

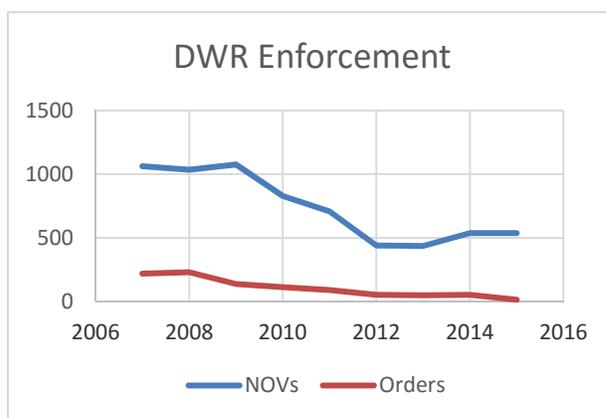
TDEC Enforcement Drops to Astonishing Low

Last year Tennessee Clean Water Network (TCWN) released a report revealing that TDEC’s Division of Water Resources (DWR) – the state agency responsible for enforcing Tennessee’s laws against pollution – had a drop of 75% in the amount of enforcement orders it issued compared with just five years previous. **Think that’s bad? Read on.**



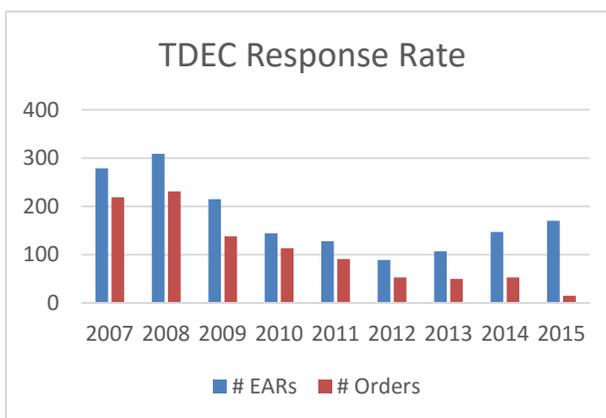
TCWN ran the numbers again for 2015 and was astonished to find **only 15 enforcement orders were issued statewide in the entire year**. Compared with 2007, DWR’s enforcement of water regulations dropped 93%.

DWR has argued that it uses other means to ensure compliance, but it is unclear what those are. The other regulatory action it can take against an offender is a Notice of Violation (NOV), which carries **no monetary penalties or repercussion for non-compliance**. But even NOVs have decreased by 50% since 2007.



Enforcement Process

There are several mechanisms that trigger enforcement: inspections by the Division, complaints from citizens or groups like TCWN, or self-reporting by a permittee. When a citizen or a TDEC staff person reports a problem, this is called an Enforcement Action Request, or EAR. In 2007, for every 10 EARs, about eight orders were issued. In 2015 there was only about one order issued for every 10 EARs – essentially a **9% response rate**.



There certainly is not a shortage of pollution problems or permit violations:

- Just last month raw sewage overflowed from the Bluff City collection system into Boone Lake, but TDEC didn’t issue an enforcement order.
- According to EPA, 255 permittees in Tennessee are currently in violation, and EPA does not even look at all the permits in the state.
- In an April 2014 response to a formal complaint we made, TDEC told TCWN it would “take formal enforcement action against” those in violation at a wetland mitigation site. TDEC has yet to do anything for the violations they acknowledged occurred.

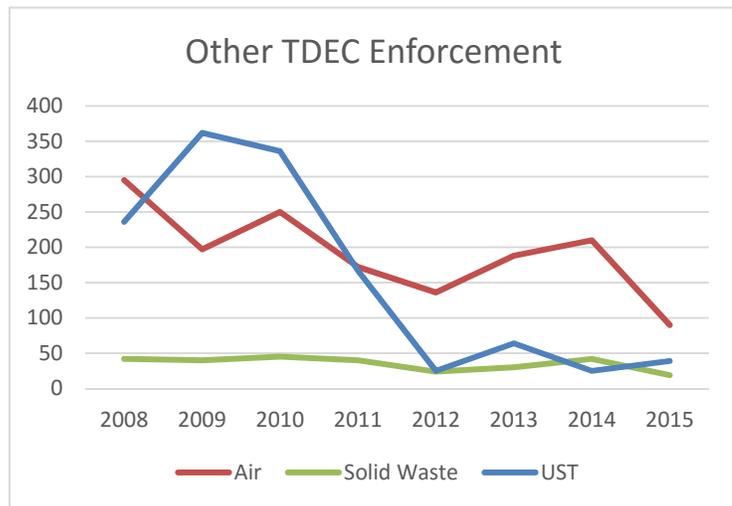
- There are approximately 16,500 active permits under the water division’s purview. With only 15 orders last year it would appear many permit violations are going unpunished.

Just the Division of Water Resources?

Is this just a water issue? While enforcement in other TDEC Divisions has not decreased as drastically, it certainly is down: 69% for air pollution, 55% for solid waste, and 83% for underground storage tanks. It appears enforcement of Tennessee’s pollution protection rules is **no longer a priority** for TDEC.

What could explain the significant decrease in DWR enforcement? Over the years, TCWN has received numerous excuses for the decline, but nothing seems to change. TCWN was informed the enforcement section lost at least seven staff members in the past year. This substantial loss itself is intriguing.

And why are NOVs down 50%? The state, at a minimum, needs to put violators on notice they are being watched.



What This Means

Enforcement of permit requirements and water regulations ensures Tennessee has clean, safe waterways. Proper enforcement holds violators accountable, and adequate fines deter future violations. Without sufficient enforcement, the rules established to protect our waters are meaningless. TCWN’s successful lawsuits and other actions illustrate the effectiveness of enforcement. Most recently, our work ensured chemical explosives won’t continue to pollute the Holston River and our wetland mitigation investigations have resulted in corrective actions at numerous sites across the state. Enforcement actions by the DWR are necessary to mandate corrections to failing facilities and stop pollution from happening. Lack of enforcement gives the impression one can commit violations without suffering repercussions, and the people who suffer repercussions when there isn’t adequate enforcement of our water protection rules are the **citizens of Tennessee**.

The **drastic decline** in enforcement of the rules that protect the waters Tennesseans use as drinking water sources, fishing streams, boating areas, and scenic wonders cannot continue. Tennesseans need to hold the State accountable by demanding that it hold permit violators accountable. TDEC is charged with protecting our water and needs to do its job.ⁱ

ⁱ All data was collected via records requests from TDEC or from TDEC’s online enforcement database.