle (New Castle)	Notice of Administrative Penalty Assessment and Secretary's Order No. 2004-A-0014	Air Quality	Public Hearing requested on 4/19/04, but not scheduled as company filed for bankruptcy. Pending. (\$45,000.00)	(\$3,021.43)	N/A
17.	Coastal Coatings, Inc.	Kent (Milford)	Notice of Administrative Penalty Assessment and Secretary's Order No. 2004-A-00015	Air Quality	\$5,000.00	\$121.73	N
19.	American Minerals, Inc.	New Castle (New Castle)	Notice of Administrative Penalty Assessment and Secretary's Order No. 2004-A-0016 (and Amended Order No. 2004-A-0045)	Air Quality	\$10,000.00	\$1,601.52	N

	FACILITY / RESPONDENT/ DEFENDANT	COUNTY IN WHICH VIOLATION OCCURRED	ORDER, CIVIL ACTION NUMBER, OR DATE OF SETTLEMENT AGREEMENT	MEDIA / TYPE(s) OF VIOALTIONS	PENALTY AMOUNT PAID	INVESTIGATIVE AND LEGAL COST RECOVERY	ENVIRONMENTAL IMPROVEMENT PROJECT (EIP)
20.	Motiva Enterprises, LLC	New Castle (Delaware City)	Notice of Administrative Penalty Assessment and Secretary's Order No. 2004-A-0024	Air Quality	Public Hearing requested on 5/28/04, but not yet scheduled as negotiations are on-going. (\$157,500.00)	(\$1,437.00)	N/A
21.	Motiva Enterprises, LLC	New Castle (Delaware City)	Notice of Administrative Penalty Assessment and Secretary's Order No. 2004-A-0026	Air Quality	\$80,000.00	\$1869.50	N

TOTAL PENALTIES COLLECTED:			TOTAL COSTS RECOVERED:		
FY02	FY03	FY04	FY02	FY03	FY04
\$893,638	\$875,135	\$334,250.00	\$80,017.68	\$36,149.04	\$22,699.46

TOTAL PENALTIES PENDING RESOLUTION:			TOTAL COSTS PENDING RESOLUTION:		
FY02	FY03	FY04	FY02	FY03	FY04
N/A	N/A	\$418,500.00	N/A	N/A	\$14,374.19

VI. CRIMINAL ENVIRONMENTAL 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. Environmental Officers are empowered by the Department of Justice to prosecute misdemeanor offenses within the Justice of the Peace Courts. Knowingly and negligently cases are prosecuted by Deputy Attorneys General in the Superior Courts with investigative information provided by the Air and Waste Management Enforcement Section.

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 members of the State Emergency Response Team and respond to environmental emergencies and hazardous materials incidents throughout the state on a 24 hour basis.

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

<http://www.dnrec.state.de.us/DNREC2000/Divisions/AWM/EPO/epo.htm>

The following are statistics for FY02, FY03, and FY04 for the Division of Air and Waste Management Enforcement Section:

CRIMINAL ENFORCEMENT ACTIONS AND PENALTY STATISTICS

	Complaints Received	Arrests¹	Criminal Penalties Collected in JP Court	Outreach Hours	Background Investigations
FY04	5089²	440	\$24,435.00	193	63
FY03	6,052³	462	\$16,478.00	198	86
FY02	6,242⁴	327	\$16,705.00	272	279

Note:

1. Arrests are defined as summonses/tickets issued by Environmental Officers. Arrest totals include Voluntary Assessments issued for unclassified misdemeanors.
2. FY04 Complaints Received by Division: Air & Waste 3,909; Water Resources 1,070; Soil and Water 110
3. FY03 Complaints Received by Division: Air & Waste 3,963; Water Resources 1,899; Soil and Water 190
4. FY02 Complaints Received by Division: Air & Waste 5,178; Water Resources 889; Soil and Water 175

VII. ENVIRONMENTAL IMPROVEMENT PROJECTS AND THE DNREC COMMUNITY ENVIRONMENTAL FUND

A. 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 examples of EIPs performed 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.

