



Administrative Adjudication Division Customer Survey



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Administrative Adjudication Division Customer Survey

I. Executive Summary

The Department of Environmental Management's Ombudsman conducted a customer survey of 315 individuals, businesses and municipalities who have used the Administrative Adjudication Division (AAD) to contest DEM permit or enforcement decisions. The survey requested feedback from people whose cases were heard in the 2000 to 2003 time frame. The survey requested responses in three main areas, i.e., the level of service provided by the administrative staff, the prehearing process and the actual hearing process itself. Forty-nine people responded to the survey. In general the survey showed that approximately 88% of the questions had a strong positive response. There were only fourteen responses (2%) that indicated a "no" or strong negative response to a question. The remaining ten percent of the responses were neutral responses. The two percent negative response is significant in that the vast majority of the responders were satisfied with the delivery of services of the AAD. This rate is lower than anticipated when one considers the adversarial nature of the venue. There were few questions that scored low positive responses that would require changes in operation of the division. In general, the response to administrative assistance questions provided the highest "yes" response rate of the survey. The administrative staff should be commended for their work in providing excellent service. The survey results showed the AAD process is working well. This survey does not indicate the need for significant changes to the operations of the Division.

II. Background

The Office of Administrative Adjudication (Office) is the administrative court for all environmental matters originating from DEM. The Office is responsible for ensuring that the regulated community (i.e.; individuals, business owners, builders, environmental groups) has an opportunity to contest actions taken by the Department and to have such actions reviewed at the agency level.

The Office also adjudicates all appeals of enforcement actions taken by the many regulatory programs within the Department and hears enforcement appeals for alleged violations of statutes and/or regulations under the jurisdiction of the Department of Environmental Management. The Office consists of three hearing officers and two support staff. The Office hears all appeals filed for denials of applications or permits issued by the various programs within the Department including, but not limited to, wetland permits, individual sewage disposal system permits, resource recovery facility permits, and landfill licenses.

The Office requested the Ombudsman to conduct a survey to assess the delivery of services to parties who have had contested cases heard by the Office. The Office deals with two distinct groups of cases and two surveys were developed. The Enforcement Appeals Survey (Appendix A) and the Application Appeals Survey (Appendix B) requested responses from 16 questions that were common to both processes. One additional question was added to the Enforcement Appeals Survey and two questions added to the Applications Appeals Survey to request information to issues specific to these processes.

The surveys were sent to 315 individuals and attorneys who have had their cases heard by the Office since 2000. Forty-nine surveys were returned. This is an overall response rate of 16%. It should be noted that this is the same response rate that was seen in the 2003 DEM Permitting Customer Survey. Table 1 is a summary of the survey response rate by appeal process.

Table 1			
Permitting Program Survey Response Rate - Summer 2003			
Programs Surveyed	Total Surveys Sent	Total Surveys Returned	Return Rate
Enforcement Appeals	165	25	15%
Application Appeals	150	24	16%
Totals	315	49	16%

III. Survey Analysis Protocol

The survey requested feedback in three main areas, i.e., the level of service provided by the administrative staff, the prehearing process and the actual hearing process itself. In other DEM customer satisfaction surveys, questions were asked that had five levels of gradation. The two positive and two negative responses were collapsed to calculate a positive and a negative response. The “no comment” and “no opinion” comments were considered a null response and would not be used in the survey. The first section of the survey on administrative services can be considered a customer satisfaction survey. The other two sections that deal with the Prehearing and the Hearing processes, requested information on issues that are not limited to customer service issues. The survey, therefore, used a four-part gradation system, i.e., Yes, Somewhat, Not Applicable / No Opinion and No.

For the purpose of calculating statistics for the survey, each question response was tallied and question response rates to the Yes and No options were calculated. The yes response was considered a strong positive and a no was considered an area that needed improvement. A “somewhat” response initially was considered a more neutral response because it could be interpreted as a sometimes yes or a sometimes no response. The Not Applicable / No Opinion responses indicated a null response.

In this survey, one of the question responses was “somewhat”. Since “somewhat” could be a positive or a negative response, this response made analysis difficult. This survey then only had three responses, a positive, negative and a null response. This response was considered a valid response and was included in the statistics for determine percent response rates. It was, however, not assigned into the positive or negative categories.

When calculating statistics for the survey the number of null responses were subtracted from the total responses received and is represented in the second column of Appendix C and is entitled “Number of Analyzed Responses”. This was done because the respondents were not providing a response to the question. The survey only analyzed the response rates to the yes and no comments. In some cases questions had high levels of null and neutral responses, and this was accounted for in the analysis of certain questions.

