



**DEM**  
RHODE ISLAND



BUREAU OF ENVIRONMENTAL PROTECTION

# SUMMARY OF COMPLIANCE ASSISTANCE, EMERGENCY RESPONSE & ENFORCEMENT ACTIVITIES





BUREAU OF ENVIRONMENTAL PROTECTION

# 2018 Summary of Compliance Assistance, Emergency Response & Enforcement Activities

- 3** ABOUT THE BUREAU OF ENVIRONMENTAL PROTECTION
- 4** OVERVIEW
- 6** COMPLIANCE ASSISTANCE
  - 14** SPOTLIGHT: STORMWATER CONSTRUCTION GENERAL PERMITS
  - 15** SPOTLIGHT: ELECTRONIC REPORTING
  - 16** SPOTLIGHT: WOOD HEAT COMPLIANCE ASSISTANCE
- 17** RESPONDING TO COMPLAINTS AND EMERGENCIES AND CONDUCTING INSPECTIONS
- 20** ADDRESSING NON-COMPLIANCE THROUGH INFORMAL ENFORCEMENT
- 22** ADDRESSING NON-COMPLIANCE THROUGH FORMAL ENFORCEMENT
- 25** SETTLEMENTS AND APPEALS
  - 27** SUPERIOR COURT ACTIVITY
  - 27** SUPPLEMENTAL ENVIRONMENTAL PROJECTS
  - 28** SPOTLIGHT: SETTLEMENT OF FORMAL ENFORCEMENT CASE
- 31** AROUND THE CITIES AND TOWNS



## About Rhode Island DEM's Bureau of Environmental Protection

The Rhode Island Department of Environmental Management (DEM) Bureau of Environmental Protection is responsible for preventing and minimizing pollution to, monitoring the quality of, and overseeing the restoration of our water, air, and land. The Bureau includes six regulatory offices:

- The Offices of Water Resources (OWR), Air Resources (OAR), and Waste Management (OWM) evaluate applications, issue permits that meet state and federal requirements, and oversee permit compliance.
- The Office of Compliance and Inspection (OC&I) investigates citizen complaints that are within the Bureau's responsibility and is the centralized administrative office for enforcement.
- The Office of Customer and Technical Assistance (OCTA) provides customer services including assistance with permit applications, compliance assistance and public records requests.
- The Office of Emergency Response (OER) provides Rhode Island's first line of defense by responding to spills of oil and chemicals to protect public health and environmental quality.

The DEM's efforts to ensure compliance with State and Federal environmental laws, rules, regulations, and policies are fundamental to fulfilling the public health and environmental protection mission of the Department.

The objectives of the DEM's compliance efforts are:

- To bring about environmental protection through compliance with State and Federal environmental laws and requirements and to address past, present, and future threats to public health and the environment;
- To maximize compliance through enforcement and deterrence, publicize cases, and support of effective efforts by citizens and all levels of government; and,
- To be accountable to the public and regularly report on the enforcement and compliance assistance activities undertaken and measure the results of those activities.

To effectively implement a program to meet these objectives, the DEM recognizes that:

- Our response to violations must be timely, fair, predictable and proportionate to the scope, duration, significance, willfulness and economic advantage gained by violators;
- We must clearly articulate statutory and regulatory requirements, and ensure that they are widely known and understood within the regulated community; and,
- We seek to ensure that there is no economic advantage for violators compared to those who timely comply to create a "level playing field."

Responding to and acting to correct instances of non-compliance helps protect the environment from degradation, protect public health, lead to the restoration of degraded areas, and, through communication, help show the impacts of activities undertaken outside the framework of Rhode Island's laws and regulations. That communication instills an environmental ethic and supports future compliance.



## Overview: 2018 Summary of Compliance Assistance, Emergency Response and Enforcement Activities

The 2018 Summary of Compliance Assistance, Emergency Response, and Enforcement Activities presents information on important work undertaken by the Rhode Island Department of Environmental Management (DEM), including the status and trends of actions taken by the staff within the Bureau of Environmental Protection. The Bureau investigates and inspects sites and operations to determine compliance with environmental laws and regulations, responds to instances of non-compliance to address the issues, and directs a return to compliance. DEM's 2018-2022 strategic plan identified compliance assistance, compliance monitoring and inspections, and efficient and effective enforcement as central to our mission: to protect, restore, and promote Rhode Island's environmental and natural resources to preserve and improve our quality of life.

In 2018, DEM effectively used its resources to make headway toward each aspect of our mission, completing 4,075 compliance monitoring inspections and 1,024 complaint inspections, conducting 773 complaint investigations, responding to 695 spills and releases, continuing active compliance assistance through review of 27 self-certification checklists and 17 return-to-compliance plans for the auto refinishing sector, and improving our internal enforcement processes.

Rhode Islanders count on the DEM to safeguard the air, land and water and to protect public health. Our Ocean State has many habitats and natural communities, including significant rivers, hundreds of lakes, productive coastal lagoons, fresh- and saltwater wetlands, rocky and sandy beaches, and estuarine environments, dominated by Narragansett Bay. The citizens of Rhode Island count on DEM to implement and enforce federal and state environmental laws, and this important work is handled by all six of the offices within our Bureau of Environmental Protection: Compliance and Inspection, Customer and Technical

Assistance, Air Resources, Waste Management, Water Resources, and Emergency Response. Ensuring that municipalities, businesses and citizens achieve compliance with the requirements of state and federal environmental laws and regulations is a core part of the Bureau's goals and central to achieving DEM's mission. Monitoring compliance of regulated entities and activities is a critical function for each office. Enforcement is centralized in the Office of Compliance and Inspection. Importantly, the Bureau works in close collaboration with our federal partner, the U.S. Environmental Protection Agency.

Compliance takes many forms, and over the years, DEM has sought to increase the tools and approaches to this work. While our success is about outcomes – clean air, safe water, healthy communities – we have developed indicators around our activities and outputs that help the Bureau track progress and success. Keep in mind that success is about protecting the environment. Our goal is to work towards compliance and protection, which involves many approaches, including technical assistance, warnings, citations, notices of violation, lawsuits and emergency clean ups and response. From addressing failed septic systems and illegal discharges of pollutants into our waters, to responding to odors or emergency chemical spills, our staff are engaged in important work that affects our communities. Given our limited resources and the large workload, we strive to be consistent and efficient, improve systems and customer service, and prioritize the issues and cases that are most consequential.

We believe effective compliance starts with “eyes and ears in the field.” DEM has established a key performance indicator (KPI) for this, setting an annual goal of conducting at least 5,000 inspections, investigations, or response actions. We have exceeded this goal for each of the past four years. We are using business process improvement tools, including our Lean Government Initiative, to optimize limited staff resources so this number can continue to increase.

The experience and observations of our field staff have

confirmed that the face of our regulated community has changed over time. Typically, companies today are more aware of and committed to their compliance obligations than previously, and many have adopted environmental ethics as corporate policies. Also, public awareness has grown with time. The public reports perceived problems earlier and with clearer detail, which helps us address small issues before they become big problems.

Our tools have evolved as well. Experience in the field has helped us develop responses to achieve compliance, or to put an alleged violator on a solid path to compliance, using our resources efficiently. Advanced compliance assistance programs developed by the Office of Customer and Technical Assistance for the auto body, auto salvage, and underground storage tank sectors have greatly improved awareness and compliance, which can be shown through statistical analysis. Training and professional development programs developed for the operators of wastewater treatment facilities and underground storage tank programs also have shown big benefits. Case studies delving deeper into these approaches are included in this report.

Enforcement tools such as warning letters, informal enforcement actions, and expedited citation notices have helped at identifying problems quickly and facilitating a return to compliance, thus preserving enforcement resources for the most serious cases. Created by statute in 2013 and amended in 2017, the expedited citation notice is a particularly productive tool. It has resulted in over 85% of entities cited returning to compliance and paying an administrative penalty within 60 days.

Instances of serious non-compliance, however, remain. In these cases, we use all the resources at our disposal to correct problems, protect human health and the environment, and assess penalties for flagrant conditions. When it's quantifiable, we assess the economic benefit realized by violating a law and incorporate it into the penalty that is ultimately charged. These cases are complex and resource-intensive, and often take years to resolve through the court systems. In one notably egregious case, our staff, attorneys, and our partners in the Attorney General's Office have made more than 50 appearances in RI Superior Court; that case is still ongoing. In other complex cases, we have worked with municipalities to settle violations of stormwater requirements in a way that forces progress, guarantees investments and makes a difference on this widespread impact on our waters. For these large cases, the investment in staff resources to reach the right outcomes can be immense<sup>1</sup>.

Finally, DEM has developed several KPIs in various aspects of our operations, including compliance and enforcement. Much of the data presented in this report

INSPECTIONS AND INVESTIGATIONS

INFORMAL ACTIONS

FORMAL ENFORCEMENT

reflects these KPIs. Indicators have been set related to the time elapsed until a return to compliance, which is, of course, the objective. We are emphasizing these goals, which are directly related to environmental results, over the simple activity counts that have been the focus of past reports. In these areas, we have set aggressive, but (we believe) achievable, goals. Through these goals, we challenge ourselves to improve. Overall, we are making progress towards meeting these goals; this report offers more detail on our progress. We are confident in our practices and protocols and that with our commitment to continuous improvement, the Bureau of Environmental Protection is showing quantifiable and tangible achievements toward protecting public health and the environment each year.

DEM's programs touch every Rhode Islander. We collaborate with many partners, stakeholders and individuals in our efforts to protect, restore and promote our rich array of natural resources and the places that sustain us. This report provides information on several important aspects of that work. For more information about the Department, please visit our website at [www.dem.ri.gov](http://www.dem.ri.gov).

**In 2018, the Bureau completed the following:**

- 990 complaints received**  
OF ALLEGED ENVIRONMENTAL VIOLATIONS
- 1,024 inspections and 773 investigations**  
PERFORMED IN RESPONSE TO COMPLAINTS
- 4,075 inspections performed**  
TO DETERMINE COMPLIANCE
- 695 emergency response**  
ACTIONS PERFORMED
- 24 inspections performed**  
FOR COMPLIANCE ASSISTANCE FOR CONSTRUCTION GENERAL PERMIT PROJECTS
- 27 self-certification checklists**  
RECEIVED OF AUTO BODY FACILITIES FOR EVIDENCE-BASED COMPLIANCE ASSISTANCE
- 17 return-to-compliance plans**  
RECEIVED FOR AUTO BODY FACILITIES FOR EVIDENCE-BASED COMPLIANCE ASSISTANCE
- 441 informal**  
ENFORCEMENT ACTIONS ISSUED
- 73 formal**  
ENFORCEMENT ACTIONS ISSUED

<sup>1</sup> Exemplified by DEM's enforcement effort against William L. Ricci; see page 28



## Assistance for Environmental Law and Regulation Compliance

Whenever possible, the DEM offers compliance assistance to correct problems and help companies or individuals meet the requirements of environmental laws and regulations. The Office of Customer and Technical Assistance (OCTA) is the lead office to provide compliance assistance; however, all the offices within the Bureau provide some level of compliance assistance. For example, the Office of Waste Management does significant outreach to drive compliance rates for the required replacement of single-wall underground storage tanks.

Environmental laws and regulations can be complex and confusing. Staff assist members of the public, businesses, and other customers to understand and meet the requirements. Compliance assistance is not a substitute for the regulated entity's responsibility to learn and comply with laws and regulations.

However, helping companies and others to follow environmental protection laws is a positive step toward building relationships, establishing trust, and educating our constituencies to the point where they report problems before the problems become violations. Of course, as the number of investigations, inspections, and enforcement actions listed on page 5 indicates, compliance assistance does not replace enforcement when appropriate.

### EVIDENCE-BASED COMPLIANCE ASSISTANCE

One program that has been developed within OCTA to assist companies and facilities attain and maintain compliance with the environmental laws and regulations is the evidence-based Compliance Assistance program.

The program is an integrated, “evidence-based” approach to environmental compliance and performance measurement. It is based on the idea that most companies and individuals will comply with environmental laws and regulations if they are provided with appropriate information and compliance assistance. Facility owners/operators certify to DEM that they are complying with best management practices and regulatory requirements. Following self-certification, a statistically valid number of inspections are conducted to verify compliance among a subset of regulated facilities to determine overall sector performance.

The program has been developed for three regulated sectors—automotive refinishers, auto salvage facilities and underground storage tanks, or USTs, that are used to store petroleum products. DEM has found this approach to be effective.

In 2018, OCTA focused on the automotive refinishers sector.



## AUTOMOTIVE REFINISHING SECTOR

KPIs for hazardous waste, wastewater discharge, and air pollution control continued to show sustained (statistically significant) improvements in industry-wide performance when compared to baseline (2002) conditions before program launch — that is, over a 17-year period. OCTA's overall goal is to sustain and increase voluntary, industry-wide participation and individual facility compliance rates for a majority (>65%) of facilities in the auto body sector.

As of December 2018, 163 auto body self-certification checklists were received from 238 licensed facilities. Also, 70 return-to-compliance plans were submitted from 14 auto body facilities.

## AUTOMOTIVE SALVAGE SECTOR

In 2016, over 80% of the 49 “active” and licensed (by the Department of Business Regulation) auto salvage yard facilities in Rhode Island participated in OCTA's “voluntary” evidence-based program by conducting and submitting results of their own self-inspection and, where appropriate, return-to-compliance plans. In 2017, OC&I and OCTA field staff completed 20 on-site facility inspections (41% of the entire Rhode Island active facility industry sector) of both voluntary participants and nonparticipants. Post-certification compliance performance results for this industry sector in 2017 showed statistically significant and

sustained improvements in facility compliance since the program launch in 2016. Improvements over baseline compliance continued to be found in the areas of refrigerant recovery, lead acid battery storage, mercury switch removal and recycling, and waste oil, wastewater discharge and stormwater management.

