



2020 ESI Conference
Division of Air Quality Compliance Update
September 23, 2020



Division of Air Quality (DAQ) Compliance Update

Topics to be covered:

- Compliance and enforcement activities in calendar year 2019
- Common air quality violations cited in calendar year 2019
- Compliance tips for environmental managers
- Summary of DEQ/DAQ's tiered enforcement policy
- Compliance and enforcement activities during the COVID-19 pandemic
- DAQ resources for environmental managers

Air Quality Compliance Inspection Goals

DAQ Inspection Goal #1 - Inspect the following at least once per year:

Title V (Major): Currently 286 facilities

Synthetic Minor: Currently 622 facilities

DAQ Inspection Goal #2 - Inspect the following at least every other year:

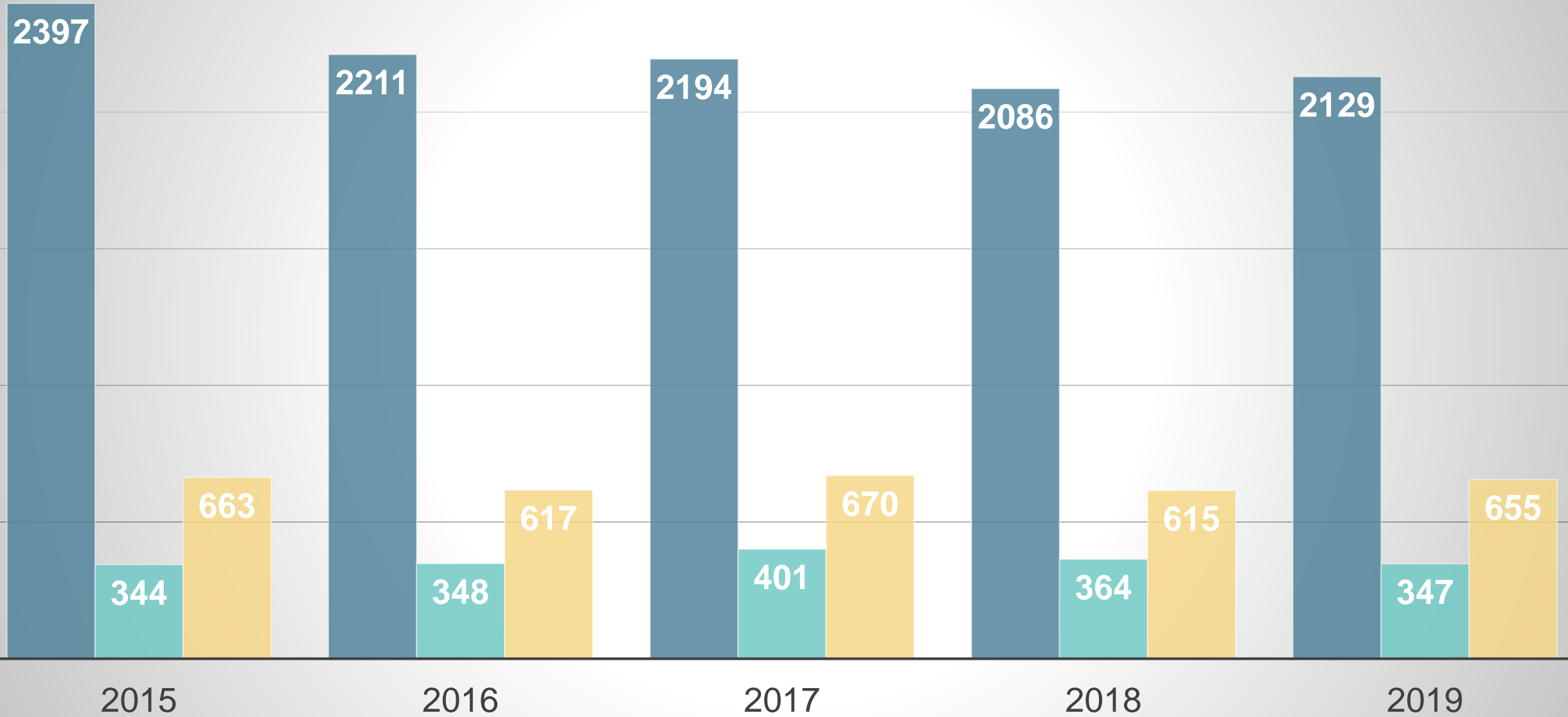
Small (Permitted): Currently 948 facilities