For the purpose of this survey, “yes” responses 90% or greater will be considered a program strength, with responses between 81 and 89 % being above average. Responses between 70 and

79% are issues that should be tracked for possible improvement. “Yes” responses below 70% would indicate potential problems. Table 2 is a compilation of this system.

Table 2	
Program Evaluation System	
Positive Response Rate	Program Evaluation
90-100%	Program Strength
80-89%	Above Average
70-79%	Look for Possible Improvement
Below 70%	Problem Needs Correction

Responses will be analyzed as a survey total, by sub-categories, i.e., administrative assistance, the prehearing process and the hearing process and by each question. Appendix C summarizes the responses to the survey. The Application Appeals survey had 21 questions and the Enforcement Appeals survey had 20 questions.

IV. Survey Category Analysis

DEM received responses from forty-nine people. There were two separate, but similar surveys prepared. A survey was prepared for the Application Appeals and the Enforcement Appeals processes. The survey results were analyzed by each of the two categories.

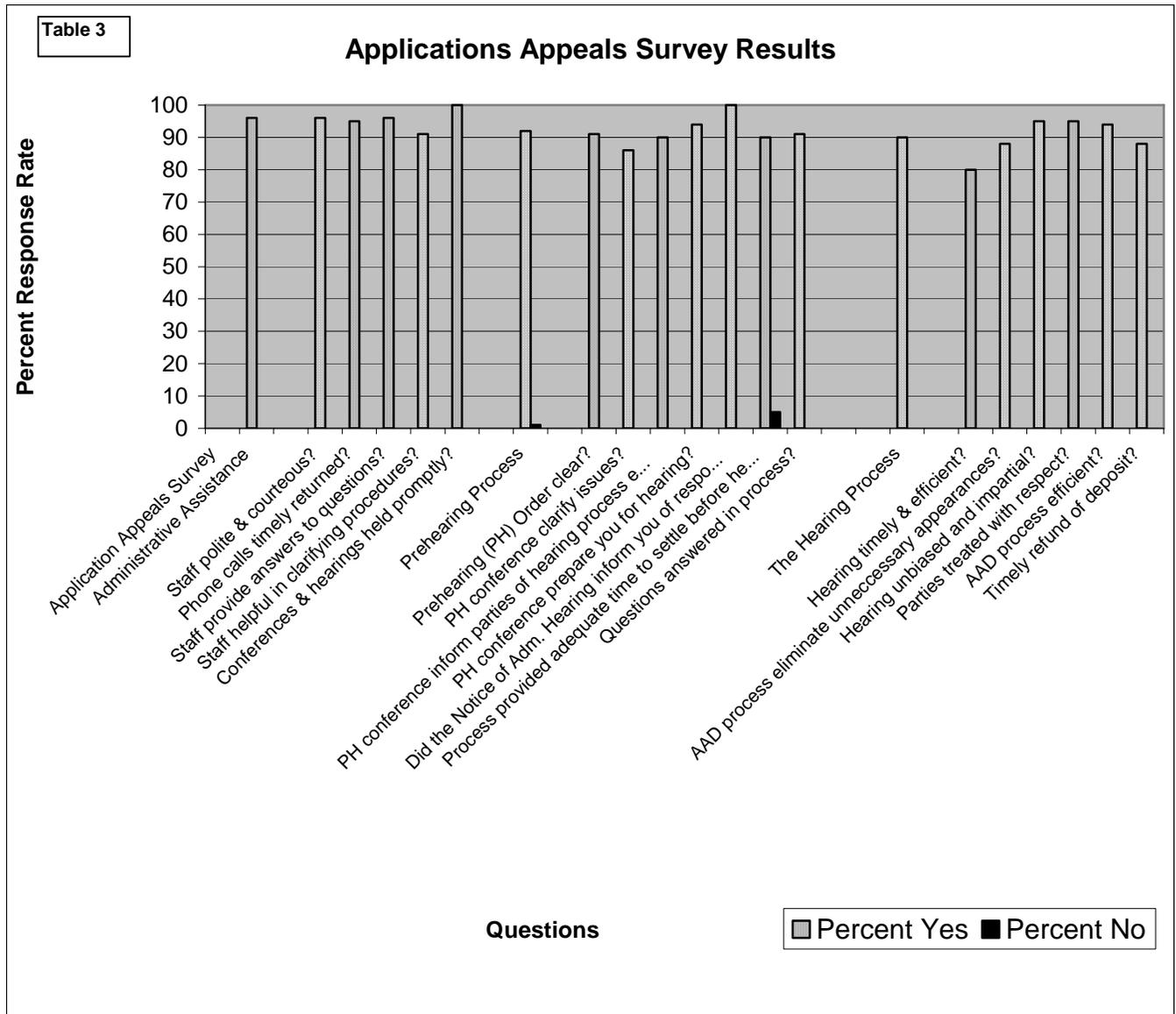
A. Application Appeals Survey Results

Twenty-four Application Appeals surveys were returned. Table 3 graphs the yes and no response rates by question for this survey. Table 3 shows that there was a high rate of yes responses in most of the questions. It should be noted that only one question in one survey was returned with a no response. This portion of the survey indicates the administrative assistance was viewed as extremely helpful, with 96% of the responses being positive. The prehearing process, as a whole, had a 92% positive rating. Only one question had a response rate less than 90%. (Did the prehearing process help to clarify issues?).

The hearing process, as a whole was rated as 90% positive. There were three questions in that category that were rated less than 90 % and included:

Question	Yes Responses	Response Rate %	Somewhat Responses	Null Responses
Were the AAD proceedings conducted in a timely and efficient manner?	16	80%	4	2
Did the AAD procedures eliminate unnecessary appearances at the AAD?	15	88%	2	4
Was your hearing deposit refunded to you in a timely manner?	7	88%	1	13

There were no “no” responses to any of the questions. The first question, in particular, should be further investigated to attempt to understand the reason for the lower positive response rate.



B. Enforcement Appeals Survey

The enforcement appeals survey had few “no” responses to questions, i.e., only 7 “no” responses. Table 4 graphs the results of this category of the survey. The responders thought administrative assistance support was positive (92%). There were eight questions that dealt with the prehearing process. The responses indicated 83 percent were strong positive, 1% strong negative and the rest were either neutral or null responses. Only two questions in the prehearing process had strong response rates above 90%.