## UST SECTOR

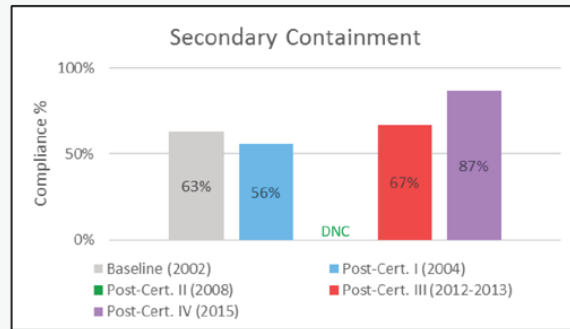
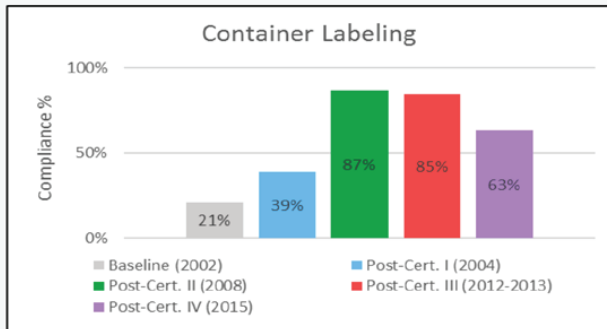
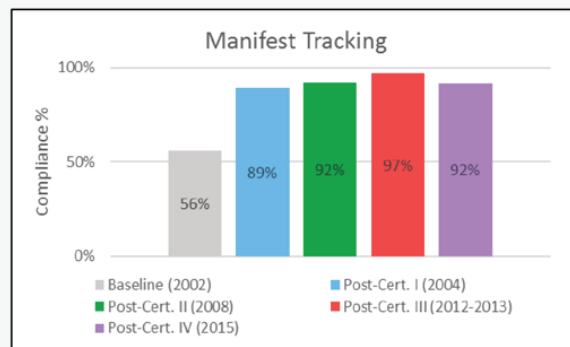
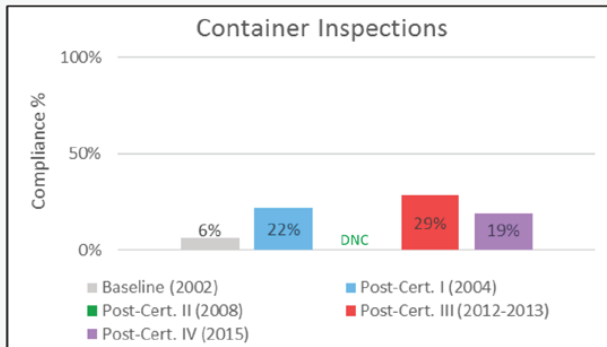
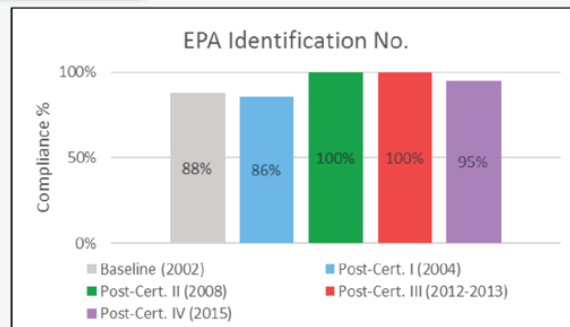
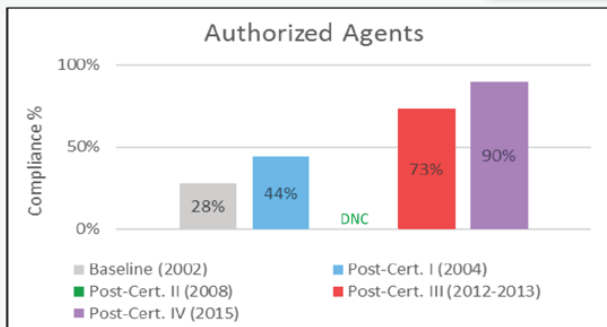
This is a “mandatory” program that requires facilities to self-certify to compliance standards using a comprehensive checklist and workbook developed by the U.S. EPA, DEM, and a group of external stakeholders. At baseline in 2004, there were 1,910 federally-regulated tanks at 608 facilities regulated in Rhode Island. For the last round of this program in 2017, a 97% participation rate was achieved for this sector. Statistically significant improvements in industry compliance continued to be seen over a range of performance indicators including piping leak detection, spill prevention and overflow protection, groundwater monitoring wells and tank corrosion protection. On November 20, 2018, DEM made major changes to the UST regulations (e.g., Stage II) which in turn required changes to the self-certification workbook and checklist — these major modifications were coordinated with OC&I, OWM, and OAR (final versions of the modified workbook and checklist were published in February 2019).

For each of these sectors, KPIs have been developed that show the effectiveness of the program, which are shown on the following pages.

## AUTOMOTIVE REFINISHING SECTOR

### 2018 AUTO BODY ENVIRONMENTAL RESULTS PROGRAM KEY PERFORMANCE INDICATORS

#### Hazardous Waste



Notes: DNC= Data Not Collected  
NA= Not Applicable



## AUTOMOTIVE REFINISHING SECTOR

### 2018 AUTO BODY ENVIRONMENTAL RESULTS PROGRAM

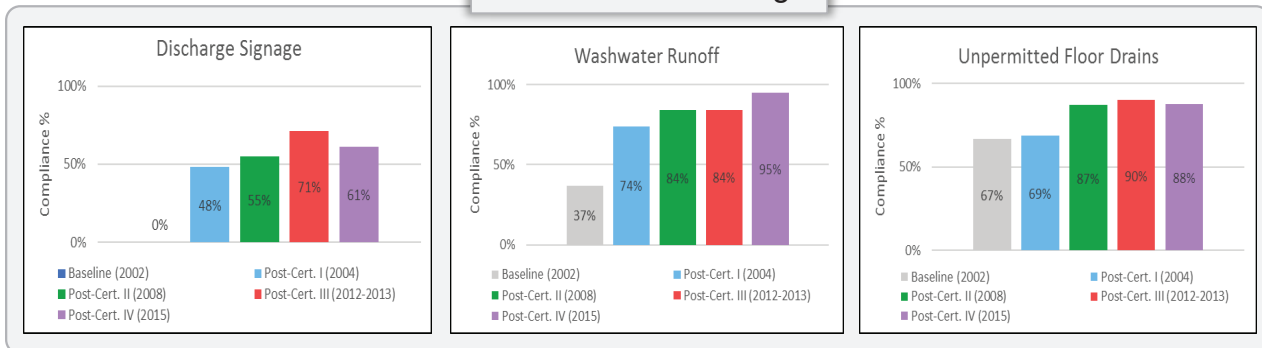
#### KEY PERFORMANCE INDICATORS

#### Air Pollution Control



Notes: HVLP= High Volume Low Pressure

#### Wastewater Discharge



## AUTOMOTIVE SALVAGE SECTOR

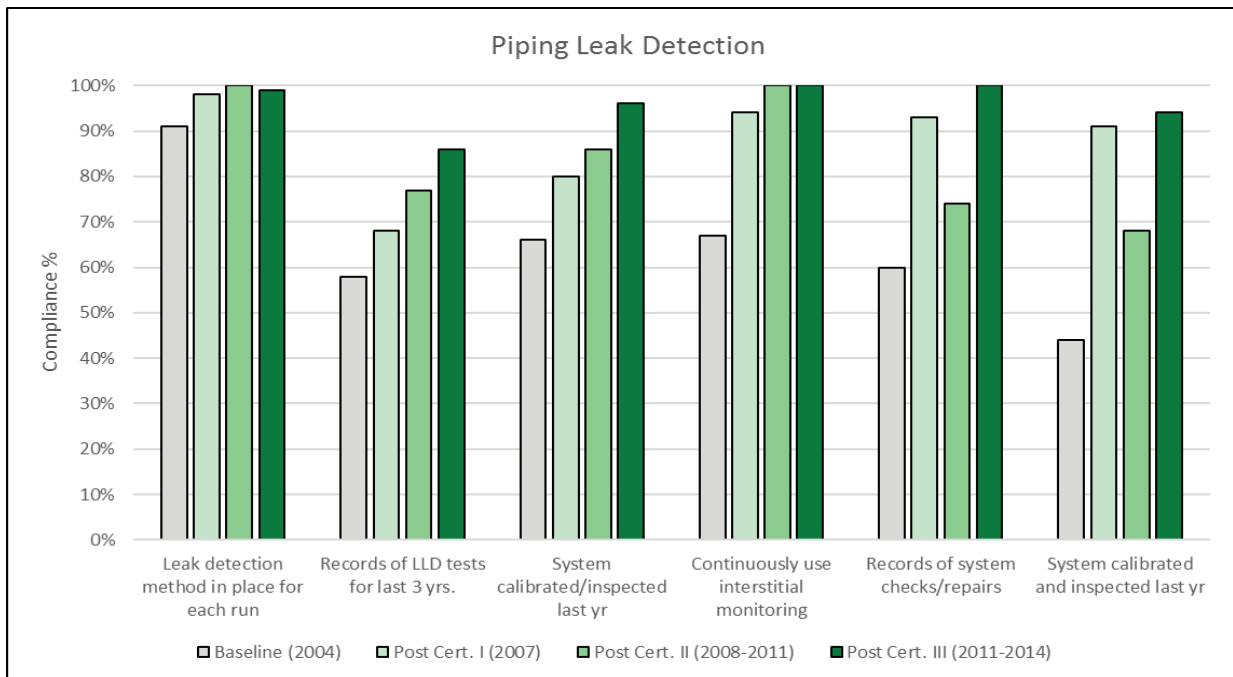
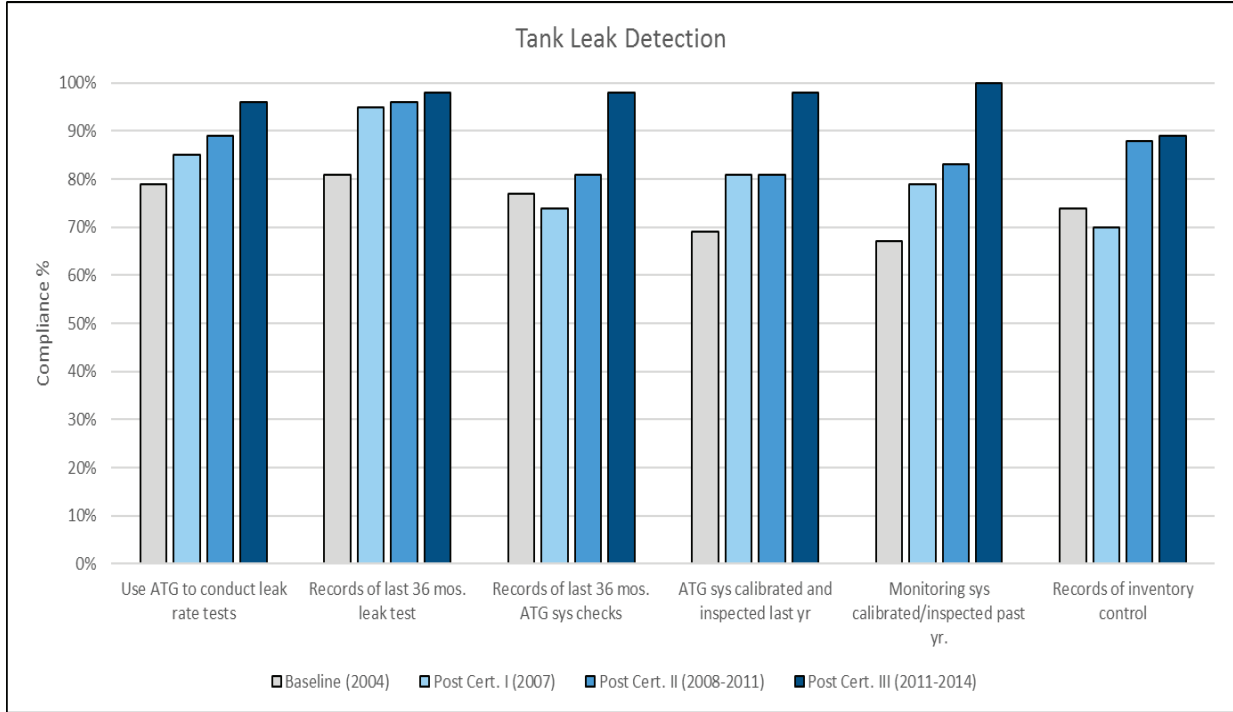
### 2018 AUTO SALVAGE ENVIRONMENTAL RESULTS PROGRAM