Registered: Currently 128 facilities

Targeted Permit Exempt: Currently 545 facilities

Total Annual Goal: At least 1720 facilities inspected each year

Total Facility Site Visits by DAQ

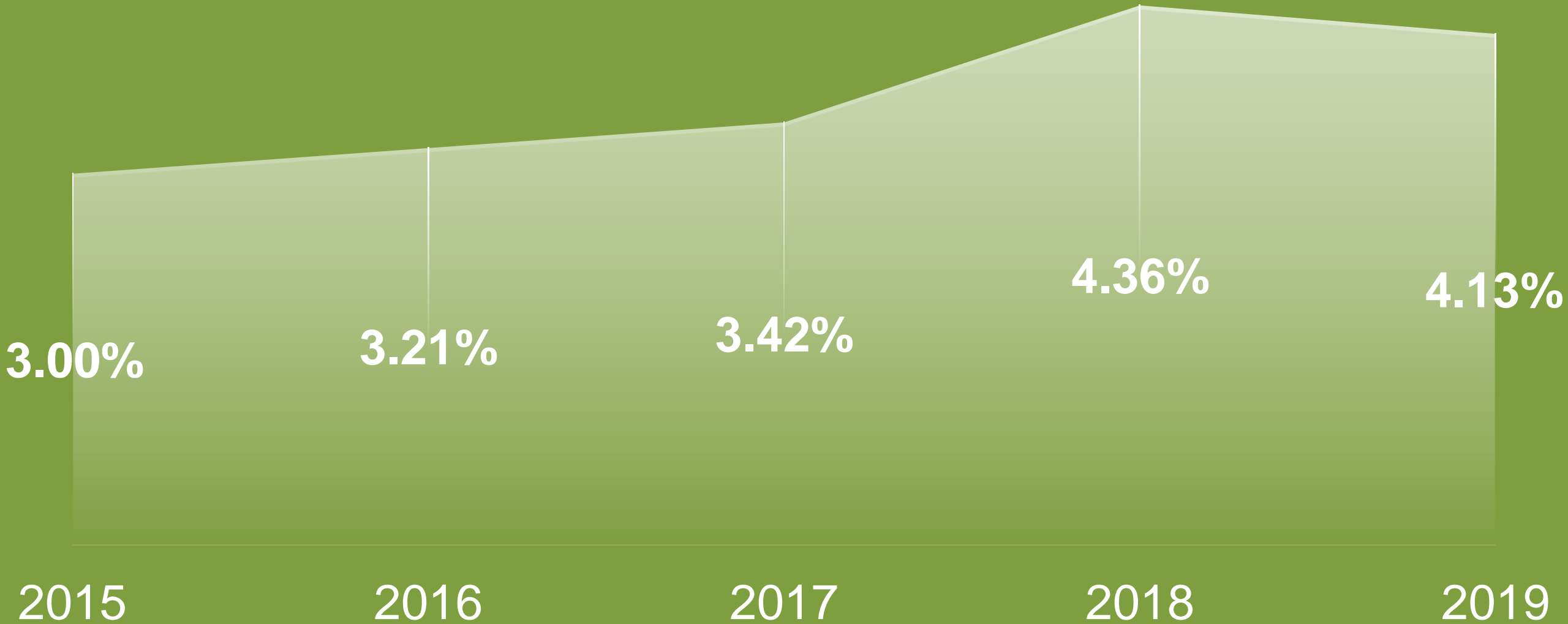


■ All Facility Site Visits

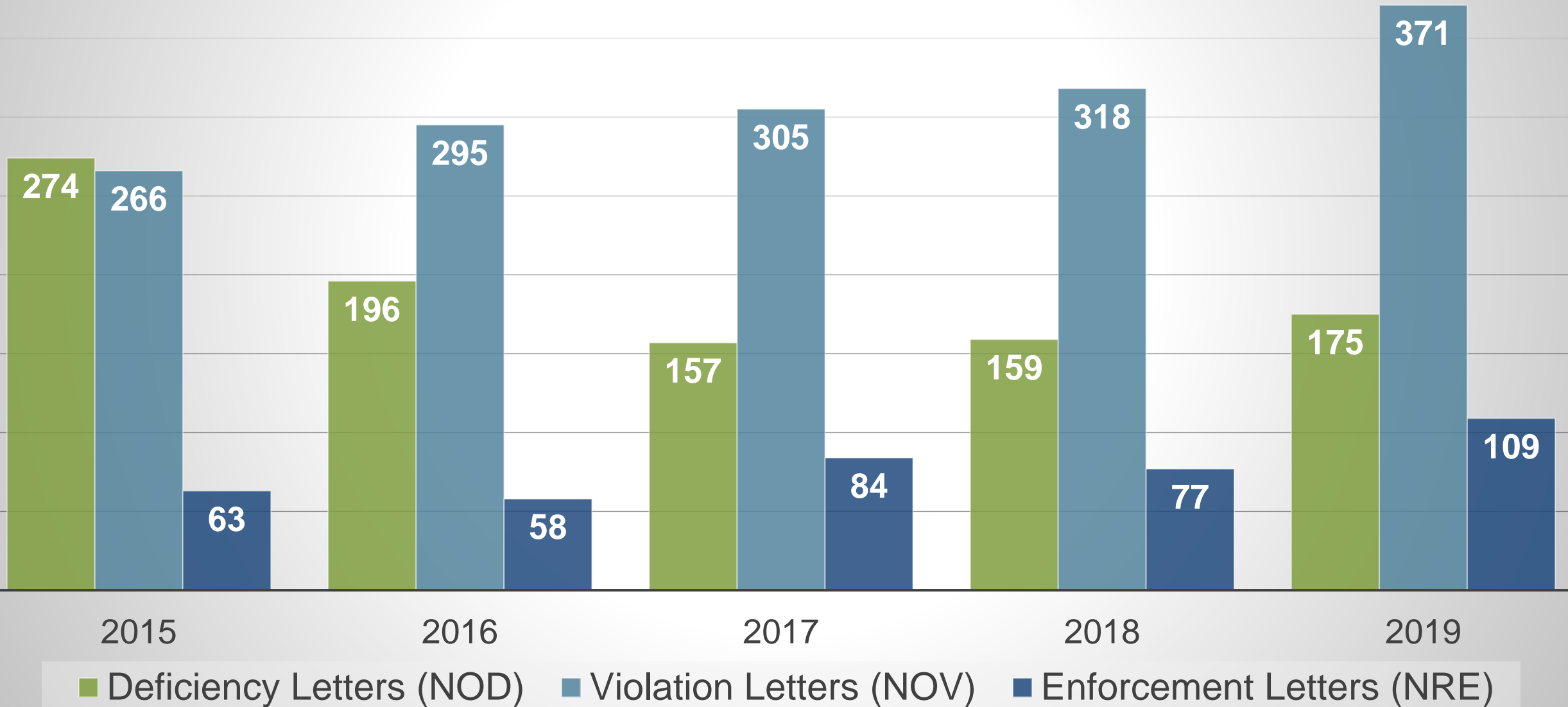
■ Title V Facilities

■ Syn. Minor Facilities

*Violation Discovery Rate
(From DAQ Site Visits Only)*

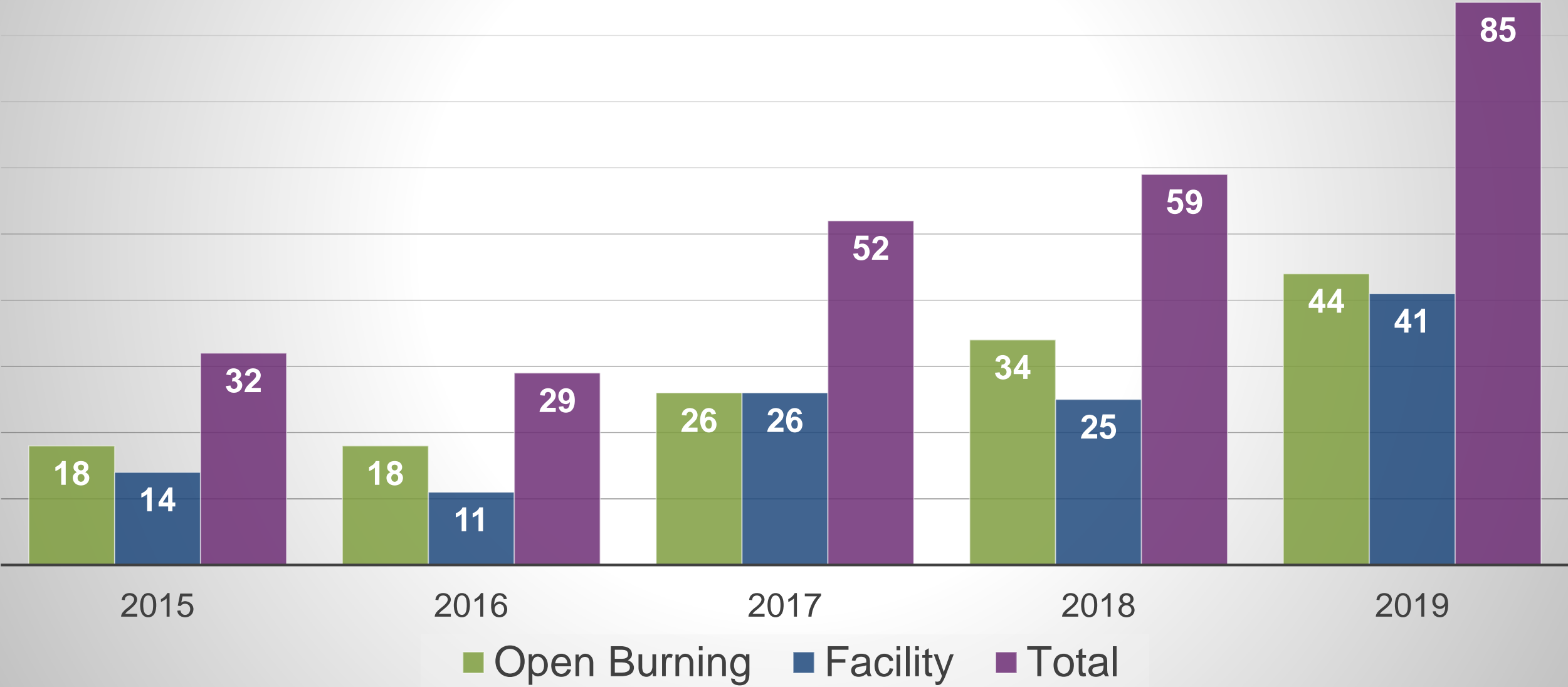


Compliance and Enforcement Actions (Facility Related Cases Only)



Civil Penalty Assessments

(Facility Related and Open Burning Cases)



Common Facility Violations Cited in Calendar Year 2019

- Violations of various requirements in federal regulations
 - NSPS (e.g., Subpart Dc, I, and OOO)
 - NESHAP/MACT/GACT (e.g., Subparts ZZZZ and JJJJJJ)
- Failure to pay annual air quality permit fees
- Late submittal of a report required by permit or regulation
- Failure to conduct permit-required monitoring and/or record keeping
- Violations of a synthetic minor or similar type avoidance condition
- General Duty – Failure of properly operate and maintain plant equipment
- Violations of the NC air toxics rules

Compliance Tips for Environment Managers

Every environmental manager should know the basics of air quality permitting.

15A NCAC 2D .0101: No owner/operator shall construct, operate, or modify an air emission source that meets each of the following criteria without first applying for and obtaining an air quality permit:

- subject to an applicable standard, requirement, or rule;