B. The DNREC Community Environmental Project Fund

The Community Environmental Penalty Fund (CEPF, or “Fund”) was established by House Bill 192. The Fund consists of 25% of all collected penalty moneys collected by the Department of Natural Resources and Environmental Control (DNREC) after the effective date of the Act (February 3, 2004) Moneys from this Fund are available for Community Environmental Projects

("projects"). The Fund is administered by DNREC. According to HB 192, project eligibility has two basic criteria:

1. Environmental Enhancement – Eligible projects include those undertaken for the purpose of effecting pollution elimination, minimization, or abatement, or improving conditions within the environment so as to eliminate or minimize risks to human health. Projects designed to enhance natural resources for the purposes of improving indigenous habitats or the recreational opportunities of the citizens of Delaware are also eligible.
2. Community Effected – Eligible projects must benefit the same community where the infraction(s) or violation(s) occurred that resulted in the civil or administrative penalty.

Eligible applicants include Delaware's civic and community organizations, non-profit organizations, educational institutions, counties, municipal governments, state agencies and quasi-state agencies that represent the community where the infraction(s) or violation(s) occurred that resulted in the civil or administrative penalty.

Preference is given to projects that support the primary goals and objectives of the DNREC. Preference is also given to projects that have demonstrated community participation and support (e.g., volunteer hours, matching funds, donated in-kind services). While not required, projects that involve partnerships with other organizations, showing broad-based support are encouraged.

The Application Form for the Community Environmental Project Fund can also be found at <http://www.dnrec.state.de.us/CIAC>. Any questions regarding projects that have been funded or to submit applications can be directed to the Community Involvement Advisory Council (CIAC) at the following address:

Attention: Karen Garrison, CIAC Administrative Support
Office of the Secretary
Department of Natural Resources and Environmental Control
89 Kings Highway
Dover, DE 19901
(302) 739-4403
Karen.garrison@state.de.us

Some examples of Community Environmental Projects that have been funded are:

Delaware City Community Park District – This was a project to replace aging playground equipment at Dragon Run Park. The metal equipment was installed over forty years ago and is dangerous by current safety standards. The total project cost was \$45,906.62 with twenty five percent of the total, \$11,475.91 coming from the CEPF. The balance of the funding came from a grant from the Delaware Land and Water Conservation Trust Fund.

The First State Community Action Agency – This agency submitted two applications for community clean-up projects in Dover. The projects were the Woodville and Terry Drive Community Clean Up and the Capitol Park Community Clean Up. The two clean up project expenses included dumpster rental, delivery of debris to the landfill and associated tipping fees. A total of \$3850 was provided for these projects.

VIII. 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 Department will be going forward with implementation of the Chronic Violator Regulation in 2005.

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>

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	FY04	Comments
1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)	897	1033	1144	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.
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).	11	10	10	
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	Yes	No off-site record reviews for AQM Registrations or Dry Cleaners; all other program areas conduct off-site record reviews.
4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?	524	576	1888	Numbers for AQM off-site reviews performed during FY02 and FY03 include rounded/estimated amounts as not all programs gathered these types of statistics. Asbestos program information that was not collected previously is included for FY04.
5. How many off-site compliance monitoring activities resulted in a Notice of Violation (“NOV”) being issued?	52	30	35	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. Please note that some NOV’s for violations that occurred during FY04 may still be awaiting issuance.
6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).	18	51	15	This number for FY03 is high, resulting from problems at General Chemical. Please note that some enforcement actions for violations that occurred during FY04 may still be awaiting issuance.
7. How many on-site compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).	530	380	544	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.
8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?	47	59	55	FY02 data is not complete. Tracking of this information was significantly improved in FY03.
9. How many on-site activities resulted in an NOV being issued?	24	16	35	Please note that some NOV’s for violations that occurred during FY04 may still be awaiting issuance.
10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?	27	4	26	FY02 numbers include 12 truck inspections that were turned over to the Environmental Officers for investigation. Asbestos program information that was not collected previously is included for FY04. Please note that some enforcement actions for violations that occurred during FY04 may still be awaiting issuance.

Program Information	FY02	FY03	FY04	Comments
11. Does this program have classifications for higher level violations?	Yes	Yes	Yes	High Priority Violations only for: Title V, Synthetic Minors, and Asbestos.
12. What type of compliance assistance is offered to the program's regulated community?	See Comments	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.
13. How many compliance assistance contacts has the program made each year?	See Comments	See Comments	See Comments	AQM does not currently gather these statistics.