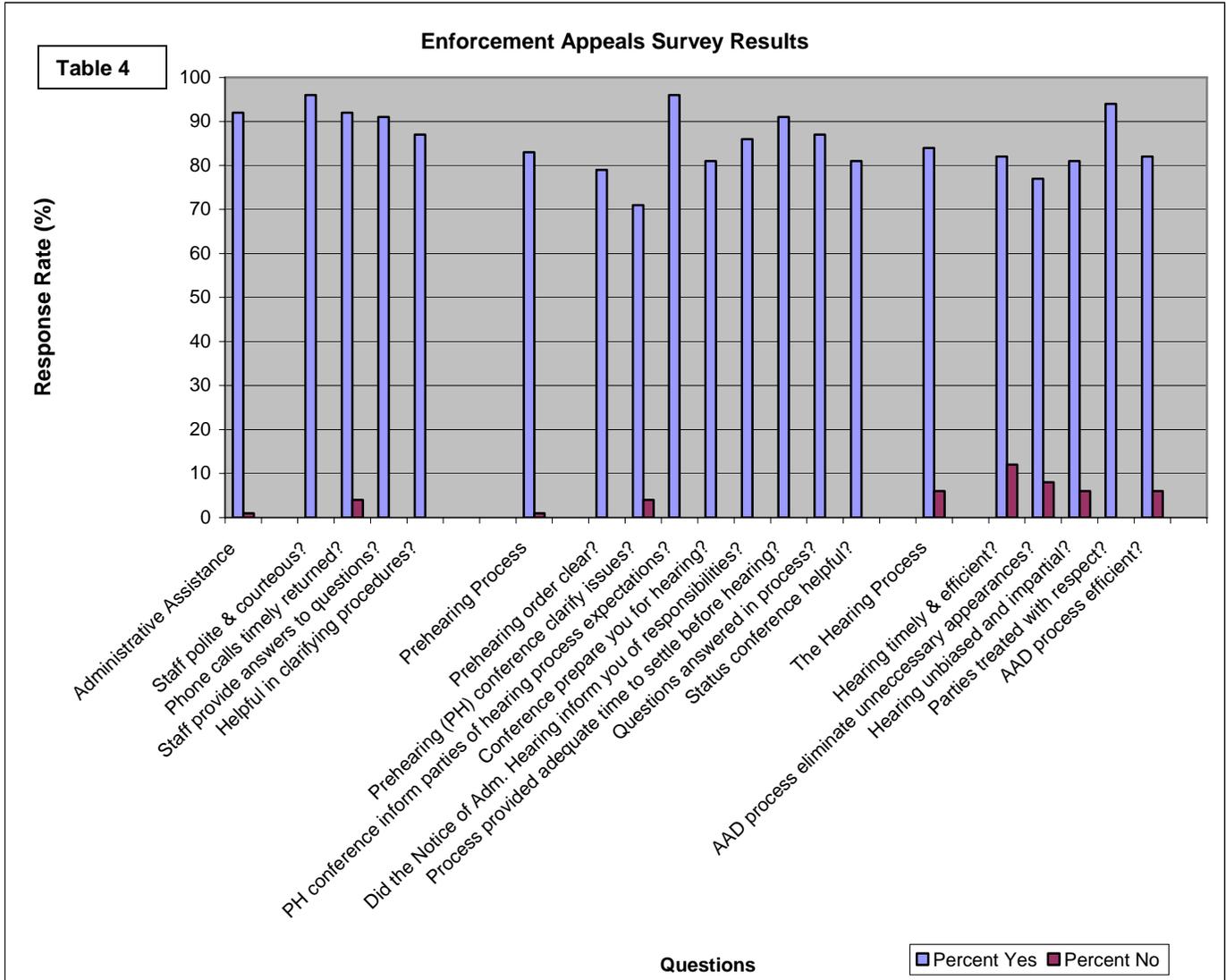


Table 5 is a breakdown of the responses in the prehearing process category to four questions where yes response rates were lower than 90%. There was only one “no” response to all the questions answered.

Table 5
Enforcement Appeals Questions with Response Rate Lower Than 90% (Prehearing Process)

Question	Number of Yes Responses	Yes Response Rate %	“Somewhat” Responses	Null Responses	“No” Response
Did the Prehearing Conference help to clarify issues?	17	71%	6	1	1
Was the Prehearing Order clear?	19	79%	5	1	0
Did the Prehearing Conference prepare you for the hearing?	17	81%	4	3	0
Was the Status Conference Helpful	17	81%	6	1	0

The fact that only one response was a “no” response in this section would indicate people were not dissatisfied with the service provided. The higher “somewhat” responses, however, could indicate that there could be improvement in the existing processes.

The last part of the Enforcement Appeals Survey dealt with the Hearing Process. Five questions were asked about this process and only one question had a positive response rate greater than 90%. Table 6 is the enforcement appeals questions that had a response rate lower than 90%. Six percent of the questions had a “no” response, which was the highest “no” response rate of any section of the two surveys. One question had a yes response rate lower than 80%. The question “Did AAD procedures eliminate unnecessary appearances at AAD” was scored at 77%.