#### KEY PERFORMANCE INDICATORS



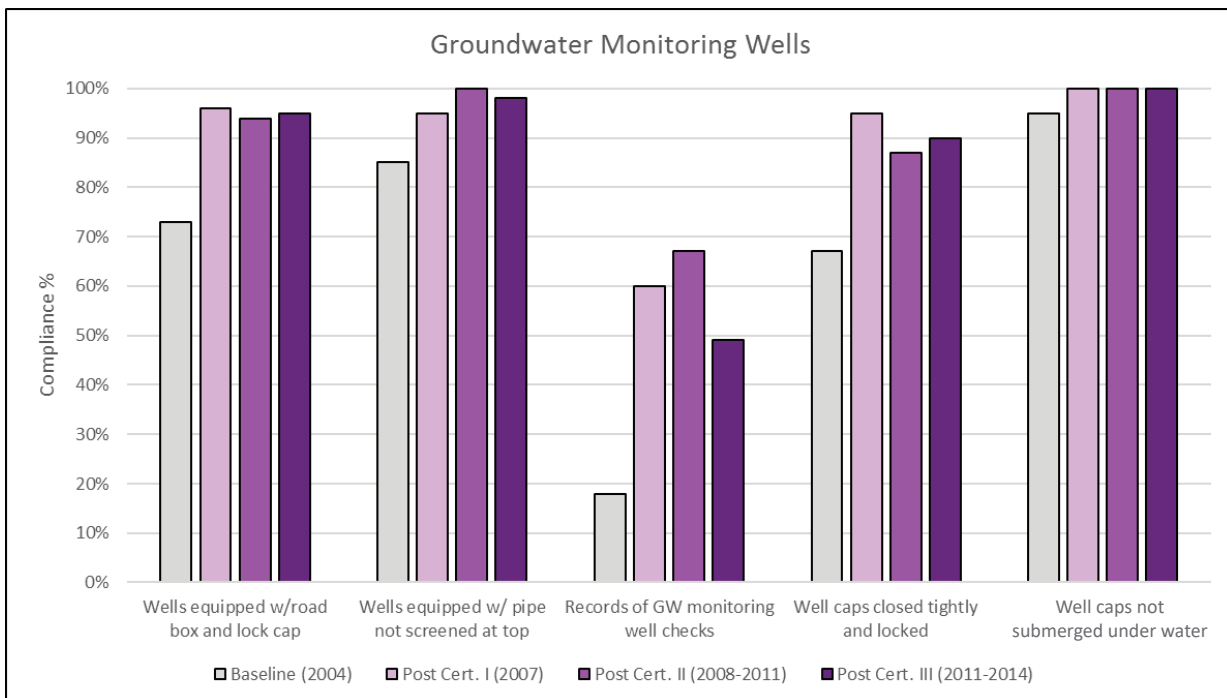
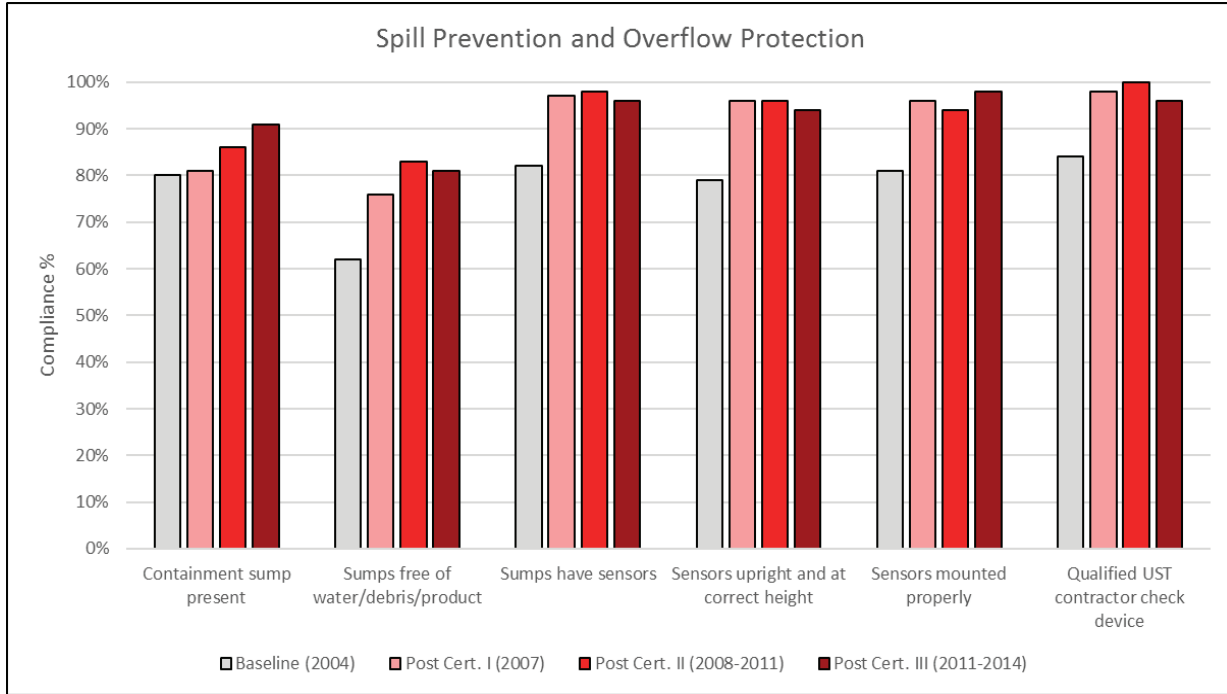
## UST SECTOR

### 2018 SOC RELEASE COMPLIANCE MEASURES STATISTICALLY SIGNIFICANT DATA



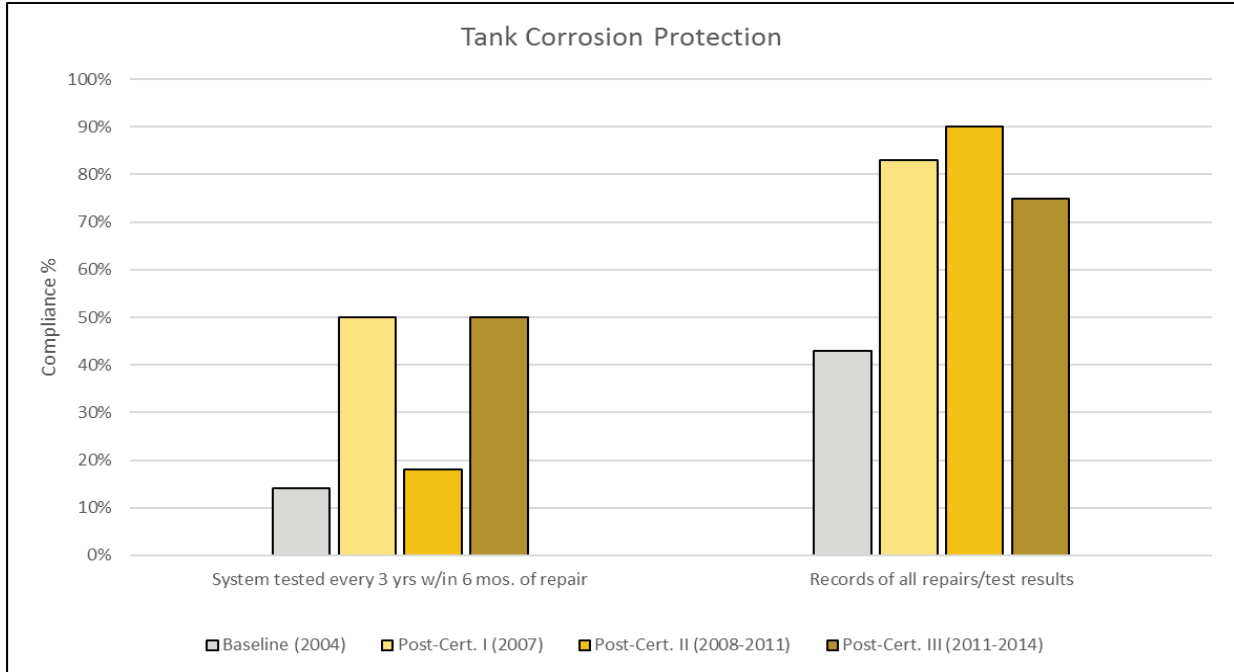
## UST SECTOR

2018 SOC RELEASE COMPLIANCE MEASURES  
STATISTICALLY SIGNIFICANT DATA



## UST SECTOR

2018 SOC RELEASE COMPLIANCE MEASURES  
STATISTICALLY SIGNIFICANT DATA





## SPOTLIGHT: Stormwater Construction General Permits

Using information provided from the Office of Customer and Technical Assistance (OCTA) construction project stormwater reviews along with a growing number of construction projects (especially with development of new solar facilities), DEM developed a policy to provide both assistance and enforcement for these projects.

The Office of Water Resources developed a form and requires that all projects covered under the RIPDES Stormwater Construction General Permit be required to notify DEM at the start of construction.

The notices of construction startups are forwarded to OCTA. OCTA conducts the initial review, using a standard checklist, to ensure that construction projects begin activities in compliance with regulatory requirements. Technical assistance will be offered to correct any deficiencies prior to full construction activities beginning.

The Office of Compliance and Inspection will conduct random and targeted inspections of projects during the construction process. Projects found out of compliance will be subject to enforcement action, including notices of violation and assessment of penalties.



IMAGE TAKEN DURING INSPECTION OF A CONSTRUCTION PROJECT IN COVENTRY WITH INSUFFICIENT DRAINAGE STRUCTURES NEAR WETLANDS.



IMAGE TAKEN DURING INSPECTION OF A CONSTRUCTION PROJECT IN COVENTRY THAT DID NOT INCLUDE REQUIRED EROSION AND SEDIMENT CONTROLS.



## SPOTLIGHT: Electronic Reporting

EPA has published the National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule, which will modernize Clean Water Act (CWA) reporting for municipalities, industries and other facilities. EPA signed the rule on September 24, 2015 and it was published in the Federal Register on October 22, 2015. The rule replaces most paper based NPDES reporting requirements with electronic reporting. Specifically, the rule requires regulated entities to report information electronically, instead of filing written paper reports. These reports include:

- Discharge Monitoring Reports (DMRs)
- Notices of Intent to discharge in compliance with a general permit
- Other specified program reports

Data reported electronically will be made available to the public via the Enforcement and Compliance History Online (ECHO) system. ECHO enables public searches for facilities in local communities to assess their compliance with environmental regulations. It can also help investigate pollution sources, examine and create enforcement-related maps, or explore states' performance.

OWR is a direct user of the EPA Integrated Compliance Information System (ICIS) national data system. OWR's efforts with assistance from EPA to require that permittees input data through the EPA NetDMR system have been highly successful. As of December 2018, 100% of major and minor permittees are submitting DMRs using NetDMR and 75% of general permittees (combination of Multi sector and Non-Contact Cooling Water general permits) have created NetDMR accounts.

GUIDANCES ON E-REPORTING IS AVAILABLE TO PERMITTEES ON DEM'S WEBSITE AT [WWW.DEM.RI.GOV/RIPDESERULE](http://WWW.DEM.RI.GOV/RIPDESERULE)



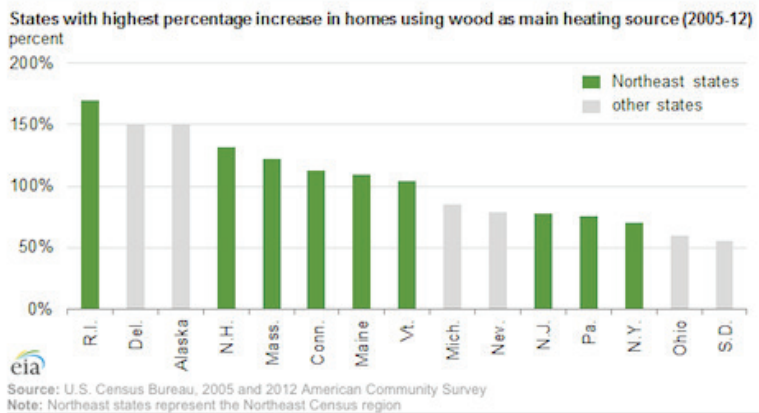
## SPOTLIGHT: Wood Heat Compliance Assistance

In New England many people use wood-burning appliances to heat their home – either as a primary source of heat, as supplemental heat, or for ambiance. Smoke from residential wood heaters contains fine particle pollution along with other pollutants including carbon monoxide, volatile organic compounds (VOCs), black carbon, and air toxics, such as benzene. The particle pollution from residential wood smoke can pose serious health concerns. The fine particles in smoke can get deep into the lungs, harming the lungs, blood vessels and heart. There was a significant (over 150%) increase in using wood as a main source of household heating in RI from 2005 -2012.

On February 3, 2015, the U.S. Environmental Protection Agency (EPA) updated its clean air standards for residential wood heaters to make new heaters significantly cleaner and improve air quality in communities where people burn wood for heat. The updates strengthened the emissions standards for new woodstoves, while establishing standards for previously unregulated new wood heaters, including outdoor and indoor wood-fired boilers (also known as hydronic heaters), indoor wood-fired forced air furnaces, and single burn-rate woodstoves. The new standards govern the manufacture, sale, and operation of new residential wood heating devices including single burn-rate and adjustable burn-rate wood stoves, pellet stoves and furnaces, outdoor and indoor wood boilers, and indoor wood-burning forced air furnaces.

To assist small business who distribute new residential woodstoves, pellet stoves, hydronic heaters and wood-fired forced air furnaces, DEM conducted a

### Increase in wood as main source of household heating most notable in the Northeast



CREDIT: U.S. ENERGY INFORMATION ADMINISTRATION

mailing for the approximately 45 local retailers that outlines compliance responsibilities under these new source performance standards for residential wood heaters. RIDEM also developed factsheets for this mailing, which included a factsheet for Residential Wood and Pellet Stoves<sup>1</sup>, a factsheet for Wood Fired Hydronic Heaters<sup>2</sup>, and a factsheet for Wood Pellet Manufacturers<sup>3</sup>.

In addition, DEM developed a new webpage to provide retailers and manufacturers with additional information to assist with the compliance of these regulations, as well as to educate consumers regarding these new regulations and to encourage them to upgrade their wood burning appliance to a less polluting and healthier option. The new webpage can be found here: <http://www.dem.ri.gov/programs/air/wood-heat.php>.

- 1 <http://www.dem.ri.gov/programs/air/documents/woodstove-fs.pdf>
- 2 <http://www.dem.ri.gov/programs/air/documents/woodheat-fs.pdf>
- 3 <http://www.dem.ri.gov/programs/air/documents/woodmanuf-fs.pdf>





## Responding to Complaints and Emergencies, and Conducting Inspections

Investigation of environmental conditions, including potential violations of environmental laws and regulations, is initiated either after a complaint has been filed by a citizen, company or group, or through a planned compliance monitoring inspection of a regulated entity. The Office of Compliance and Inspection investigates most complaints, although complaints involving permitted facilities or sites are often referred to the permitting office.

Planned compliance monitoring inspections check closely regulated businesses and facilities and permitted sites. In many cases, State laws require businesses and facilities to be licensed by the DEM or to obtain specific detailed conditional approvals. Such businesses and facilities are not allowed to operate unless they obtain these licenses or approvals in advance. In other cases, businesses and facilities may operate provided they comply with specific regulations that set forth criteria that must be met. These businesses and facilities are not generally required to obtain a permit or license to operate. Since the DEM is delegated regulatory authority and given grant money by the U.S. EPA for air pollution, hazardous waste management, water pollution, and UST/LUST facilities, the DEM and the EPA coordinate efforts regarding types and numbers of inspections to be conducted. In many cases, EPA provides federal guidance for

Each DEM employee is trained to conduct professional inspections, following the guidelines described in the DEM's Administrative Inspection Guidelines,<sup>2</sup> to collect complete and accurate information about conditions in the field. The information collected is evaluated to determine if problems exist in the field and is the basis for the decision as to the appropriate Department response.



such inspections and for appropriate and timely enforcement response if compliance is not being met.

DEM's goal is to respond to all complaints in a timely manner, preferably within days of receiving the complaint. However, recognizing the limitations sometimes created by availability of staff or other supporting resources, priority will be assigned to complaints according to the severity of the alleged impact to public health and the environment. Furthermore, complaints involving "real time" or ongoing events will obtain priority investigation when significant environmental problems are alleged or past violations or problems experienced. Multiple complaints on the same problem or continued complaints over time involving the same issue will also obtain priority investigation.