- emits any regulated pollutant (criteria, HAP, or TAP); and
- not otherwise **exempt** under 15A NCAC 02Q .0102.

15A NCAC 02Q .0300: Minor source (Small & Syn. Minor) permitting requirements.

15A NCAC 02Q .0500: Major source (Title V) permitting requirements.

The Number One Rule of Air Quality Compliance

Read carefully and understand the requirements of your air quality permit!

The Number Two Rule of Air Quality Compliance

Make sure you are not the only one at your facility who understands the requirements of your air quality permit!

Compliance Tips for Environment Managers

- Carefully read your air permit and the state and federal regulations that apply to your facilities, including draft versions. Pay particular attention to the specific testing, monitoring, record keeping, and reporting requirements.
- Ask yourself if the permit correctly summarizes the requirements of each regulation. If not, ask DAQ for guidance and permit modification if necessary.
- Consider specific ways you can prove compliance with each permit condition.
- Create a self-auditing program and conduct regular walk-throughs of your facilities noting any visible emissions, fugitive emissions, or objectionable odors.
- Develop a reliable reminder system for all permit-defined due dates.
- Keep complete and orderly records in an easily accessible location.
- Designate reliable back-up contacts who can quickly access air quality records.
- If you have questions, contact DAQ and/or an experienced air quality consultant.