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	FY04	Comments
1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)	454	468	431	The universe includes active solid waste management facilities, beneficial use/recycling approvals and permitted solid waste transporters. FY02 and 03-universe count included non-active recycling approvals.
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	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	Yes	
4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?	11	17	14	
5. How many off-site compliance monitoring activities resulted in a Notice of Violation (“NOV”) being issued?	2	6	1	
6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).	1	2	0	
7. How many on-site compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).	21	23	30	
8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?	0	2	0	
9. How many on-site activities resulted in an NOV being issued?	6	6	6	
10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?	0	1	1	
11. Does this program have classifications for higher level violations?	No	No	No	
12. What type of compliance assistance is offered to the program’s regulated community?	See comments	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.

Program Information	FY02	FY03	FY04	Comments
13. How many compliance assistance contacts has the program made each year?	See comments	See comments	See comments	Program does not currently gather these statistics.
14. Did the program utilize Environmental Officers for criminal investigations?	Yes	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	FY04	Comments
1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)	1438	1444	1395	The universe includes active permitted facilities, large quantity, small quantity, and conditionally exempt small quantity generators and permitted hazardous waste transporters.
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).	3.5	3.5	4.5	
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)	Yes	Yes	Yes	
4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?	6	9	9	
5. How many off-site compliance monitoring activities resulted in a Notice of Violation (“NOV”) being issued?	1	0	0	
6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).	1	0	0	
7. How many on-site compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).	67	48	71	
8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?	1	1	0	
9. How many on-site activities resulted in an NOV being issued?	13	10	17	
10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?	1	2	2	

11. Does this program have classifications for higher level violations?	Yes – 2	Yes – 0	Yes – 2	In FY04 two sites were identified as Significant Non-Compliers (“SNC”). 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.
12. What type of compliance assistance is offered to the program’s regulated community?	See comments	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.
13. How many compliance assistance contacts has the program made each year?	250	108	18	These totals do not include telephone, mail, or e-mail contacts. Outreach to high school students training in automotive repair not offered in FY04.
14. Did the program utilize Environmental Officers for criminal investigations?	Yes	Yes	Yes	
15. Unique Aspects of this program	See comments	See comments	See comments	The hazardous waste inspection program is conducted through unannounced inspections at the sites of generators and facilities. During SFY04, at the time of first unannounced inspection 60 % of inspected sites were found to be in compliance. [†] 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 these sites to return to compliance was 34 days. ^{††} In SFY03 these number were 81% found to be in compliance [†] with an average of a 4.8 day ^{††} return to compliance rate. In SFY02 80% of sites were found to be in compliance [†] at time of first unannounced inspection, with an average return to compliance requiring 31.9 days. ^{††} († This rate cannot infer compliance at uninspected sites.) (†† This rate does not include those sites referred to the Office of the Attorney General.)

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	FY04	Comments
1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)	3728	3730	3772	This number includes 78 sites where vapor recovery permits were issued.
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).	6.0	6.0	6.0	
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)	No	No	No	
4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?	N/A	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	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	N/A	
7. How many on-site compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).	116	118	132	These numbers do not include UST closure inspections, retrofit and new UST installation inspections, or inspections by the Environmental Protection Officers.
8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?	110	111	120	UST regulations do not require certain records be kept on-site. The number above includes request for information letters which request additional records and information not at the facility at the time of the inspection needed to complete a compliance assessment.
9. How many on-site activities resulted in an NOV being issued?	14	7	13	
10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?	1	0	0	Does not include enforcement actions pending or currently under legal review.

Program Information	FY02	FY03	FY04	Comments
11. Does this program have classifications for higher level violations?	No	No	No	
12. What type of compliance assistance is offered to the program's regulated community?	See Comments	See Comments	See comments	Quarterly newsletter, written guidelines, 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.
13. How many compliance assistance contacts has the program made each year?	See Comments	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.
14. Did the program utilize Environmental Officers for criminal investigations?	Yes	Yes	Yes	
15. Unique Aspects of this program	See Comments	See Comments	See comments	Request for information 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	FY04	Comments
1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)	3714	3790	3503	The AST program was enacted in 2002 and the regulations recently became effective in calendar year 2004.
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).	N/A	3	1	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.
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	No	
4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?	N/A	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	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	N/A	
7. How many on-site compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).	N/A	N/A	0	The inspection program is not yet fully operational. Some site visits were conducted; however, full compliance inspections were not performed during FY04.
8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?	N/A	N/A	0	
9. How many on-site activities resulted in an NOV being issued?	N/A	N/A	0	
10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?	N/A	N/A	0	
11. Does this program have classifications for higher level violations?	N/A	N/A	No	

Program Information	FY02	FY03	FY04	Comments
12. What type of compliance assistance is offered to the program's regulated community?	See Comments	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.
13. How many compliance assistance contacts has the program made each year?	N/A	N/A	N/A	
14. Did the program utilize Environmental Officers for criminal investigations?	N/A	N/A	No	
15. Unique Aspects of this program	See Comments	See Comments	See comments	This is a state program with no federal requirements associated with it. The program will have more compliance and enforcement information in future years after full implementation of the program.