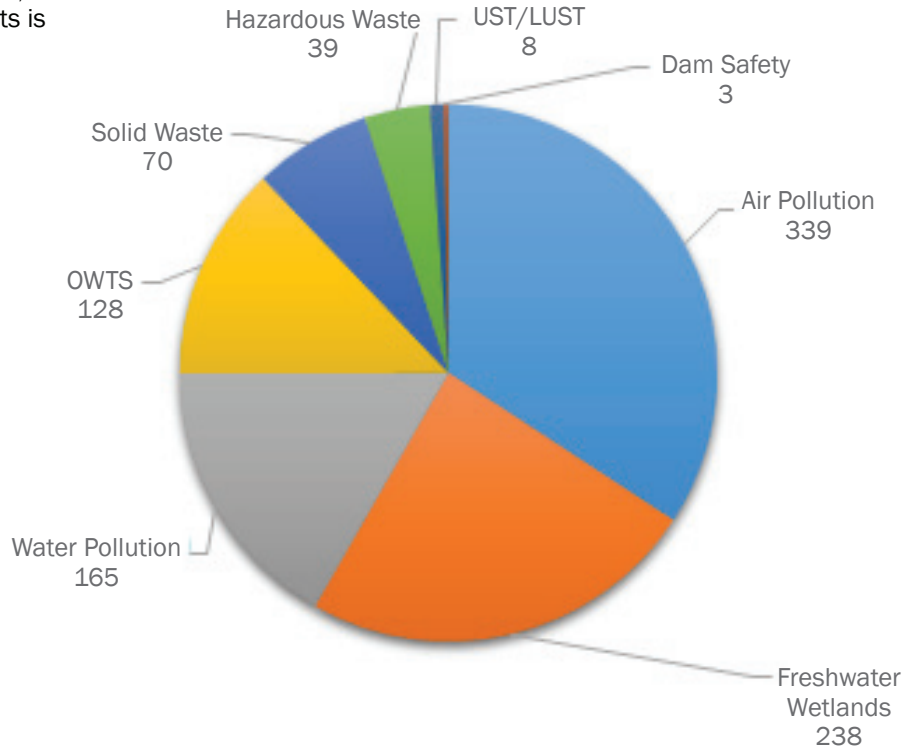
<sup>2</sup> The Guidelines can be found at <https://rules.sos.ri.gov/regulations/part/250-20-00-3>

## RESULTS

As noted earlier, OC&I responds to most complaints received. In 2018, the office received 990 citizen complaints. The complaints received in the other offices are not tracked; however, the number of these complaints is relatively small.

## Complaints Received

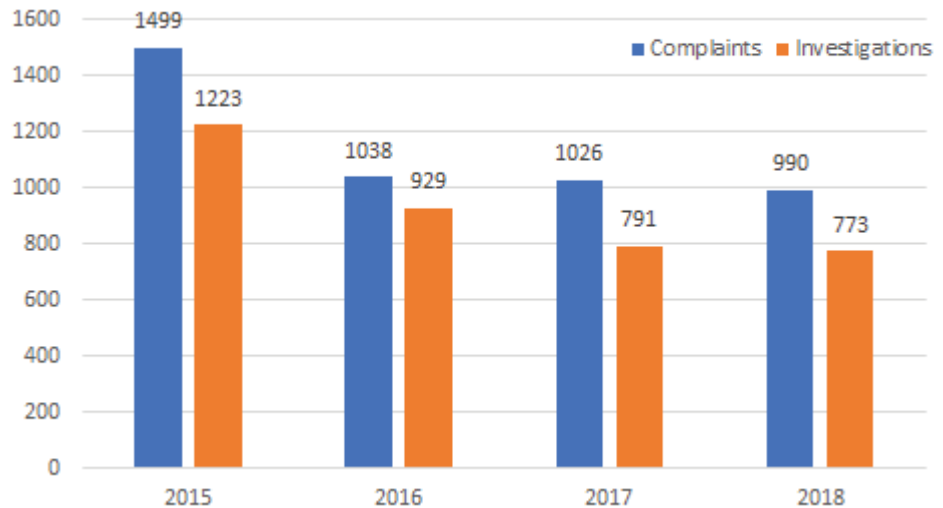
THE NUMBER OF COMPLAINTS RECEIVED BY EACH PROGRAM IN OC&I IN 2018



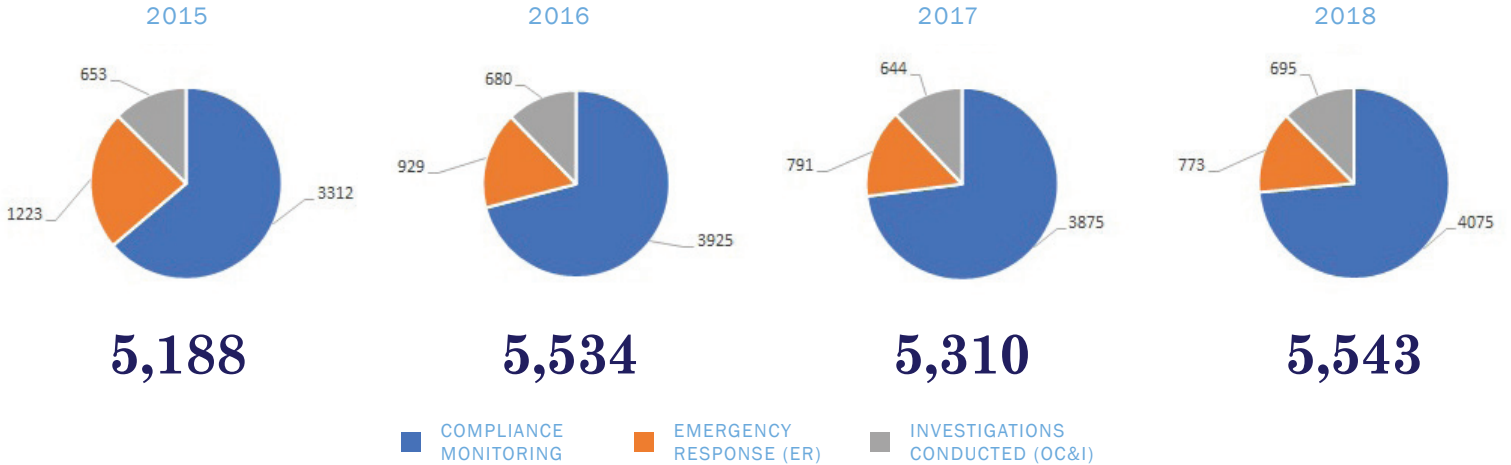
## Complaints And Investigations

THE COMPLAINTS RECEIVED AND INVESTIGATIONS PERFORMED ON THOSE COMPLAINTS FROM 2015 THROUGH 2018

The main difference between the number of complaints filed and the number of investigations conducted reflects situations where DEM receives multiple complaints on the same incident and consolidates them into a single investigation. For example, multiple complaints may be filed around a facility when an odor problem occurs impacting the surrounding community, but DEM will conduct a single investigation of that facility.

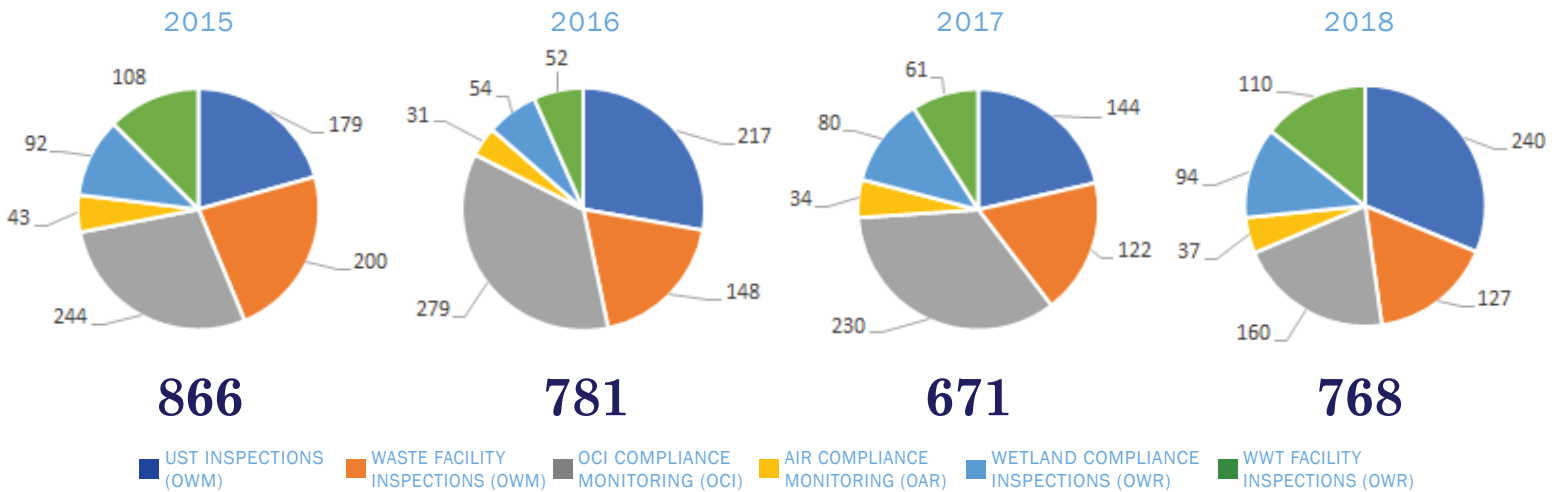


# Inspections, Investigations And Response Actions



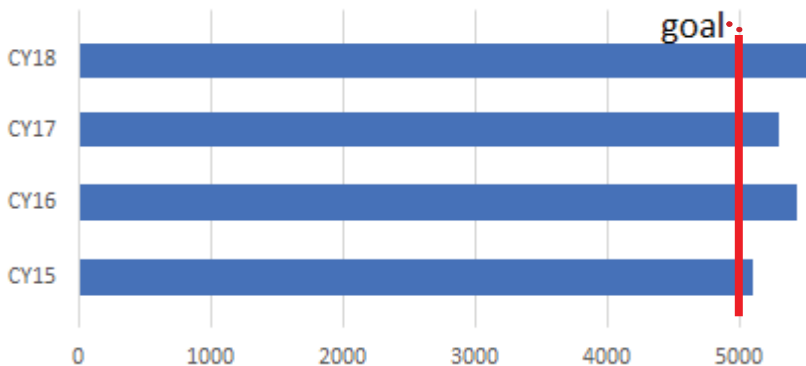
## Compliance Monitoring

(NON-OWTS - ONSITE WASTEWATER TREATMENT SYSTEMS)



## KEY PERFORMANCE INDICATOR

THE NUMBER OF INSPECTIONS, INVESTIGATIONS, AND RESPONSE ACTIONS



Reports on the activities of OC&I Dam Safety Program can be found at [www.dem.ri.gov/programs/complianceandinspection/dam-safety.php](http://www.dem.ri.gov/programs/complianceandinspection/dam-safety.php).

For the Office of Emergency Response these are response actions. The activities of OER are summarized in the Oil Spill Prevention, Administration and Response, or OSPAR, reports and can be found at [www.dem.ri.gov/programs/emergencyresponse/ospar-reports.php](http://www.dem.ri.gov/programs/emergencyresponse/ospar-reports.php).

## 2018 Inspections Performed By Office

- 1,184 .....OFFICE OF COMPLIANCE AND INSPECTION
- 695 .....OFFICE OF EMERGENCY RESPONSE
- 37 .....OFFICE OF AIR RESOURCES
- 367 .....OFFICE OF WASTE MANAGEMENT: UNDERGROUND STORAGE TANKS (UST), SOLID WASTE (SW)
- 3,307.....OFFICE OF WATER RESOURCES: SEPTIC/ONSITE WASTEWATER TREATMENT SYSTEMS (OWTS), UNDERGROUND INJECTION CONTROL (UIC)
- 204 .....OFFICE OF WATER RESOURCES: WASTEWATER TREATMENT FACILITIES (WWTF), FRESHWATER WETLANDS (FFW)
- 24 .....OFFICE OF CUSTOMER & TECHNICAL ASSISTANCE: (CGP)



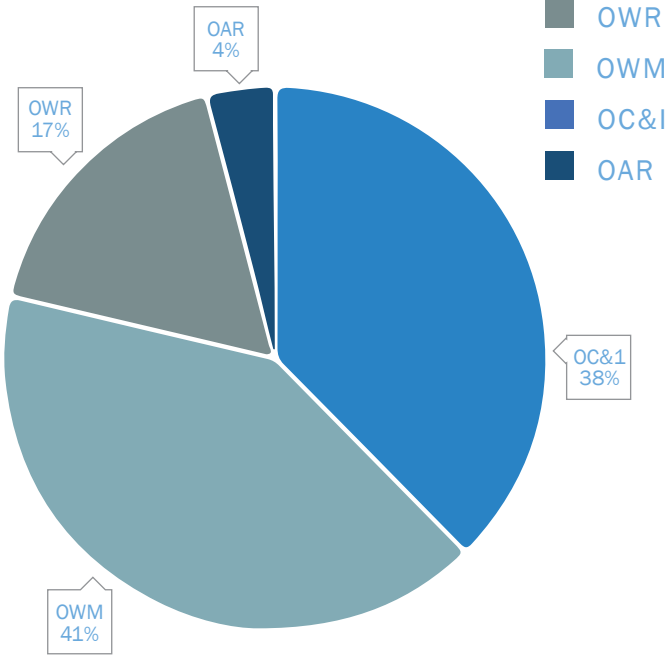
## Addressing Non-Compliance Through Informal Enforcement

Many instances of non-compliance can be corrected, and historically have been corrected, through the issuance of informal enforcement actions such as letters of non-compliance, warning letters, and notices of intent to enforce.

It is the DEM's policy to provide responsible parties opportunities to correct their problems and come into compliance under the terms of an informal enforcement action unless criminal conduct is suspected, circumstances justify an immediate compliance order, or conditions justify immediate escalation to a formal enforcement action.

Absent these criteria, we issue an informal enforcement action. To set a desired pace towards compliance, it is the goal that resolution of 75% of informal enforcement actions be completed **no later than 120 days from the date of issuance** except in wetland restoration cases where planting seasons limit full compliance in 120 days.