What Happens When There is a Violation?

Even with best efforts to comply, a company can find itself in violation of its air quality permit or regulation. What should an environmental manager do?

- 1) Come clean. Let DAQ know about it. Do not try to cover it up!
➤ An honest mistake is a civil enforcement matter. A cover-up is a criminal matter.
- 2) Be careful with unrealistic company policies about environmental compliance. Air quality programs are run by humans, and all humans make mistakes.
- 3) Understand that DAQ is obligated to take action in accordance with its enforcement policies when we discover violations of our permits or regulations.
- 4) Be mindful that EPA and third-party lawsuits can seek enforcement remedies for air quality permit or regulation violations, especially if DAQ does not take action.

DEQ's Tiered Enforcement Policy

What is tiered enforcement and when did it start?

- DAQ has always used a tiered enforcement approach to some extent.
- In general, tiered enforcement means taking a purposeful, graduated approach to addressing air quality violations of various types & degrees.
- NC Session Law 2011-398 required DEQ to develop a “uniform policy for the notification of deficiencies & violations” for all regulatory programs.
- The uniform [tiered enforcement] policy was to establish different types of notification based on the potential or actual level of harm to public health, the environment, and the natural resources of the State.

DEQ's Tiered Enforcement Policy

What is tiered enforcement and when did it start?

- NC Session Law 2011-398 also required [DEQ] to review the notification policies of the US EPA and the environmental regulatory programs of other states.
- A final report on the development of the notification [tiered enforcement] policy was due to the Environmental Review Commission and the Joint Select Regulatory Reform Committee by no later than October 1, 2011.
- NC Session Law 2011-398 required DEQ to implement the uniform notification (tier enforcement) policy by no later than February 1, 2012.
- DEQ's tiered enforcement policy was finalized on September 29, 2011.

DEQ's Tiered Enforcement Policy

What are some specific elements of DEQ's tiered enforcement policy?

- Some level of program autonomy is necessary because individual programs operate under different statutes and rules.
- Each agency required to implement a three-tiered approach to enforcement, with the severity of enforcement response increasing for each tier.
 - Tier 1: Issue a Notice of Deficiency (NOD) for first-time recordkeeping & paperwork lapses that result in little or no harm to the environment or public health.
 - Tier 2: Issue a Notice of Violation (NOV) for repeat and/or more serious first-time infractions that could result in harm to the environment or public health.
 - Tier 3: Issue a Notice of Recommendation for Enforcement (NRE) and subsequent civil penalty assessment for multiple time repeat and/or first-time violations that have clearly impacted the environment or public health.

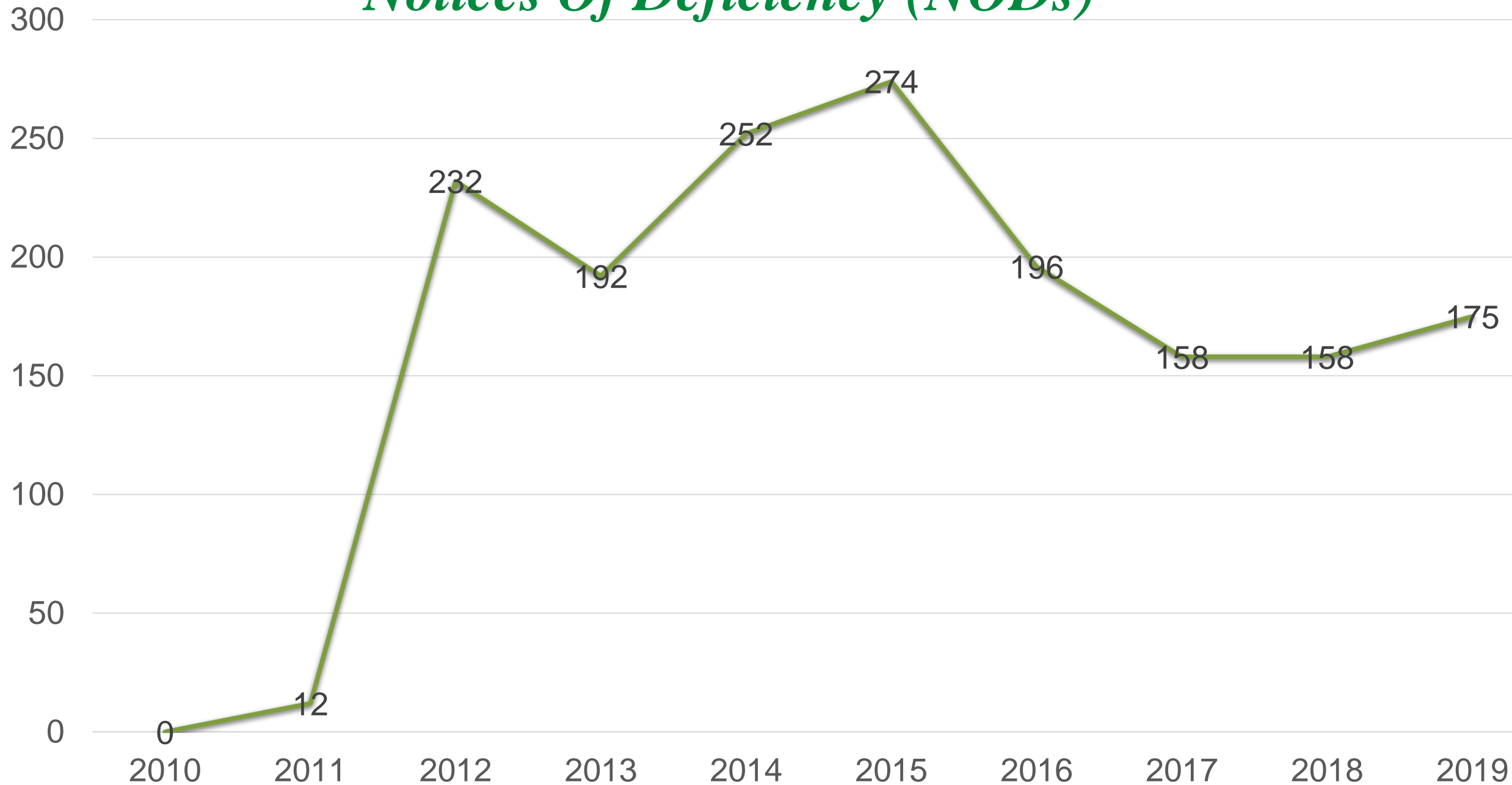
DEQ's Tiered Enforcement Policy

What are some potential agency enforcement actions that are not covered under DEQ's tiered enforcement policy?