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	FY04	Comments
1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)	62	60	59	
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).	3.0	3.0	3.0	
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	Yes	
4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?	See comments	See comments	See comments	The NPDES program does not currently gather these statistics. Monthly Monitoring Reports (submitted by the facilities) are reviewed by the program as they are received.
5. How many off-site compliance monitoring activities resulted in a Notice of Violation (“NOV”) being issued?	See comments	See comments		The NPDES program does not currently gather these statistics.
6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).	See comments	See comments		The NPDES program does not currently gather these statistics.
7. How many <u>on-site</u> compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).	651	632	805	Stormwater = 189; Other NPDES 616.
8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?	See comments	See comments	See comments	The NPDES program does not currently gather these statistics.
9. How many on-site activities resulted in an NOV being issued?	See comments	See comments	See comments	The NPDES program does not currently gather these statistics.
10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?	3	1	2	
11. Does this program have classifications for higher level violations?	See Comments	See Comments	See comments	Although the program has classifications for higher level violations (significant non-compliance) there has only been one major facility in significant non-compliance (as defined by EPA) in the last 28 quarters (seven years).
12. What type of compliance assistance is offered to the program’s regulated community?	See Comments	See Comments	See comments	No formalized compliance assistance offered by the program.

Program Information	FY02	FY03	FY04	Comments
13. How many compliance assistance contacts has the program made each year?	N/A	N/A	N/A	No formalized compliance assistance offered by the program
14. Did the program utilize Environmental Officers for criminal investigations?	No	No	No	
15. Unique Aspects of this program				

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	FY04	Comments
1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)	3123	3101	3240	FY04 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 to 80,000. (1332 construction inspections were made on 2781 systems installed for FY04)
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).	4.0	4.0	11.0	FY04 FTE Breakdown = <u>Small Systems Branch</u> – Dover Office - 2 FTE. 60% permit review 40% inspections; Georgetown Office – 3 FTE 60% permit review 40% inspections; 2 District hires annually for holding tank program only 70% inspections 30% office, 1 District hire annually 75% inspections 25 % field (inland bays only) <u>Large Systems Branch</u> =_Dover Office - 2 FTE 50% Office 50% inspections Georgetown Office - 1 FTE 60% inspections 40% inspections
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	No	
4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?	N/A	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	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	N/A	
7. How many on-site compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).	1238	1249	1301	FY04 Breakdown = 691 Holding tank inspections 290 Alternative system inspections (seasonal help hired to achieve this number) 218 Spray site inspections 190 Large system inspections
8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?	See comments	See comments	See comments	This information is not currently tracked, but will be in the future.

Program Information	FY02	FY03	FY04	Comments
9. How many on-site activities resulted in an NOV being issued?	51	15	23	
10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?	15	8	1	
11. Does this program have classifications for higher level violations?	No	No	No	
12. What type of compliance assistance is offered to the program's regulated community?	See comments	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.
13. How many compliance assistance contacts has the program made each year?	400	350	400	Numbers based on workshop attendees and classes provided by staff.
14. Did the program utilize Environmental Officers for criminal investigations?	Yes	Yes	Yes	
15. Unique Aspects of this program	N/A	N/A	N/A	

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	FY04	Comments
1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)	1031	1232	1433	
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).	12	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.
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	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.
4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?	800	1000	1200	These numbers are based on estimates from averaging statistics in other reports.
5. How many off-site compliance monitoring activities resulted in a Notice of Violation (“NOV”) being issued?	0	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.
6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).	0	0	0	
7. How many <u>on-site</u> compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).	3500	4000	4500	These numbers reflect inspections conducted by the delegated agencies.
8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?	See comments	See comments	See comments	The program does not currently gather these statistics.
9. How many on-site activities resulted in an NOV being issued?	7	6	7	

Program Information	FY02	FY03	FY04	Comments
10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?	2	1	3	
11. Does this program have classifications for higher level violations?	No	No	No	
12. What type of compliance assistance is offered to the program's regulated community?	See comments	See comments	See comments	This program conducts contractor certification training and certified construction reviewer training.
13. How many compliance assistance contacts has the program made each year?	383	450	418	
14. Did the program utilize Environmental Officers for criminal investigations?	Yes	Yes	Yes	Environmental Officers also investigate sediment discharge complaints under the authority of 7 Del. C. Chapter 60.
15. Unique Aspects of this program	See comments	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 FY02 & FY03 figures in this program profile represent both tabulations from the agency reports and DNREC information. The FY04 figures in this program profile represent DNREC information and estimations.