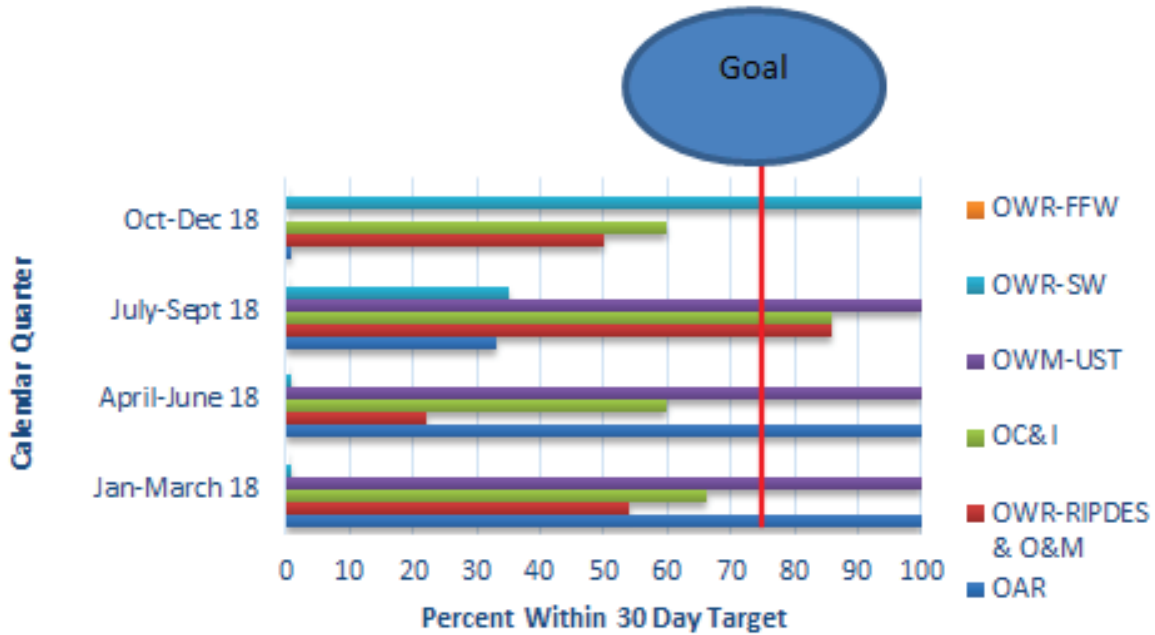
### Informal Enforcement Actions Issued



Actions Issued By Office	166	76
	COMPLIANCE AND INSPECTION	OFFICE OF WATER RESOURCES
	181	18
	OFFICE OF WASTE MANAGEMENT	OFFICE OF AIR RESOURCES

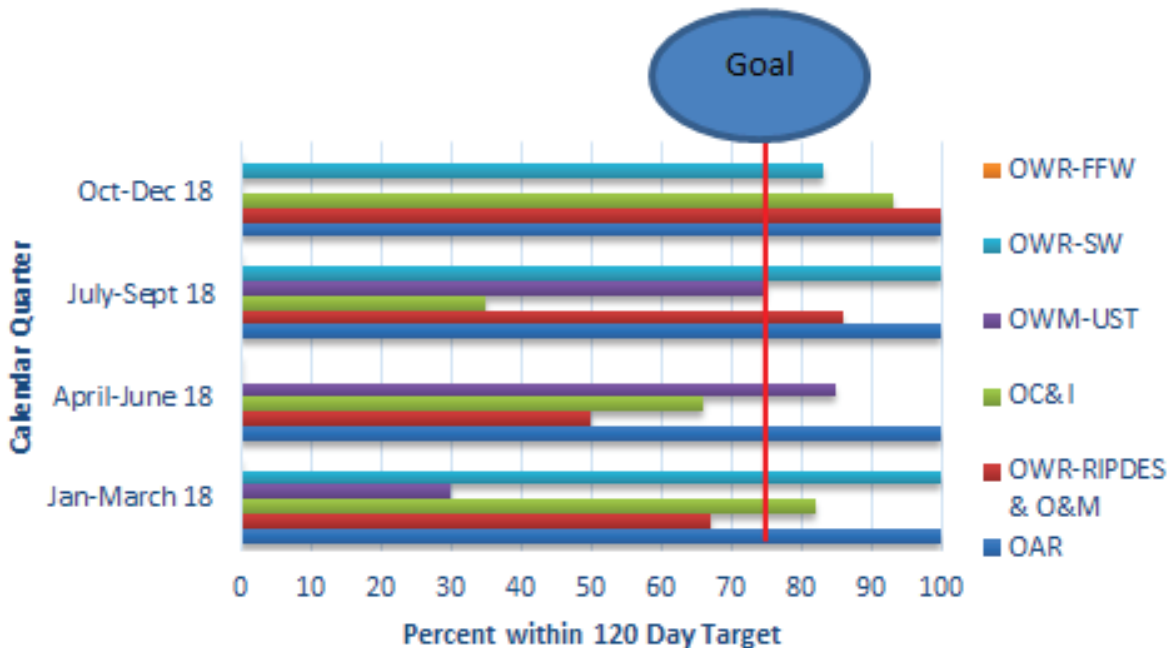
# Key Performance Indicator

## TIME TO ISSUE INFORMAL ACTION



# Key Performance Indicator

## INFORMAL NOTICE ISSUED-COMPLIANCE MET



Except in cases of suspected criminal conduct, circumstances justifying an immediate compliance order, or immediate escalation to a formal enforcement action, DEM can typically correct non-compliance through informal enforcement actions against responsible parties. Our performance goals are to issue an informal action, such as a warning letter, within 30 days 75 percent of the time, and for non-compliance to be corrected within 120 days of the issuance of the action 75 percent of the time.



## Addressing Non-Compliance Through Formal Enforcement

When formal enforcement is the appropriate next step, OC&I begins taking an action to address the non-compliance. Formal enforcement includes an order or penalty or both.

The two forms of formal enforcement action issued by OC&I are a Notice of Violation (NOV) and Expedited Citation Notice (ECN).

A NOV cites the law, rule, regulation, license, permit and/or order alleged violated, states the facts which form the basis for the department's assertion that a violation has occurred, and assesses an administrative penalty and other relief deemed appropriate. The NOV specifies a reasonable deadline or deadlines for the person to come into compliance with the order in the NOV. A NOV may allow a person to submit a written proposal setting forth how and when that person proposes to achieve compliance. A NOV informs the person of his or her right to file a timely written request for an adjudicatory hearing on either the alleged violation or the penalty, remedy imposed, or both.

A NOV is as important for the alleged violator as it is for DEM. It is through the NOV that DEM ensures that the alleged violator can exercise their due process rights.

The target for issuance of a high priority NOV is 45 days or less. And for all other NOVs, the target is 90% of the actions within 90 days from the date OC&I decides to issue a NOV or the date a case is referred to OC&I from one of the other offices. OC&I coordinates its efforts with other DEM offices and, where applicable, U.S. EPA.

As noted previously, in 2013, legislation was enacted to allow DEM to issue an ECN. An ECN is similar to a NOV in that it advises the party/parties of the alleged facts that support the violation and the statutes and regulations that are alleged to have been violated. It can include requirements to meet compliance, but



it cannot order corrective action. It always includes an administrative penalty, which is developed in accordance with the Rhode Island Code of Regulations titled Rules and Regulations for the Assessment of Administrative Penalties (250-RICR-130-00-1). Unlike a NOV, the party/parties do not have a right of appeal; however, the ECN cannot be recorded on the title for the property and the ECN expires after 60 days. Failure to respond to an ECN is deemed as exercising the right to opt out. After that time, if the party/parties have not complied with the ECN, DEM can issue a NOV. The party/parties issued an ECN have the right to request a NOV. In 2017, the law was amended to allow DEM to issue an ECN with penalties up to \$5,000.

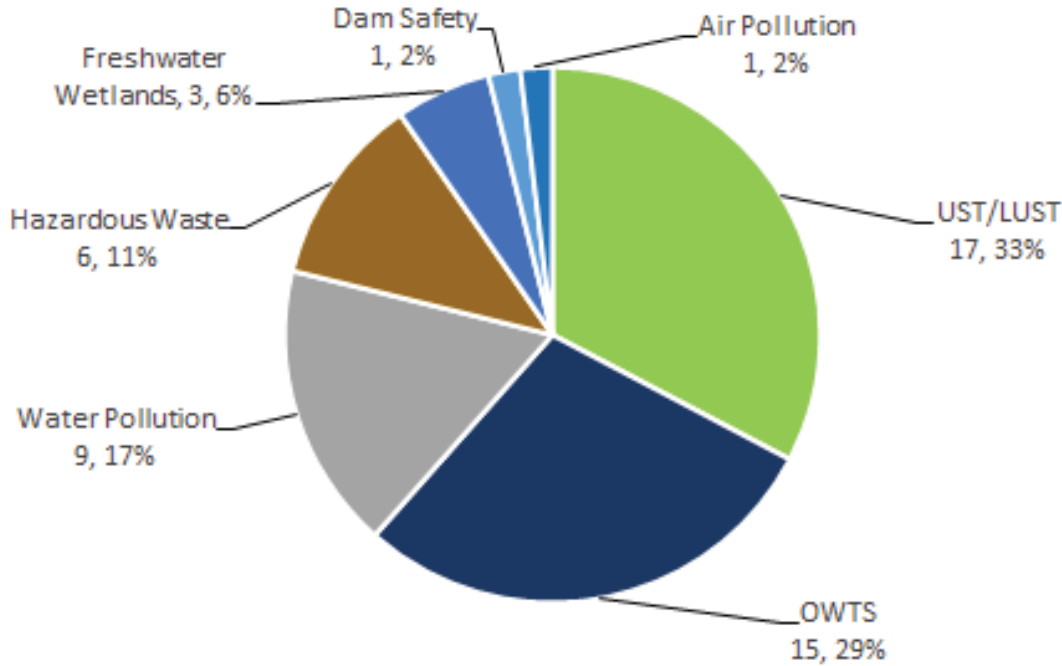
The target for issuance of an ECN is 14 days from the date OC&I decides to issue an ECN or the date a case is referred to OC&I from one of the other offices.

In 2018, OC&I issued 52 NOVs. Each NOV can involve more than one program. Overall, 17 were for underground storage tank violations, 15 were for septic system (OWTS) violations, 9 were for water pollution violations, 6 were for hazardous waste violations (which include site remediation and commercial oil pollution violations), 3 were for freshwater wetland violations, 1 was for dam safety violations, and 1 was for an air pollution violation.

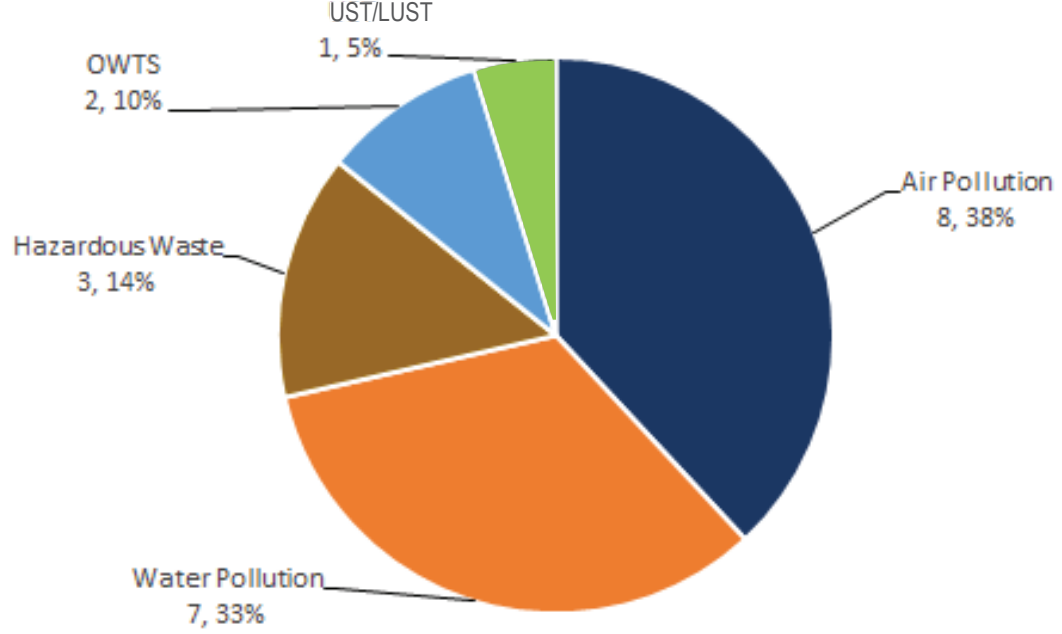
# FORMAL ENFORCEMENT

In 2018, OC&I issued 21 ECNs. Overall, 8 were for air pollution violations, 7 were for water pollution violations, 3 were for hazardous waste violations (which includes site remediation and commercial oil pollution violations), 2 were for OWTS violations, and 1 was for underground storage tank (UST) violations. As its name suggests, the ECN expedites correcting and enforcing non-compliance. It's an important tool leading to a timely, fair, and proportional result in certain cases.