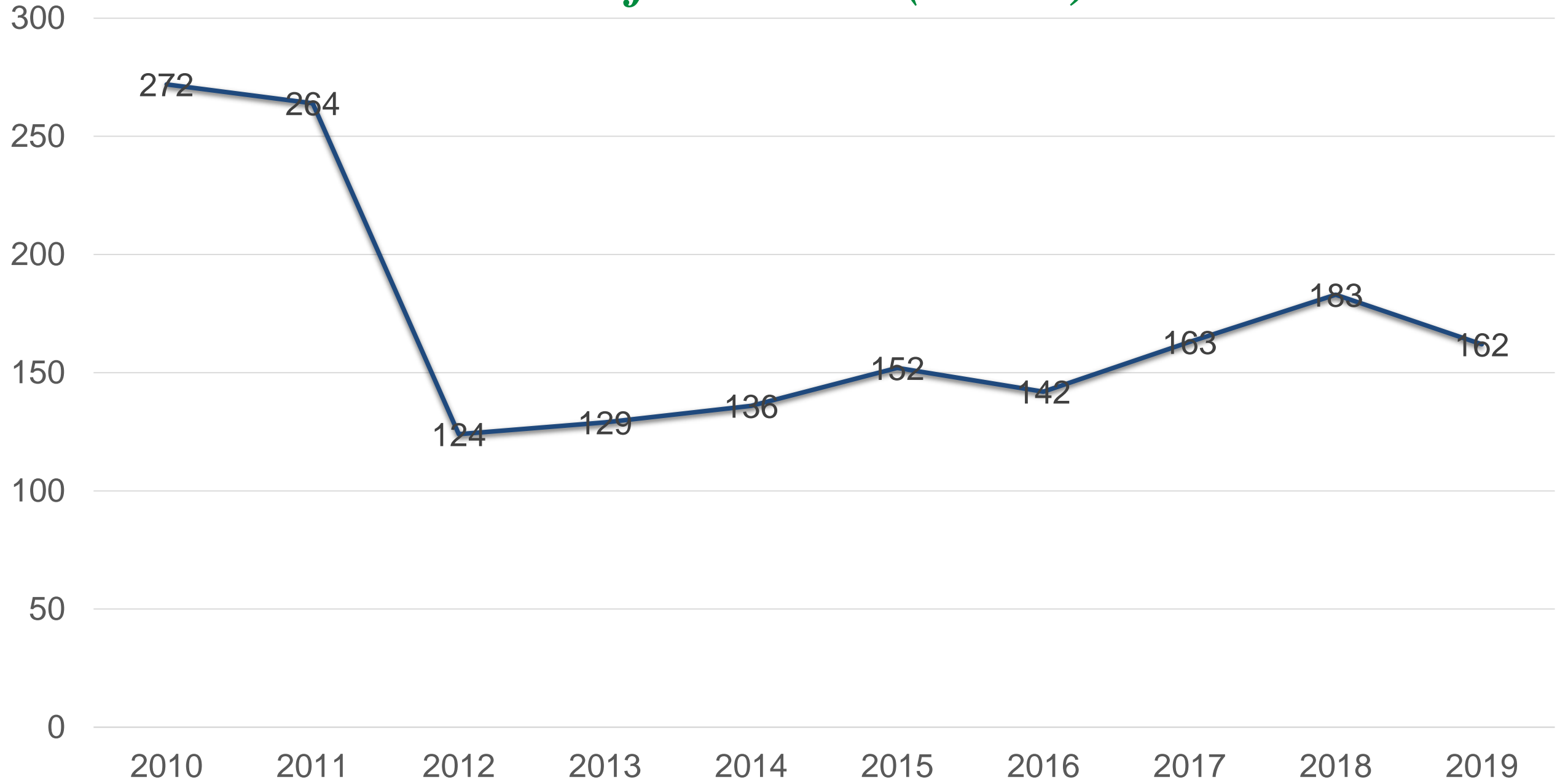
- Administrative orders;
- Special orders by consent; and
- Judicial actions for injunctive relief.

These actions are intended to address imminent threats to public health, safety or the environment or to address a continuing violation. Use of these enforcement actions are governed by specific statutory criteria.