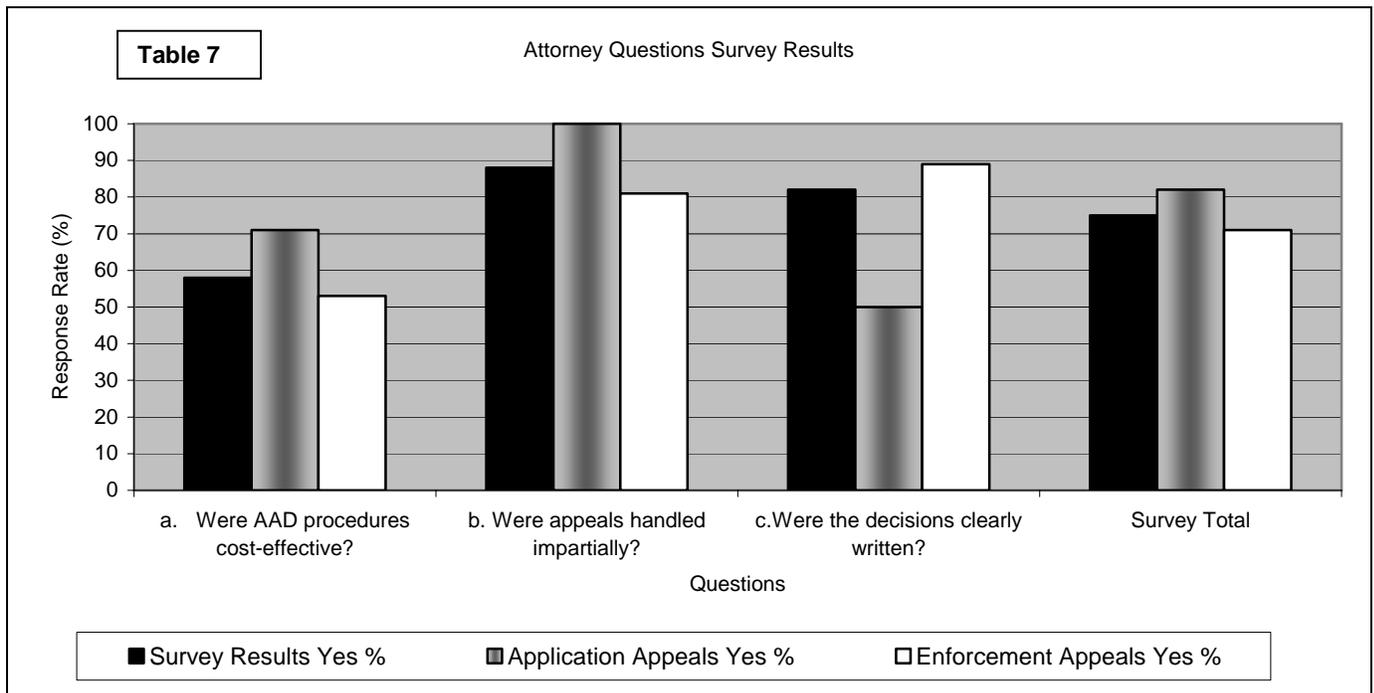
Table 6 Enforcement Appeals Questions with Response Rate lower than 90% (Hearing Process)						
Question	Number of Yes Responses	Yes Response Rate %	Somewhat Responses	Null Responses	Number of No Responses	No Response Rate (%)
Did the AAD process eliminate unnecessary appearances at AAD?	10	77%	2	9	1	8%
Were the AAD proceedings conducted in an unbiased and impartial manner?	13	81%	2	7	1	6%
Were AAD hearing proceedings conducted in a timely and efficient manner?	14	82%	1	7	2	12%
Overall, do you feel the AAD process is efficient?	14	82%	2	7	1	6%

In this section, there were very few “somewhat” responses, but there were a considerable number of “not applicable / no opinion” responses. The high percentage of null responses has magnified the negative response rate. (When calculating statistics, we deleted the null responses from the survey and then calculated response rates.) This also reduced the sample size and it might be difficult to make an inference to the category as a whole. This survey should be conducted in the future to determine if this is an issue that needs to be further evaluated.

C. Attorney Responses

The last part of the survey included three questions that were geared directly to attorneys. This survey requested feedback from this group who practice in AAD, sometimes, on a regular basis. Appendix D is a table of the raw data for this section. Table 7 is a summary of the survey questions responses for the 25 surveys returned with this section filled out. Seven of the surveys were Application Appeals surveys and 17 were Enforcement Appeals surveys. The number of attorney responses in the Application Appeals survey was low, and detailed interpretation of the results is not possible.

Both categories ranked AAD's impartiality highest of the three questions. Neither group rated the AAD procedures as being cost effective for their clients. The survey also indicated the Application Appeals Survey respondents did not feel the decision of the hearing officers set the findings of fact and conclusion of law on which it was based. (By law, all decisions of the Hearing Officers include sections on the finding of fact and conclusion of law. It is possible the response is due to a disagreement of the conclusions of the Hearing Officers.) It should be noted that only two surveys responded to this question that had opinions on this issue and therefore this low response does not have any program significance.



D. General Comments

The survey had five open-ended questions that allowed people to expand on their impressions on the AAD process. For the most part, participants did not provide additional insight about the process. In most instances, people were positive about the process and answered the questions with a simple yes or no response. The comments, for the most part, supported their view. Table 8 is a synopsis of the results and is broken down by the survey category.