THE NUMBER OF NOTICE OF VIOLATIONS (NOV) ISSUED FOR EACH PROGRAM

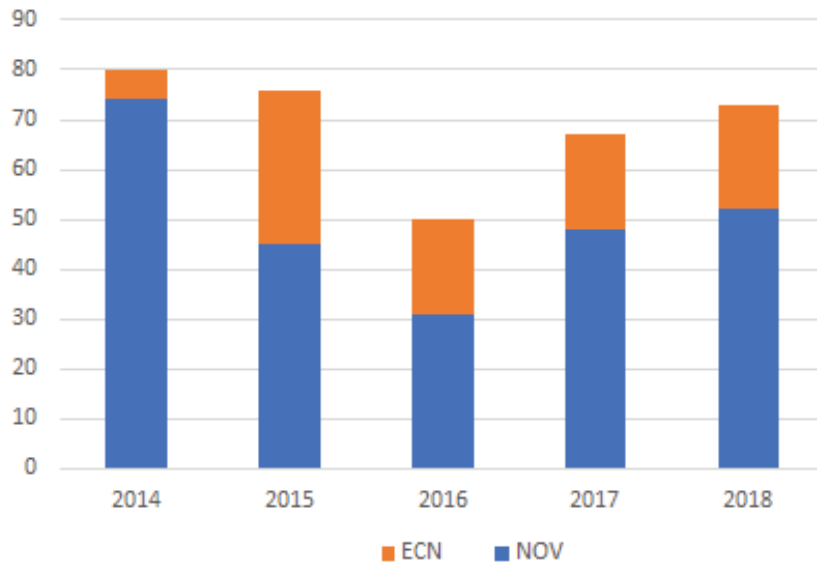


THE NUMBER OF EXPEDITED CITATION NOTICES (ECN) ISSUED FOR EACH PROGRAM

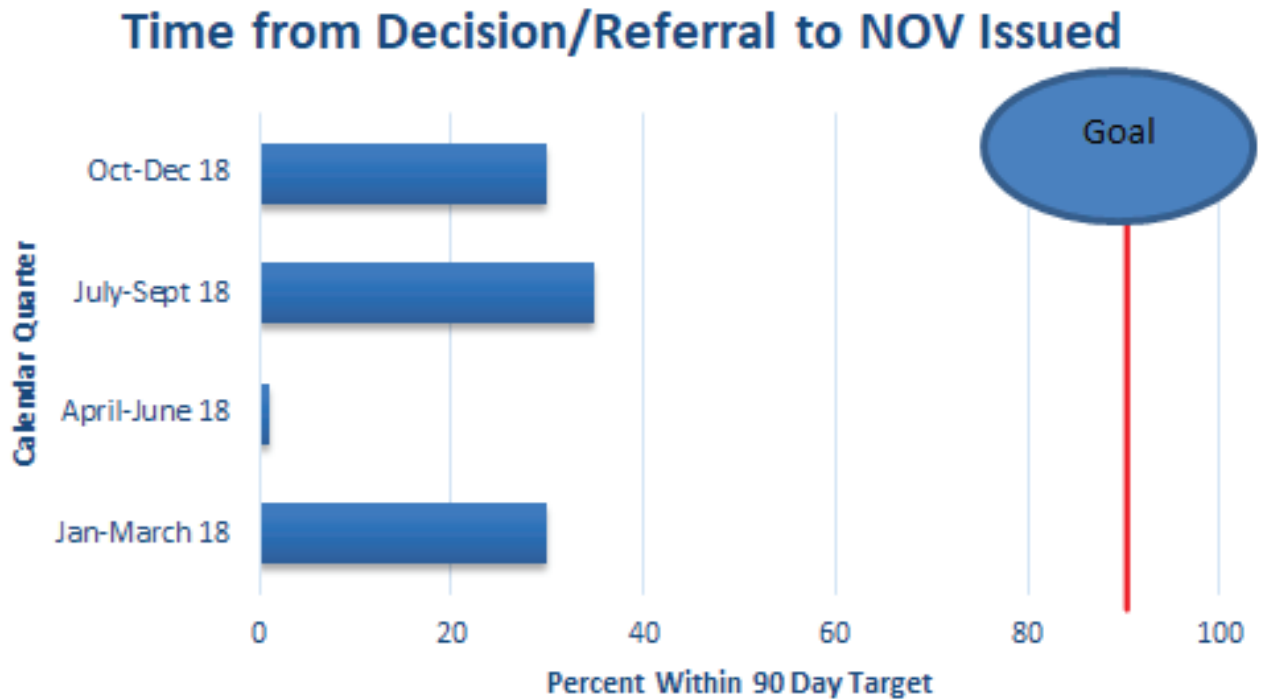


# FORMAL ENFORCEMENT

The NOV and ECNs issued from 2015 through 2018 are shown in the chart below. The number of enforcement actions issued is a function of complaints received, investigations conducted, and available resources in a given year.



DEM started tracking 5 Key Performance Indicators (KPIs) in 2017. One KPI is the time to issue an NOV, shown below. Having done the essential but time consuming work of building the systems and processes to track the KPIs in 2017, DEM anticipates steady improvement toward meeting them in coming years.







## Settlements and Appeals

Once a Notice of Violation (NOV) is issued, the parties often enter negotiations to correct and settle the violations and come to an agreement on the penalty. These discussions involve attorneys for DEM and may occur regardless of whether the parties file an appeal. It is DEM's performance goal that compliance with the law will be achieved for 50% of the cases no later than 150 days from the date of issuance of the NOV.

If the violations, or remedial actions, are complex or the party/parties in receipt of the NOV adequately demonstrate a good faith effort to come into compliance as determined by the Administrator of the Office of Compliance and Inspection, the Administrator may consent to extend the control date on the hearing and extend the time requirement for resolution of the violations.

The settlement of an NOV is documented in a consent agreement, unless the party cited comes into compliance quickly and the penalty is resolved without the need for a consent agreement. Once settlement has been reached, a consent agreement is prepared that cites the law, rule, regulation, license, permit and/or order allegedly violated; the facts which form the basis for the violation that occurred; and the amount of the final administrative penalty and any agreed upon payment schedule or allowances.

The consent agreement specifies a reasonable deadline or deadlines for the party to come into compliance with the requirements described in the NOV. A consent agreement may allow a party to submit a written proposal under an enforceable schedule setting forth how and when that party proposes to achieve compliance. The consent agreement settles an appeal of the NOV and is filed with DEM's **Office of Administrative Adjudication (AAD)**, which eliminates the need for an adjudicatory hearing.



THE MOST COMMON LEAD EXPOSURE IN RHODE ISLAND COMES FROM LEAD-BASED PAINT AND LEAD DUST FOUND IN HOMES BUILT BEFORE 1978

AAD is the administrative court for all environmental matters originating from DEM. The AAD plays an integral role in environmental protection and restoration by providing impartial and timely adjudication of administrative enforcement actions initiated by the department. Uniform hearings and timely final administrative action contribute substantially to DEM's overall goal of fair and effective enforcement of environmental laws and regulations. Uniform rules of practice and procedure and even-handed adjudications serve to enhance environmental equity and provide a strong deterrent to potential violators.

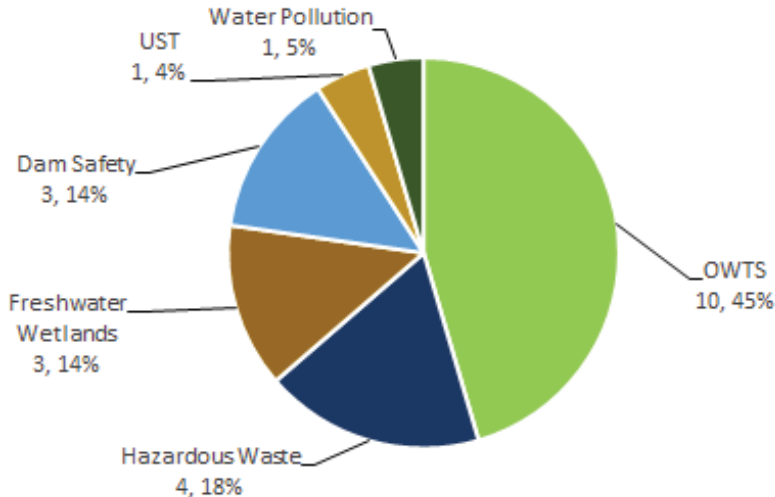
Absent a mutual request for additional time, an adjudicatory hearing for an enforcement matter is heard within 90 days of the request for hearing. AAD rules provide for expedited hearings in appropriate cases.

### RESULTS

In 2018, OC&I executed 8 consent agreements and issued 14 letters of compliance for NOV's.<sup>3</sup>

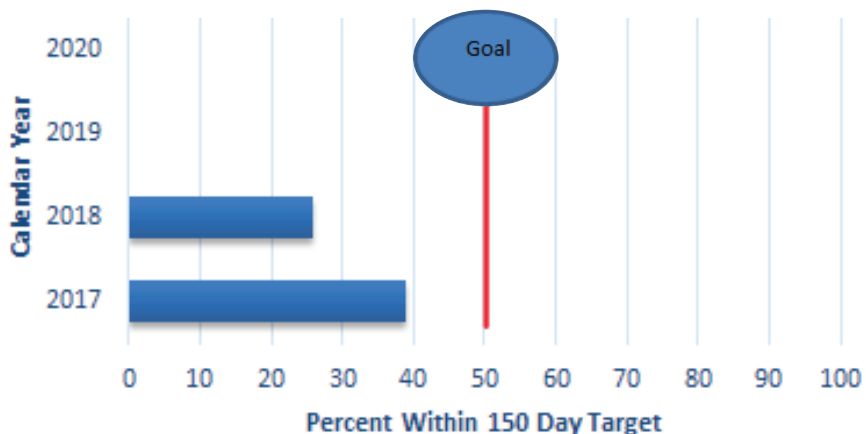
<sup>3</sup> IN 2012, BASED ON AN OPINION FROM THE DEM'S OFFICE OF LEGAL SERVICES, OC&I BEGAN SETTLING NOV'S THROUGH ISSUANCE OF A LETTER OF COMPLIANCE WHEN ALL OF THE ISSUES ASSOCIATED WITH THE VIOLATION WERE RESOLVED, INCLUDING PAYMENT OF ALL PENALTIES OWED.

The chart presents the NOV's settled, by number and percentage, for each regulatory program within OC&I.



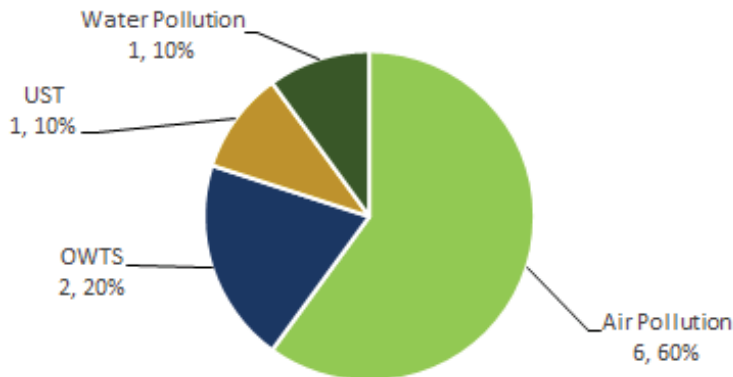
## Key Performance Indicator

TIME TO ATTAIN COMPLIANCE AFTER NOV ISSUED  
(EXCLUDING OWTS AND DAMS)



A summary of each NOV issued or resolved since April 2000 can be found at <http://www.dem.ri.gov/programs/complianceandinspection/enfact.php>

In 2018, OC&I resolved 10 ECNs.<sup>4,5</sup> The chart presents the ECNs settled, by number and percentage, for each regulatory program within OC&I.



<sup>4</sup> 8 ECNs issued in December 2018 were still open at the end of the year.

<sup>5</sup> For 1 ECN, the party corrected the noncompliance but did not pay the penalty



## Superior Court Activity

The final determination whether a case is eligible for Rhode Island Superior Court is made by DEM's Office of Legal Services (OLS). Cases may not be eligible for Superior Court for a number of reasons. Examples could include a change in corporate status, change in ownership, or bankruptcy or receivership. The attorneys within the Environmental Advocacy Unit of the Office of Attorney General (RIAG) provide assistance to DEM to address these cases. OC&I reviews and determines suitability for court action with OLS and RIAG.

A summary of each Superior Court case issued or resolved since April 2000 is available at [www.dem.ri.gov/enforcementactions](http://www.dem.ri.gov/enforcementactions).

### ADMINISTRATIVE PENALTIES

As part of the formal enforcement actions issued in 2018, OC&I proposed total penalties of \$1,260,185 and collected \$264,325. Collection of penalties lags assessment significantly, so the penalties collected in any given year are not the same penalties assessed that year.

### SUPPLEMENTAL ENVIRONMENTAL PROJECTS

OC&I can also agree to settle a Notice of Violation (NOV) by having the violator conduct **Supplemental Environmental Projects, or SEPs**.

In 2018, OC&I did not agree to any SEPs.

For more details regarding SEPs, refer to DEM's Policy on Supplemental Environmental Projects at <http://www.dem.ri.gov/programs/benviron/compinsp/pdf/seppolcy.pdf>.



Supplemental Environmental Projects (SEPs) are environmentally-beneficial projects that a violator proposes to undertake in settlement of an enforcement action that it is not otherwise legally required to perform.



## Spotlight: Settlement of a Formal Enforcement Case

Enforcement cases vary by fact, evidence, and complexity. The case against a Providence-based mill owner shows the difficulty of achieving compliance in a timely way. At the same time it spotlights that DEM will persist until the end to address an economic advantage gained by violations.

Wanskuck is a part of the North End of Providence, and its surrounding neighborhoods include Elmhurst, Smith Hill and Charles. Much of Wanskuck's history began with the development of cotton mills on Wanskuck pond in the 1800s. The Wanskuck Company was established in 1862 as a major manufacturer of wool clothing during the Civil War and became a foundation for the neighborhood's start.<sup>6</sup>

This case involves a former mill that is located on Branch Avenue along the West River. The mill includes the former Wanskuck Mill Power House building and was owned by Wanskuck Steam Power Company (WSP). William L. Ricci is the former president of WSP. WSP had its corporate registration revoked by the Rhode Island Secretary of State in 1992. Wanskuck Steam and Power HVAC, LLC (WSP HVAC) was listed in the SOS database as the successor corporation to WSP. Ricci was the former owner of WSP HVAC. The corporation had its corporate registration revoked by the SOS in 2011. The property was the focus of enforcement efforts for over 13 years, beginning in May 2006. Actions were taken against Ricci, WSP and WSP HVAC. The case was settled in December 2018 with the final cleanup of the property and the agreement by Ricci to pay a significant administrative penalty.

### FACTS AND TRAVEL

On May 4, 2006, DEM received a complaint of an oil spill at the mill boiler house located at Woodward Avenue in the City of Providence which abuts the mill on the north side. DEM conducted an inspection and observed a release of approximately 200 gallons of #6 heating oil on the ground surface near a broken fuel line. DEM issued a Notice of Responsibility (NOR) to Ricci that required specific action to remediate the violation, including the submission of reports to DEM. DEM did not receive a response to the NOR.

On May 18, 2007, DEM received a complaint from the Providence Fire Department alleging that hazardous materials and/or waste were improperly stored on the property.