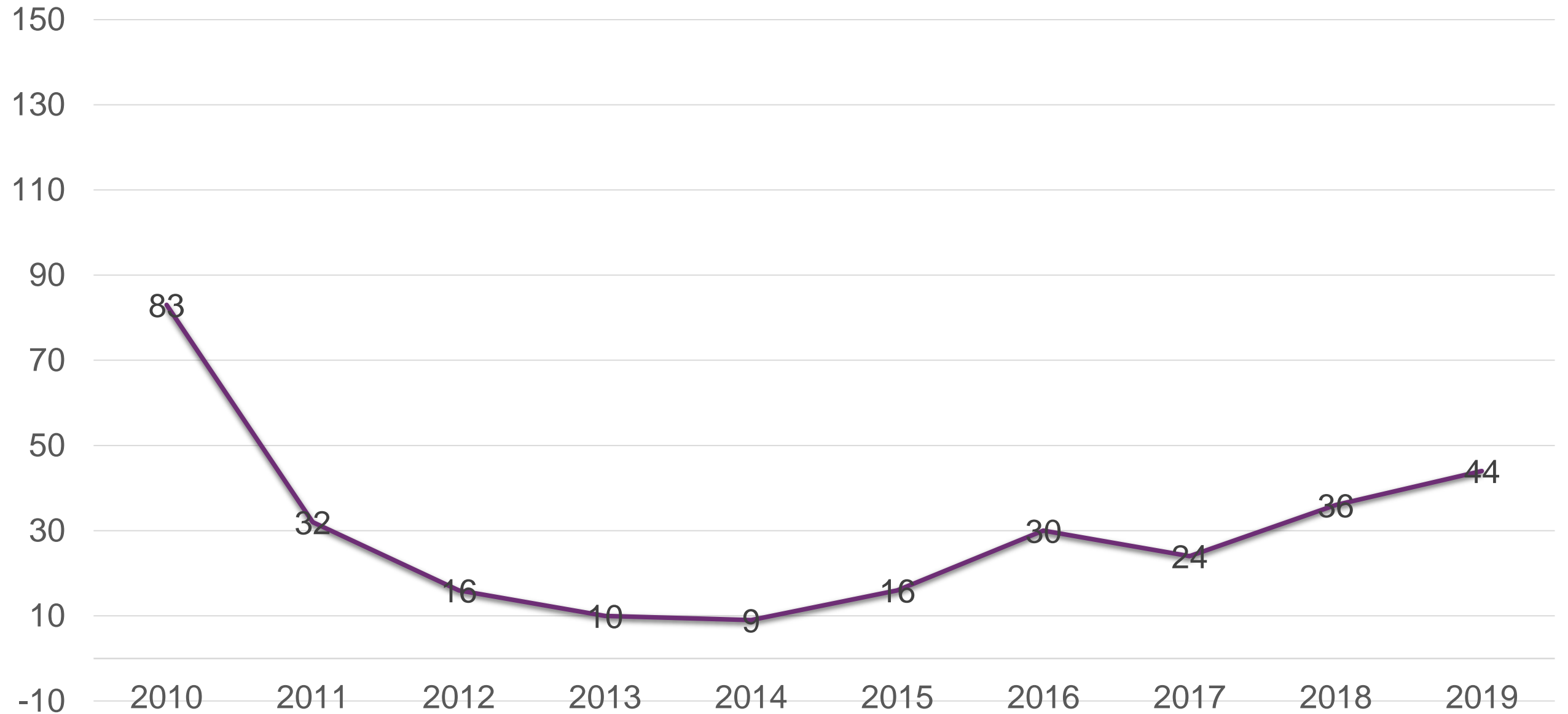
Notices Of Deficiency (NODs)



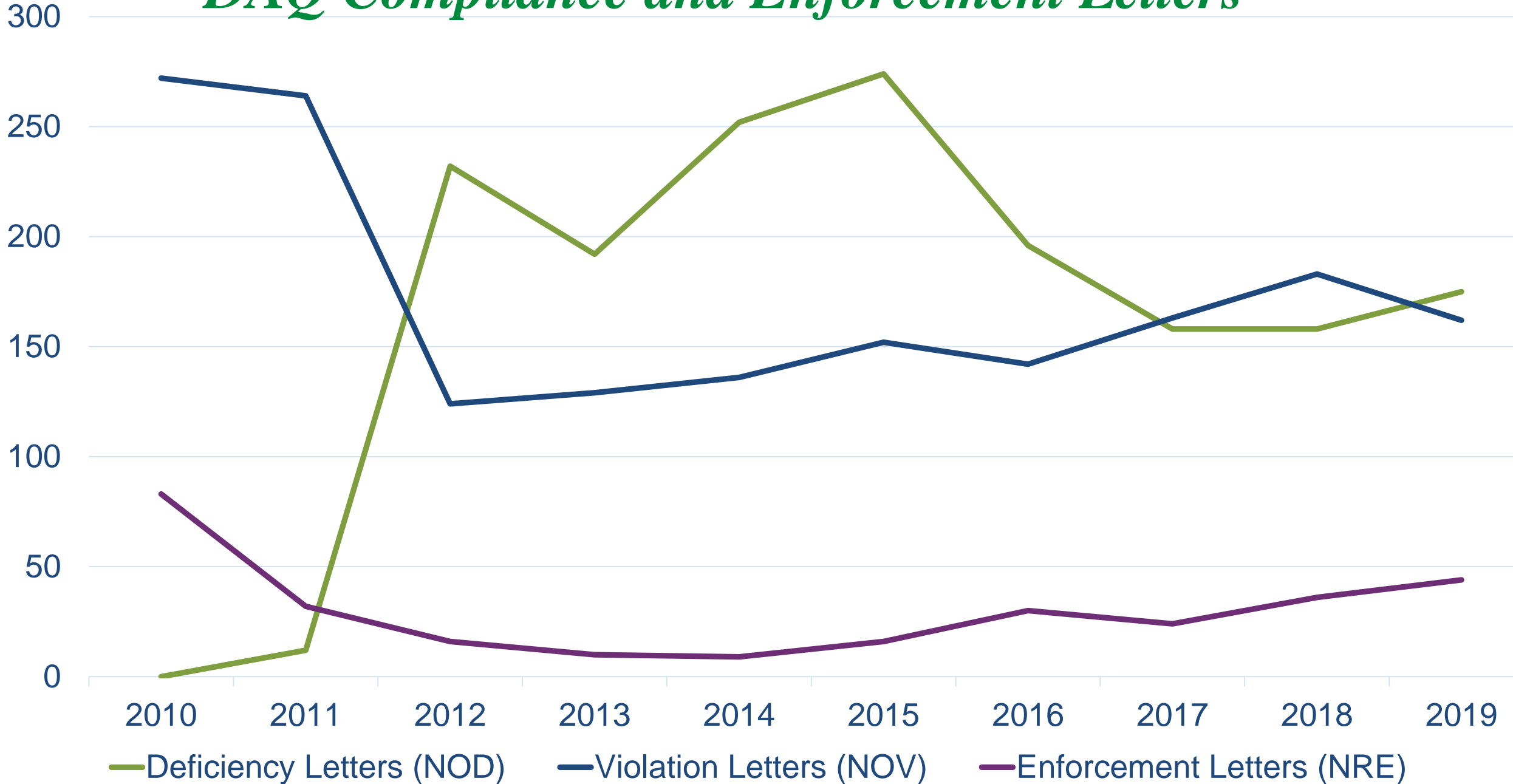
Notices Of Violation (NOVs)