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	FY04	Comments
1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)	105	105	112	
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).	3	3	3	
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	Yes	
4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?	1	2	30	
5. How many off-site compliance monitoring activities resulted in a Notice of Violation (“NOV”) being issued?	0	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.
6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).	0	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.
7. How many on-site compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).	29	24	42	
8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?	2	0	30	
9. How many on-site activities resulted in an NOV being issued?	2	0	1	
10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?	2	0	1	
11. Does this program have classifications for higher level violations?	No	No	No	

Program Information	FY02	FY03	FY04	Comments
12. What type of compliance assistance is offered to the program's regulated community?	See comments	See comments	See comments	Workshops, public hearings, on-site consultations, on-site presentations, public presentations, visits to our office, and telephone consultations.
13. How many compliance assistance contacts has the program made each year?	8	8	23	The program does not currently track number of on-site consultations, visits to our office, telephone contacts, or number of attendees at outreach activities. The number of consultations was higher in FY04 because Risk Management Plan Submissions were due in June 04. These submissions re-occur every five years.
14. Did the program utilize Environmental Officers for criminal investigations?	No	No	Yes	The program has criminal enforcement authority but did not use it for FY02 and FY03.
15. Unique Aspects of this program	See comments	See comments	See comments	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	FY04	Comments
1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)	350	400	510	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	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	No	
4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?	N/A	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	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	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	165	
8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?	See comments	See comments	15	This program did not gather statistics for this time period.
9. How many on-site activities resulted in an NOV being issued?	See comments	See comments	1	This program did not gather statistics for this time period.
10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?	7	3	1	
11. Does this program have classifications for higher level violations?	No	No	No	
12. What type of compliance assistance is offered to the program’s regulated community?	N/A	N/A	N/A	
13. How many compliance assistance contacts has the program made each year?	N/A	N/A	N/A	
14. Did the program utilize Environmental Officers for criminal investigations?	Yes	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	FY04	Comments
1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)	161	202	166	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.
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	2	2	
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	No	
4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?	N/A	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	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	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).	161 (Also See comments)	202 (Also See comments)	166 (Also See comments)	In addition to the inspections performed for permit applicants, 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.
8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?	35	16	33	
9. How many on-site activities resulted in an NOV being issued?	N/A	N/A	N/A	NOVs are not issued under this program; only Letters of Warning or Deficiency.
10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?	1	0	0	
11. Does this program have classifications for higher level violations?	No	No	No	

Program Information	FY02	FY03	FY04	Comments
12. What type of compliance assistance is offered to the program's regulated community?	See comments	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.
13. How many compliance assistance contacts has the program made each year?	See comments	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.
14. Did the program utilize Environmental Officers for criminal investigations?	Yes	Yes	No	
15. Unique Aspects of this program				

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, by mitigating risks posed by the past releases of hazardous substances to the environment. The O & M inspection program has been put in place to ensure that long term controls are in place to ensure that the cleanup actions completed at the site remain protective of human health and the environment over time.