On May 30, 2007, DEM inspected the property in response to the complaint. DEM inspectors contacted Ricci and received permission to enter the first floor of the building accompanied by Ricci's property manager and observed approximately 35 fifty-five gallon drums holding materials. DEM inspectors observed that most of the drums and containers were heavily rusted and in poor condition and that a floor drain was present near the containers. DEM inspectors also observed approximately 100 5-gallon containers holding unidentified materials. On the second floor DEM inspectors observed various containers holding unknown liquids ranging in size from 10 to 12-ounce spray cans up to and including 5-gallon containers. DEM inspectors also observed several open containers of liquid having the appearance of hydraulic fluid.

During the May 31, 2007 inspection, DEM inspectors proceeded to the rear of the property entering through the Woodward Road gate. In this area DEM inspectors observed the top hatches for 4 underground storage

6

History obtained from the Smith Hill Community Development Corporation



tanks (USTs) located in bunkers. The property manager informed DEM inspectors that the tanks were no longer in use as the boilers that they supplied fuel to were removed from the Wanskuck Mill Power House building. The building is near West River. DEM inspectors determined that the oil spill was around the USTs. DEM inspectors observed a stockpile of material covered with black polyethylene sheeting that was greater than 3 cubic yards. The property manager stated that the soil impacted by the release was excavated and stockpiled under the sheeting (the oil spill cleanup debris).

On June 27, 2007, inspectors from DEM and EPA arrived at the property to further investigate the drums and containers. Ricci consented to the inspection and provided access to the property. Ricci stated that the drums and containers of paint and related materials were placed in Wanskuck Mill Power House building by Bill Hood of Hood Enterprises in 2002 and that Ricci could not use the paint and related materials. Ricci stated that he had not tested the contents of the containers to determine if the containers held hazardous waste. EPA inspectors inventoried the drums and containers stored in the building.

On September 6, 2007, inspectors from DEM and EPA arrived at the property to collect samples of the contents of the containers stored in the Wanskuck Mill Power House building. Ricci consented to the inspection and provided access to the property. EPA and DEM inspectors collected samples of the contents of the containers in the building. EPA transported the samples to its laboratory for analysis.

On December 5, 2007, DEM requested that EPA provide copies of the analytical test results for the samples collected on September 6, 2007.

On December 20, 2007, DEM received copies of the analytical test results for the samples collected on September 6, 2007. The test results revealed the presence of volatile and semi-volatile organic compounds.

On August 12, 2008, DEM inspectors arrived at the property to collect samples of waste from the drums and containers stored in the Wanskuck Mill Power House building. DEM inspectors met with an agent of EPA and the contractor for Ricci and WSP who was collecting samples of the drums and containers on the main floor of the building. DEM inspectors entered the building and collected 5 random samples from the 5-gallon containers stored in the building. DEM inspectors secured the samples and transported them to a laboratory for analysis. DEM inspectors observed that the oil spill cleanup debris was still present on the property.

On August 14, 2008, DEM inspectors arrived at the property to collect samples of waste from the drums stored in the Wanskuck Mill Power House building. DEM inspectors met with an agent of EPA and the contractor for Ricci and WSP who was collecting samples of the drums and containers on the main floor of the building. DEM inspectors collected 15 random samples from the 55-gallon drums stored in the building. DEM inspectors secured the samples and transported them to the laboratory for analysis.

DEM reviewed the analytical reports for the samples collected on August 12, 2008 and August 14, 2008 and determined that the wastes stored in the containers and drums located on the property contained flammable hazardous wastes. The subject wastes had flashpoints below the regulatory limit contained in DEM's Rules and Regulations for Hazardous Waste Management.

Given the volume of waste and condition of the drums and containers, EPA retained a contractor to provide an estimate to remove and properly dispose of the waste. EPA ordered Ricci to remove the waste through a licensed hazardous waste transporter, otherwise, EPA would have the waste removed and assess the cost against Ricci. Ricci retained a contractor, who removed 90 55-gallon drums and 200 5-gallon containers.

On October 30, 2008, DEM inspected the property and determined that all the hazardous waste stored within the Wanskuck Power House building had been removed to a permitted disposal facility. Upon information and belief, hazardous waste was stored on the property for approximately 488 days beginning on or before May 31, 2007, the date of DEM's initial inspection, and continuing up to and including October 30, 2008.

The inspections on May 31, 2007, June 27, 2007, August 12, 2008 and August 14, 2008 revealed the following violations:

- (a) Failure to label the drums and containers holding hazardous waste
- (b) Failure to mark the drums and containers holding hazardous waste with an accumulation start date
- (c) Failure to provide sufficient aisle space on the first floor of the Wanskuck Power House building for the drums and containers holding hazardous waste
- (d) Failure to provide secondary containment for the drums and containers holding hazardous waste
- (e) Failure to determine if the waste met the definition of a hazardous waste
- (f) Deterioration of the drums and containers holdings hazardous waste and failure to transport the hazardous waste to containers in good condition
- (g) Failure to remove and properly dispose of the oil spill cleanup debris
- (h) Abandonment of USTs and failure to properly close the USTs.

On January 12, 2010, DEM issued a Notice of Violation (NOV) against Ricci, WSP, and WSP HVAC. The NOV ordered the parties to remove and properly dispose of the oil spill cleanup debris within 10 days, apply to DEM to permanently close the USTs within 90 days and complete a site investigation of the property within 30 days. The NOV included an administrative penalty of \$129,328. No appeal of the NOV was filed with DEM's

AAD, and, the parties did not comply with the NOV.

On February 21, 2014, DEM filed a complaint in Superior Court against Ricci and asked the court to order Ricci to comply with the NOV.

On September 11, 2015, DEM and Ricci came to an agreement that was entered as an order of the Court to resolve the order section of the NOV. Ricci was ordered to produce documentation within 10 days that confirmed that the oil spill cleanup debris was removed and properly disposed and apply to DEM within 90 days to permanently close the USTs.

On January 15, 2016, DEM filed a Motion for Contempt against Ricci for his failure to comply with the Order.

On March 10, 2016, DEM and Ricci came to an agreement that was entered as an order of the Court to resolve the Motion for Contempt. Ricci was ordered to retain a contractor within 10 days, apply to DEM for a permanent closure of the USTs within 60 days, remove the USTs within 6 months, submit a closure report to DEM within 60 days after removal of the USTs, and, if contamination was identified, perform additional work, including submission of a site investigation report and corrective action plan.

Ricci did provide documentation to DEM showing that the oil spill cleanup debris was properly removed and disposed.

On June 23, 2016, DEM and Ricci came to an agreement on additional cleanup activities at the property that was entered as an order of the Court.

On September 22, 2016, DEM filed a Motion for Contempt against Ricci for his failure to comply with the Order. On June 30, 2016, Ricci entered into a contract with CYN Environmental Services; however, no application was submitted to DEM to permanently close the USTs.

On April 4, 2017, DEM and Ricci came to an agreement that was entered as an order of the Court to resolve the Motion for Contempt. Ricci was ordered to commence removal of the USTs on April 20, 2017 in accordance with the application filed with DEM on October 7, 2016.

On April 28, 2017, DEM filed a Motion for Contempt against Ricci for his failure to comply with the Order.

On January 22, 2018, Ricci completed the removal of the USTs in accordance with the application filed with DEM.

On December 3, 2018, DEM and Ricci came to an agreement on the administrative penalty that was entered as an order of the Court. Ricci was ordered to pay \$60,000 in multiple payments over 4 years, with the exception that if all payments are made on time the total penalty owed is \$50,000. The first payment of \$10,000 was due on December 31, 2018 and was paid. The remaining penalty is to be paid in quarterly payments of \$2,500.



## Around the Cities and Towns

The Bureau's activities in 2018 occurred in every city and town. One case from each city and town has been highlighted to give the reader a sense of the types of activities that the Bureau is involved in.

### BARRINGTON

The Office of Water Resources (OWR) directed specific oversight/guidance to the Town for issues related to the production of hydrogen sulfides and resulting odors within the Town's sewerage collection system and corrosive impacts in downstream sewers. The Town began a new chemical addition regime in 2018 which resolved the sulfides issue and thus the corrosion and odor issues that were generally affecting the City of East Providence sewerage system.

### BRISTOL

In June 2018, the Office of Compliance and Inspection (OC&I) issued a Notice of Intent to Enforce (NIE) to the owner of a property on Dewolf Avenue for violations of the Solid Waste Regulations. OC&I inspected the property and observed approximately 789 cubic yards of solid waste deposited and discarded on the ground, which consisted of leaves, grass clippings, tree waste, brush, wood chips, dead shrubs, shrub trimmings, processed wood, plastic, bottles, cans, paper, fabric, used tires and other mixed solid waste. The inspector observed that some of solid waste had been deposited within freshwater wetlands. The NIE required the owner to remove all solid waste and dispose of the waste at a licensed solid waste management, organic waste composting or recycling facility. In November 2018, the owner complied with the NIE.

### BURRILLVILLE

In November 2015, the Office of Compliance and Inspection issued a notice of violation (NOV) to the owner of a residence on Union Avenue for the overflow of sewage from the onsite wastewater treatment system to the ground surface. The NOV ordered the owner to repair the system and assessed a \$1,000 penalty. The owner did not file an appeal of the NOV and did not comply with the NOV. In April 2018, DEM filed a complaint in Superior Court asking the Court to order the owner to fully comply with the NOV. In June 2018, DEM issued a Certificate of Conformance to the owner for the onsite wastewater treatment system that was repaired on the property. In July 2018, by agreement of the parties, the Court entered an Order requiring the owner to pay a \$1,000 penalty.

### CENTRAL FALLS

In August 2018, the Office of Compliance and Inspection (OC&I) investigated a complaint about a glass operation that was operating out of the basement of a dwelling on Clinton Street. The complainant stated that there were strong chemical/soot odors outside and inside the home. The inspector did not detect any odors at the time of the inspection at the dwelling or on Clinton Street. The inspector attempted to contact the occupants and a door hanger was left notifying them of the inspection with the inspector's contact information.

## CHARLESTOWN

In June 2014, the Office of Compliance and Inspection issued a notice of violation (NOV) against the owner of property located on Post Road. The property included a former gasoline service station and 2 underground storage tanks (USTs) used for the storage of petroleum products. The NOV cited the owner for abandoning the USTs and failing to complete the cleanup of petroleum contamination on the property. The NOV ordered the closure of the USTs and the cleanup of the property and assessed a \$13,270 penalty. The owner filed an appeal of the NOV. In May 2015, OC&I and the owner executed a consent agreement to resolve the NOV. The owner failed to comply with the agreement. In January 2018, DEM filed a complaint in Superior Court asking the Court to order the owner to fully comply with the NOV. In June 2018, prior to a hearing on the complaint, DEM and the owner entered into an agreement that was signed by the Court. The Consent Order required the owner to perform quarterly groundwater monitoring for 1 year and submit the results to DEM.

## COVENTRY

In July 2018, the Office of Emergency Response responded to Sandy Bottom Road for a report of a fire in a piece of excavation equipment that resulted in the spill of diesel fuel, hydraulic oil and engine oil onto the roadway and adjacent soil. Approximately 30 gallons of diesel and hydraulic oil emptied from the machine. Soon after the release all contaminated soils were excavated and disposed of properly.

## CRANSTON

In January 2018, the Office of Compliance and Inspection issued a notice of violation (NOV) against the City of Cranston (Cranston) and Veolia Water North America Operating Services, LLC (Veolia). Cranston owns a wastewater collection and treatment system (facility). Veolia operates the facility on behalf of Cranston. In September 2008, DEM issued a permit to Cranston to discharge treated wastewater from the facility to Pawtuxet River. The permit does not authorize Cranston to discharge wastewater from the facility to any other waters of the State. The NOV cited Cranston and Veolia for violating the permit by discharging untreated sewage from two sewage pumping stations to Meshanticut Brook, Angell's Pond and Pawtuxet River. The NOV ordered Cranston and Veolia to take several actions to prevent future discharges and assessed a \$31,250 penalty. Cranston and Veolia filed an appeal of the NOV. Prior to an administrative hearing on the NOV, Cranston and Veolia complied with the Order section of the NOV and paid a reduced penalty of \$25,000.

## CUMBERLAND

In June 2010, the Office of Compliance and Inspection (OC&I) issued a notice of violation (NOV) against the owner of property located on Highland Road. The property includes a 4-bedroom dwelling. The NOV cited the owner for the discharge of wastewater to the ground surface from the onsite wastewater treatment system (OWTS) that treats wastewater from the dwelling. The NOV ordered the owner to repair the system and assessed a penalty of \$800. The owner did not file an appeal of the NOV with the AAD and did not comply with the NOV. The owner proposed selling the property, and as a condition of the sale, in February 2018 the OC&I, the owner and the buyer executed an agreement whereby the buyer agreed to connect the plumbing from the dwelling to the public sewers. Later that year, the buyer connected the plumbing from the dwelling to the public sewers and properly abandoned the OWTS.

## EAST GREENWICH

In July 2018, the Office of Emergency Response responded to a reported home heating oil spill at a private residence on Tory Lane. The investigator found that 25 gallons of oil had spilled in the finished basement due to a broken tank filter. The hardwood floors and all affected materials were removed and disposed of properly. All oil was cleaned up without infiltration to the soil below the concrete floor. No drains or waterways were affected.

## EAST PROVIDENCE

The Office of Water Resources (OWR) assisted with the City's coordination with the Town of Barrington to resolve issues of sewer odors and corrosion at the City's wastewater treatment facility (WWTF) and assisted with the City's staff training efforts at the WWTF through OWR's WWTF Leadership Boot Camp program.

## EXETER

In December 2018, the Office of Emergency Response responded to assist the Town of Exeter Fire Department with a reported gasoline spill on Nooseneck Hill Road. There was approximately 15-20 gallons of gasoline spilled across the roadway because of a motor vehicle accident. All spilled product was cleaned up using absorbent materials.



## FOSTER

In November 2018, the Office of Emergency Response responded to a reported gasoline leak at a fueling station on Danielson Pike. Approximately 13-gallons spilled due to a leaking gas tank on a vehicle. The gasoline was contained on the concrete pad at the fuel pumps and cleaned up using absorbent materials.