Notices of Recommendation for Enforcement (NREs)



DAQ Compliance and Enforcement Letters



COVID-19 in North Carolina - Key Dates

March 26, 2020 - EPA's Office of Enforcement and Compliance Assurance (OECA) issues a memorandum regarding the implications of COVID-19 on environment compliance and enforcement programs (i.e., temporary enforcement policy).

March 27, 2020 - Governor Cooper issues Executive Order No. 121 declaring a statewide Stay At Home order effective March 30th and lasting 30 days.

March 30, 2020 – NC DEQ issues a press release on the continuation of DEQ compliance and enforcement activities during COVID-19 public health crisis.

April 23, 2020 – Governor Cooper issues Executive Order No. 135 extending statewide Stay At Home order through May 8th.

May 5, 2020 - Governor Cooper issues Executive Order No. 138 modifying the statewide Stay At Home order and announces a transition to Phase 1 of easing COVID-19 restrictions starting on May 8th.

May 20, 2020 - Governor Cooper issues Executive Order No. 141 lifting some restrictions and moving state into Phase 2 Safer at Home until June 26th.



COVID-19 in North Carolina - Key Dates

June 24, 2020 - Governor Cooper issues Executive Order No. 147 extending statewide Safer at Home Phase 2 measures until July 17th and mandating face coverings to be worn statewide.

June 29, 2020 - EPA's OECA issues an Addendum on Termination to their March 26th temporary enforcement policy. A termination date of August 31, 2020 was set.

July 16, 2020 – Governor Cooper issues Executive Order No. 151 extending statewide Phase 2 Safer At Home measures through August 7th.

August 5, 2020 – Governor Cooper issues Executive Order No. 155 extending statewide Phase 2 Safer At Home measures through September 11th.

September 4, 2020 – Governor Cooper issues Executive Order No. 163 lifting more restrictions and moving state into Phase 2.5 Safer At Home through October 2nd.



COVID-19 Compliance and Enforcement Response

Roy Cooper, Governor



Michael S. Regan, Secretary

Release: Immediate

Contact: Sharon Martin

Date:

Phone: 919-707-8670

Memo

To: Interested Parties

From: Sharon Martin, Deputy Secretary for Public Affairs

Date: Monday, March 30, 2020

Re: State Environmental Enforcement during COVID-19

During the current public health crisis, DEQ continues to protect air quality, water quality and human health under all state environmental rules and regulations.

Under our authority, DEQ will work with regulated entities to ensure they remain in compliance and in instances of non-compliance, pursue enforcement actions on a case-by-case basis.

COVID-19 Compliance and Enforcement Activities

DAQ's specific response to COVID-19 related issues:

- Regulated facilities are always expected to make good faith efforts to comply with air quality regulations. If emission sources are operated, control systems should be as well. Excess emissions and accidental releases should be reported ASAP.
- Regulated facilities should follow specific force majeure procedures when they are provided in federal and state regulations (e.g., stack testing extension requests).
- DAQ understands that there may be unavoidable lapses in facility compliance activities (e.g., record keeping, etc.) during period of COVID-19 restrictions.
- Regulated facilities should provide DAQ with a full summary of any lapses in compliance status after COVID-19 restrictions are lifted in their area.
- DAQ staff is available to answer questions from industry.