Program Information	FY02	FY03	FY04	Comments
1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)	See Comments	See Comments	70	Total number of Brownfields, HSCA Enforcement and Voluntary Cleanup Program sites: 594 as of Jan. 2004. This is a new inspection program which was initiated in 2003
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)	20	20	1.5	Total number of technical compliance staff. This work has been assigned as an additional duty to an Environmental Engineer currently on staff. It has taken about 30% of his time. DNREC SIRB also employees a part-time (30 hours per week) seasonal EEI to assist in implementing this program.
3. Does the program use off-site compliance monitoring activities to detect violations?	N/A	N/A	Yes	Beginning in FY04, yes, there will be Operations & Maintenance off-site inspections. DNREC generally does not use the term “violations” but rather refers to findings that require action as “not in compliance” items since the performance standards that need to be met are usually site specific per an operation and maintenance plan and/or final plan of remedial action for each individual site.
4. If yes to 3 above, how many off-site activities were conducted by the program?	N/A	N/A	43	All of the inspections involved off-site coordination activities to include a visual inspection of the site. Every inspection begins with a detailed file review by the inspector to determine what items are required and need to be inspected at each site.
5. How many off-site activities resulted in a Notice of Violation being issued?	N/A	N/A	0	
6. How many off-site activities resulted in an enforcement action above a Notice of Violation (“NOV”) being issued?	N/A	N/A	0	Each owner/operator of the property was sent a letter describing the findings of the inspection. If deficiencies were found they were noted and the owner/operator was told what they needed to do to return to compliance and a timeframe to do it in. In few cases, deficiencies were verbally communicated to the owner/operator and letters will follow the upcoming inspections at these sites.

Program Information	FY02	FY03	FY04	Comments
7. How many on-site compliance monitoring activities were performed by the section?	N/A	N/A	43	8 facilities were in compliance at the time of the inspection.
8. How many on-site activities resulted in a Notice of Deficiency or Letter of Warning?	N/A	N/A	35	6 facilities returned to compliance within stated timeframes. 29 facilities have not documented that they have returned to compliance in the stated timeframe.
9. How many on-site activities resulted in an NOV being issued?	N/A	N/A	0	
10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?	N/A	N/A	0	
11. Does this program have classifications for higher level violations?	N/A	N/A	See Comment	If deficiencies are not corrected then DNREC may pursue additional action under HSCA authorities.
12. What type of compliance assistance is offered to the program's regulated community?	See Comments	See Comments	Meetings	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. The inspection and subsequent inspection reports are considered compliance assistance activities. In addition workshops and guidance documents have been distributed to interested parties involved in HSCA activities.
13. How many compliance assistance contacts has the program made each year?	See Comments	See Comments	43	Approximately 150 contacts per year, based on 30 technical consulting firms attending various workshops.
14. Did the program utilize Environmental Officers for referral of criminal investigations?	Yes	Yes	No	
15. Unique Aspects of this program				Through the Brownfields and Voluntary Cleanup programs DNREC works cooperatively with developers and responsible parties to ensure program requirements are met. This program has proved very successful in identifying deficiencies on sites where HSCA cleanup actions were required but never completed.

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.

Program Information	FY02	FY03	FY04	Comments
1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)	See comments	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.
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	2	2	
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	No	
4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?	N/A	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	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	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).	25	30	25	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.
8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?	N/A	N/A	N/A	
9. How many on-site activities resulted in an NOV being issued?	N/A	N/A	N/A	
10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?	N/A	N/A	N/A	
11. Does this program have classifications for higher level violations?	No	No	No	

Program Information	FY02	FY03	FY04	Comments
12. What type of compliance assistance is offered to the program's regulated community?	See comments	See comments	See comments	On-site Compliance Assistance visits, Pollution Prevention visits, training, program education/ outreach, workshops, and educational materials.
13. How many compliance assistance contacts has the program made each year?	74	3602	3555	These totals (FY02 and FY03) include on-site visits, mailings, and workshop attendance. Information concerning phone and e-mail consultations are not maintained.
14. Did the program utilize Environmental Officers for criminal investigations?	No	No	No	
15. Unique Aspects of this program	See comments	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	FY04	Comments
1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)	See comments	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.
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).	1	1	1	
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)	N/A	N/A	N/A	The program is non-regulatory and does not perform compliance inspections to detect violations.
4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?	N/A	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	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	N/A	
7. How many on-site compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).	14	16	63	These on-site visits are compliance assistance visits and are non-regulatory on-site activities.
8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?	N/A	N/A	N/A	
9. How many on-site activities resulted in an NOV being issued?	N/A	N/A	N/A	
10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?	N/A	N/A	N/A	

Program Information	FY02	FY03	FY04	Comments
11. Does this program have classifications for higher level violations?	N/A	N/A	N/A	
12. What type of compliance assistance is offered to the program's regulated community?	See comments	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.
13. How many compliance assistance contacts has the program made each year?	231	245	590	Totals for FY02 and FY03 include phone, e-mail, site visits and workshops/training classes. Number of attendees was not formally collected.
14. Did the program utilize Environmental Officers for criminal investigations?	No	No	No	
15. Unique Aspects of this program	See comments	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.