## GLOCESTER

In May 2017, the Office of Compliance and Inspection inspected a residence on Lake Washington Drive regarding a complaint of alterations to freshwater wetlands in noncompliance with a permit issued by DEM. The inspection revealed that approximately 1,000 square feet of the pond had been filled. The owner was advised to remove the fill at the time of the inspection. A review of aerial photographs in February 2018 revealed that the fill was removed.

## HOPKINTON

In June 2018, the Office of Emergency Response (OER) responded along with Hope Valley Hazmat Team to an industry on Main Street for a zirconium metal fire. Responders arrived on scene to find that four 55-gallon drums of zirconium metal shavings were on fire due to a piece of equipment that had ignited nearby. The fire was extinguished with the guidance of OER's responder by using a dump truck load of sand. All materials were then later cleaned up and disposed of properly.

## JAMESTOWN

In December 2018, the Office of Water Resources (OWR) conducted an inspection of the Town's wastewater treatment facility that resulted in the issuance of a Notice of Deficiency for the failure to maintain approved staffing levels and other resources necessary for adequate operations and maintenance of the Town's sewerage system. The Town subsequently met with OWR and provided necessary assurances for the provision of adequate study, resources, and staffing.

## JOHNSTON

In July 2018, the Office of Emergency Response (OER) received a request from the State Police to respond to an accident involving an overturned tractor trailer carrying sheet metal and the resulting spill of a diesel fuel and motor oil. The Town of Johnston Fire Department personnel had applied absorbents prior to OER's arrival. The OER responder worked with the trucking company to hire a contractor. The contractor pumped off 120 gallons of diesel and oil fuel from the tanks to remove the hazard. Once the vehicle and spilled sheet metal was removed from the roadway, all absorbents were removed for disposal and the Department of Transportation applied sand and swept roadway. Approximately 800 pounds of oily debris were generated and disposed of properly.

## LINCOLN

In May 2016, the Office of Compliance and Inspection (OC&I) issued a notice of violation (NOV) to the owners of property located on Red Brook Crossing. The NOV cited the owners for the unauthorized alteration of approximately ½ acre of freshwater wetlands (swamp and buffer). The NOV ordered the owners to restore the altered wetlands and assessed a penalty of \$10,000. The owners filed an appeal of the NOV with the AAD. Prior to an administrative hearing on the NOV, in October 2018, OC&I and the owners executed a consent agreement to resolve the NOV. The agreement requires the owners to restore the wetlands in accordance with a plan that was approved by OC&I by October 2019, and the owners paid a penalty of \$5,000.

## LITTLE COMPTON

In June 2018, the Office of Waste Management was notified of a suspected abandoned underground storage tank at a small commercial site undergoing a property transfer. During the subsequent investigation, 6 abandoned underground storage tanks still containing gasoline were discovered along with gasoline-contaminated soil and groundwater. The tanks were near several private drinking water wells and upgradient of several community drinking water wells. The tanks, gasoline and over 500 tons of contaminated soil were removed from the property and five monitoring wells, including a bedrock well, were installed. Working in conjunction with the Department of Health, a monitoring plan was developed to ensure that the contamination did not impact any groundwater wells used as a drinking water source. After multiple rounds of sampling of private and public ground water wells, no contamination has been detected in any drinking water wells that are attributable to this release.

## MIDDLETOWN

In January 2018, the Office of Emergency Response (OER) received a request from the Town of Middletown Fire Department to respond to a private residence on Indian Ave for a home heating oil spill. The OER responder arrived on scene to find that a recently filled 275-gallon tank had failed resulting in the entire 275-gallons of oil spilling in the boiler room of the residence and extended to the exterior soil. Absorbents were applied, and a contractor was hired by the oil company. Extensive remediation resulted in the removal of 268 tons of contaminated soil.

## NARRAGANSETT

In March 2018, the Office of Emergency Response (OER) responded to the CC dock at the State Pier for an abandoned 55-gallon drum. The OER responder found the drum to be full of waste oil. It was unmarked and there were no witnesses as to who left it at the dock. A contractor was hired to safely remove the drum.

## NEWPORT

In August 2018, the Office of Waste Management issued a letter of noncompliance (LNC) to the City of Newport for its solid waste transfer station on Halsey Road. The LNC cited the City for an ineffective leachate control system, inspection of fire extinguishers, and lack of maintenance causing sea gull issues and other problems. In October 2018, the city corrected all the issues cited in the LNC.

## NEW SHOREHAM

In January 2018, the Office of Waste Management oversaw the removal of four 20,000-gallon underground storage tanks at the Block Island Power Company that had been used to power the generators which provided electricity to island residents before offshore wind went online. This unique undertaking required transportation of heavy equipment to the island, and removal of the tanks and contaminated soils off the island for disposal on the mainland.

## NORTH KINGSTOWN

In March 2017, the Office of Compliance and Inspection (OC&I) issued a notice of violation (NOV) to the owners of property located on Stony Lane. The NOV cited the owners for the unauthorized alteration of approximately 4.5 acres of freshwater wetlands

(streams, swamp, buffer). Prior to the issuance of the NOV, the owners agreed to restore the freshwater wetlands, which was completed within 4 months of OC&I's initial inspection of the property. The NOV ordered the owners to maintain the plantings for 1 year and assessed a penalty of \$14,750. The penalty reflected the efforts undertaken by the owners to quickly restore the wetlands. The owners did not file an appeal of the NOV with the AAD and paid the penalty in full. An inspection by OC&I in March 2018 revealed that the plantings survived, which resolved the NOV.

## NORTH PROVIDENCE

In November 2018, the Office of Compliance and Inspection (OC&I) issued a Letter of Noncompliance (LNC) to the owner of a property on Mineral Spring Avenue for violations of the Solid Waste Regulations. OC&I inspected the property and observed approximately 37 cubic yards of solid waste discarded on the ground, which consisted of discarded processed wood, tree waste, litter and other mixed solid waste. The LNC required the owner to remove all solid waste and dispose of the waste at a licensed solid waste management, organic waste composting or recycling facility. That month the owner complied with the LNC.

## NORTH SMITHFIELD

In September 2017, the Office of Compliance and Inspection issued a notice of violation (NOV) to Dudley Development Corporation for a dam it owns that is located approximately 1,255 feet southwest of the intersection of Railroad Street and Main Street. The dam is classified by the DEM as High Hazard. The NOV cited the owner for an unsafe condition at the dam (vegetation and yard waste on the embankments that did not allow for a proper inspection). No penalty was assessed in the NOV. The company filed an appeal of the NOV with the AAD. Prior to an administrative hearing on the NOV, in September 2018, the company complied with the Order section of the NOV to fully resolve the NOV.

## PAWTUCKET

In April 2018, the Office of Emergency Response received a request from the City of Pawtucket Fire Department to respond to a home heating oil spill in a residence on Angle Street. Approximately 30-40 gallons of oil had spilled from an abandoned oil tank onto the concrete basement floor of the residence. A contractor was hired by the property owner to remove the tank and clean up the spilled oil.

## PORTSMOUTH

In November 2015, the Office of Compliance and Inspection issued a notice of violation (NOV) against the owners of property located on Seaconnet Avenue. The property includes a residential dwelling. The NOV cited the owners for the discharge of wastewater to the ground surface from the onsite wastewater treatment system (OWTS) that treats wastewater from the dwelling. The NOV ordered the owners to repair the system and assessed a penalty of \$1,000. The owners did not file an appeal of the NOV with the AAD. The owners complied with the Order section of the NOV and in March 2018 paid a reduced penalty of \$600 to fully resolve the NOV.

## PROVIDENCE

In November 2016, the Office of Compliance and Inspection (OC&I) issued a notice of violation (NOV) against the owners of Universal Plating Co., Inc. located on River Avenue. The company applies metal coatings to jewelry products through an electroplating process. The NOV cited the owners for numerous hazardous waste violations (including improper management of containers, no inspections, no contingency plan, no training of employees on hazardous waste management) and assessed a penalty of \$31,050. The owners filed an appeal of the NOV with the AAD. Prior to an administrative hearing on the NOV, the owners complied with the Order section of the NOV and in July 2018, OC&I and the owners executed a consent agreement to resolve the penalty. The owners agreed to pay a penalty of \$16,050. \$4,050 was paid upon execution of the agreement, with the remaining penalty to be paid in monthly installments of \$1,000.

## RICHMOND

In December 2018, the Office of Emergency Response (OER) received a request by the Hope Valley Wyoming Fire Department Hazmat Team to respond to a residence on Richmond Townhouse Road for a possible methamphetamines lab. The OER assisted the Hazmat Team, the Bomb Squad and the Town of Richmond Police Department (PD) in identifying any possible hazards. While materials consistent with the production of methamphetamines were present, there were no active processes taking place. The scene was turned over to the PD and Federal Drug Enforcement Agency.

## SCITUATE

In June 2018, the Office of Emergency Response (OER) responded to Sivo Drive for a report of an abandoned 100-gallon marine fuel tank on the side of the road and possible spill. The OER responder found the tank to contain approximately 10 gallons of gasoline and a minor spill to the soil. A contractor was hired by OER to remove the tank and approximately 5 tons of contaminated soil.

## SMITHFIELD

In March 2017, the Office of Compliance and Inspection issued a notice of violation (NOV) to Wesco Realty, LLC and WESCO OIL COMPANY for property located on Farnum Pike. Wesco Realty, LLC owns the property. WESCO OIL COMPANY operates an oil distribution and water distribution business at the property. The NOV cited the companies for the unauthorized withdrawal of approximately 2.7 million gallons of water from Woonasquatucket River in 2015 and 2016 and assessed a penalty of \$43,368. The companies filed an appeal of the NOV with the AAD. In August 2018, prior to an administrative hearing on the NOV, the companies paid a penalty of \$20,000 to fully resolve the NOV.

## SOUTH KINGSTOWN

In January 2017, the Office of Compliance and Inspection issued a notice of violation (NOV) to Palisades Mill, LLC for a dam it owns that is located approximately 260 feet north of the intersection of North Road and Kingstown Road and approximately 300 feet east of North Road. The dam is classified by the DEM as High Hazard. The NOV cited the owner for an unsafe condition at the dam (vegetation and yard waste on the embankment that did not allow for a proper inspection). No penalty was assessed in the NOV. The company filed an appeal of the NOV with the AAD. Prior to an administrative hearing on the NOV, in February 2018, the company complied with the Order section of the NOV.

## TIVERTON

In May 2018, the Office of Waste Management issued a letter of noncompliance (LNC) to the owners of a putrescible waste composting facility on Brayton Road. The LNC involved odors and groundwater issues. To resolve the LNC, in November 2018, the owners ceased all food waste operations and removed the solid waste.

## WARREN

In 2018, the Office of Waste Management performed routine compliance inspections at 6 regulated underground storage tank facilities in the town. Serious violations that could potentially lead to the release of petroleum into the subsurface and groundwater were found at 5 facilities, which resulted in the issuance of informal enforcement actions. All the facilities fully complied with the enforcement actions by the deadlines specified.

## WARWICK

In January 2017, the Office of Compliance and Inspection issued a notice of violation (NOV) to the owner of a business at a property located on Englewood Lane. The property includes a residence used for the operation of a construction company. The NOV cited the owner for the placement of #2 heating oil onto the driveway of the residence. The owner filed an appeal of the NOV with the AAD. Prior to an administrative hearing on the NOV, in February 2018, the owner complied with the Order section of the NOV and paid a penalty of \$4,000.

## WEST GREENWICH

In November 2018, the Office of Waste Management (OWM) discovered approximately 10 gallons of diesel fuel in the sump of a newly installed diesel fuel system at a heavily used truck stop on Route 95. This facility is near a ground water well used as the primary drinking water source for the Town of West Greenwich. OWM immediately ordered the pipeline to be shut down and the leak investigated. Despite numerous additional tests, no leak was detected, and the contractor attributed the diesel in the sump to be residual from the installation process. As the system passed all required tests, OWM allowed the system to be placed back into service; however, additional daily checks were required. Within 48 hours, diesel fuel was again accumulating in the sump, and OWM again ordered the system to be shut down and the source of the diesel investigated. The installer continued to insist that it was due to residual product leftover from the install process and requested that OWM allow the system to remain open. After numerous excavations, additional tests, and consultations with the piping manufacturer and the developer of the test methods, OWM determined that the leak was below the detection threshold of EPA-approved test methods and therefore unable to detect a smaller leak such as was occurring at this facility. As a result, OWM required that the entire pipeline be excavated and replaced. OWM and the contractor ultimately discovered a failed pipe joint which was

allowing diesel fuel to be released into the secondary containment which flowed back over 900 feet to the sump where it was collecting.

## WESTERLY

In November 2017, the Office of Compliance and Inspection issued a notice of violation (NOV) to the owner of property located on Atlantic Avenue. The property includes a single-family dwelling. The NOV cited the owner for using the onsite wastewater treatment system (OWTS) that treats wastewater from the dwelling in a manner that did not comply with the approval issued by DEM and assessed a penalty of \$12,800. The owner filed an appeal of the NOV with the AAD. Prior to an administrative hearing on the NOV, in September 2018, the owner repaired the OWTS to comply with the Order section of the NOV and paid an administrative penalty of \$3,500 to fully resolve the NOV.

## WEST WARWICK

In October 2017, the Office of Compliance and Inspection (OC&I) issued a notice of violation (NOV) to METROPOLITAN OIL CO., INC. for property located on Main Street. The property includes a petroleum product storage and dispensing system and underground storage tanks used for the storage of petroleum products (facility). The company owned the property and operated the facility. The NOV cited the company for abandoning the tanks and assessed a penalty of \$36,110. The company filed an appeal of the NOV with the AAD. On May 18, 2018, BRI Realty Corp acquired the deed to the property from the company in lieu of foreclosure. Prior to an administrative hearing on the NOV, in September 2018, OC&I and BRI Realty Corp executed a consent agreement to resolve the NOV as it pertains to BRI Realty Corp. The company agreed to comply with the Order section of the NOV and paid a penalty. The agreement did not release or dismiss the NOV as it pertained to the company.

## WOONSOCKET

In December 2018, the Office of Compliance and Inspection issued an Expedited Citation Notice (ECN) to the owner of a business on Park East Drive for failing to label and date containers holding hazardous waste and failing to maintain onsite a current list of emergency coordinators. The ECN required the owner to label and date all containers holding hazardous waste and update company's list of emergency coordinators and pay an administrative penalty. The owner quickly corrected the violations and paid the penalty.