Department of Environmental Quality



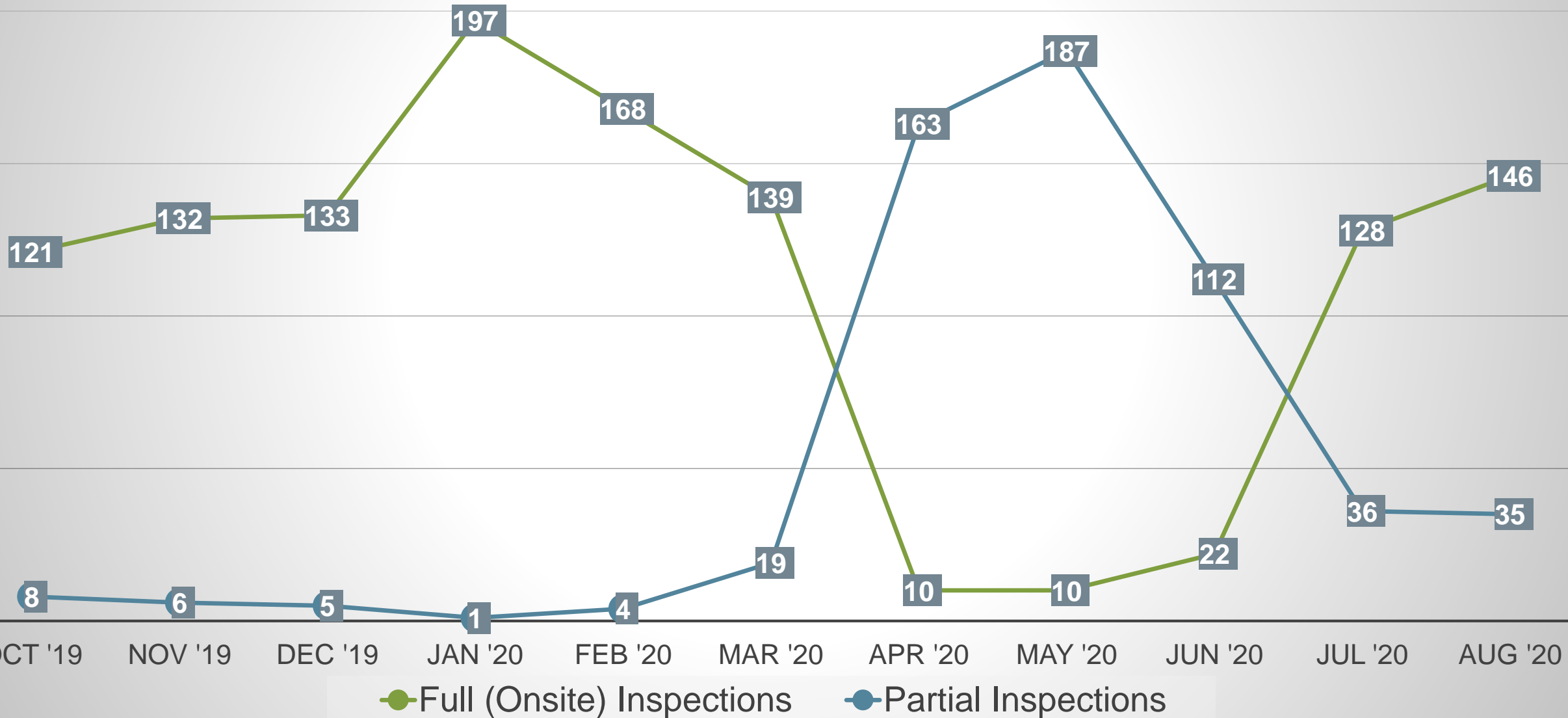
COVID-19 Compliance and Enforcement Activities

DAQ's specific response to COVID-19 related issues (con't):

- DAQ continues to be open for business though the majority of staff is teleworking.
- DAQ continues to conduct facility compliance inspections (full and partial) while following COVID-19 safety guidelines. Virtual inspection techniques may be used.
- DAQ continues to conduct stack test observations where social distancing guidelines can be followed. Virtual observation techniques may be used.
- DAQ continues to investigate citizen complaints while practicing social distancing.
- DAQ continues to review facility compliance reports upon receipt.
- DAQ may use enforcement discretion on a case-by-case basis when compliance issues directly related to COVID-19 restrictions are reported to us.

Facility Compliance Inspection FFY2020

(Preliminary Data)



Air Quality Resources in NC

Find us on the web at:
<https://deq.nc.gov/airquality>



Motor Vehicles

Vehicle Emissions, VW Settlement, Alternative Fuels, Smoking Vehicle Complaints, I&M & Grant Programs



Air Quality Forecasts

Daily Air Quality Forecasts, Ozone Design Value Predictor Tool



Pollen Report

Get the Latest Pollen Report From Our Lab



Public Records Search

Search Permits & Compliance Documents



Rules

Air Quality Rules, Draft Rules, Rules Readoption, Air Quality Committee



Permitting

Air Permits, Permit Procedures, Applications, Modifications, Industry-Specific Permitting Actions



Air Monitoring

Ambient Monitoring Network & Data



Public Engagement

Current Comment Periods, Upcoming Hearings, Public Records Access, Social Media



Compliance

Compliance/Enforcement Policies & Procedures, Open Burning Info, 112(r) Program



Planning

Attainment Status, State Implementation Plans, MACT/GACT Rules, Emissions Inventories



Emission Inventories

AERO, Emissions Reporting Forms, Instructions & Guidance



Air Quality Regional Offices

Regional Contacts for Complaints, Permitting & Compliance

Air Quality Resources in NC



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Regional Offices

DAQ Regional Offices are based in Asheville, Mooresville, Winston-Salem, Raleigh, Fayetteville, Wilmington and Washington. Staff operate [air monitoring](#) equipment, perform inspections, enforce [air quality regulations](#) and issue [permits](#) for [facilities](#) across the state.



Click on a region of the map to learn more about your closest Regional Office or [Local Program](#).

- [Map of Facilities with Air Quality Permits](#)
- [Map of Air Monitoring Sites](#)
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- [Current Air Monitoring Data By Pollutant](#)
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Air Quality Resources in NC

Key DAQ Switchboard Numbers

Central Office – Raleigh: (919) 707-8400

Asheville Regional Office: (828) 296-4500

Fayetteville Regional Office: (910) 433-3300

Mooresville Regional Office: (704) 663-1699

Raleigh Regional Office: (919) 791-4200

Washington Regional Office: (252) 946-6481

Wilmington Regional Office: (910) 796-7215

Winston-Salem Regional Office: (336) 776-9800

For any air quality questions, contact one of these offices.

Department of Environmental Quality



Local Air Quality Programs in NC

If your facility is located in Buncombe, Forsyth, or Mecklenburg Counties, you will need to contact your local program air quality office:

- Buncombe County: (828) 250-6777

<http://www.buncombecounty.org/Governing/Depts/wncair>

- Forsyth County: (336) 703-2440

<http://www.co.forsyth.nc.us/EAP>

- Mecklenburg County: (704) 336-5430

<https://www.mecknc.gov/LUESA/AirQuality>

Contact Information:

Steve Hall
Technical Services Section Chief
NC DEQ, Division of Air Quality
919-707-8404
steve.hall@ncdenr.gov