Table 8 General Comments Summary					
Question	Application Survey		Enforcement Survey		General Comments (In some cases paraphrased.)
	Yes	No	Yes	No	
If you participated in conference calls, did you find the process helpful and / or efficient?	5	0	13	0	<ul style="list-style-type: none"> Most issues could be handled this way, it kept the process efficient, was cost effective and saved travel time.
Did you feel AAD's procedures eliminate unnecessary appearances at the AAD, why or why not?	8	1	10	0	<ul style="list-style-type: none"> Helped to gather the right records for the hearing, kept things on track, eliminated travel and staff helped to resolve issues. I had to make every trip; the process was a witch-hunt.
Did you feel the administrative hearing was conducted in an impartial manner? Please explain.	7	0	9	2	<ul style="list-style-type: none"> Decisions were based on pertinent information, decision was fair, and DEM officials were courteous, informative and sympathetic. There is always a feeling that a hearing held by the enforcing agency is biased. DEM threw out my file and that is why I am in trouble with the agency. I had no attorney.
Questions	General Comments				
Please provide any suggestions you would like considered.	<ul style="list-style-type: none"> Impressed by the assistance and rapid remedy provided by DEM personnel. AAD is a well-run process. Clone Kathy Lanphear. AAD should be separated from DEM. If a poor set of regulations is adopted, a process that allows common sense should prevail. The AAD process is impossible without an attorney and the state should consider a public defender option. 				
Additional comments.	<p>There were seven comments in the general category and they can be grouped into Employees, Process and Other Issues.</p> <p>Employees</p> <ul style="list-style-type: none"> DEM employees were helpful. The following people were mentioned: M. McGrath, and unnamed attorney, K. Lanphear and J. Baffoni. <p>Process</p> <ul style="list-style-type: none"> The survey was a good idea to express my impression of the process. Everything went well in the process. Please duplicate your process at other agencies, they need it. <p>Other</p> <ul style="list-style-type: none"> I would like to see a system that would allow someone to acquire a license when the fisherman retires a license. Use direct mailings or e-mails that report changes in regulations that effect parties. Connecticut marine-fisheries use this system. 				

V. RECOMMENDATIONS

In general, the survey showed that approximately 88% of the questions had a strong positive response. Only fourteen questions (2%) of the whole survey had “no” or strong negative responses. The remaining ten percent of the responses were neutral responses. The two percent negative response is significant because it is so low. This would imply that the vast majority of the responders were satisfied with the delivery of services of the AAD. There were few questions that scored low enough to warrant major changes of action by the division. In general, this survey should be looked as a mechanism to fine-tune the existing system and not one that is needed to overhaul operations of the Division.

A. Application Appeals Process

The Application Appeals process was evaluated in a positive manner. The fact that only one response was a “no” response in this section would indicate people were not dissatisfied with the service provided. The only area that should be evaluated further is whether the AAD hearings were conducted in a timely and efficient manner.

- This Division should review this issue and attempt to understand the reason for the lower positive response rate. (80%)

B. Enforcement Appeals Process

There were four questions that had lower positive response rates and include the following:

Did the Prehearing Conference help to clarify issues? (71%)

Was the Prehearing Order clear? (79%)

Did the Prehearing Conference prepare you for the hearing? (81%)

Was the Status Conference helpful? (81%)

The Enforcement Appeals process had a higher “no” response rate than the Applications Appeals process. In addition, the higher “somewhat” responses could indicate that there could be improvement in the existing processes.

- The Division should review its internal procedures to determine if there could be ways to improve clarity and goals of the Prehearing Conference process and the Prehearing Order. It should be noted the Prehearing Order is a standard document that is issued in all cases. This document should be reviewed to see if it can be simplified and made clearer.
- The Division should look at ways to make the Status Conferences more helpful.
- This survey should be conducted in the future to determine if the lower positive response rate is an issue that needs to be further evaluated.

APPENDIX A

ENFORCEMENT APPEALS SURVEY

Please drawing a circle around the number corresponding to your response.

	Yes	Somewhat	No Opinion	Not Applicable / No
Administrative Assistance				
Was the AAD staff was polite and courteous?	+2	+1	0	-1
Did AAD staff return telephone calls in a timely manner?	+2	+1	0	-1
Did AAD staff provide you with well-informed answers to your questions?	+2	+1	0	-1
Was the AAD staff helpful in clarifying rules of practice and procedure?	+2	+1	0	-1
The Prehearing Process				
Was the Status Conference helpful?	+2	+1	0	-1
Was the Prehearing Order clear?	+2	+1	0	-1
Did the Prehearing Conference help to clarify the issues?	+2	+1	0	-1
At the Prehearing Conference, were the parties were informed as to what would be expected of them during the administrative hearing?	+2	+1	0	-1
During the Prehearing and Hearing, were you provided with understandable answers to your questions?	+2	+1	0	-1
Did the Prehearing Conference assist you in preparing me for the administrative hearing?	+2	+1	0	-1
Did the AAD process provide you with adequate time for settlement prior to hearing date?	+2	+1	0	-1
Did the Notice of Administrative Hearing inform you of your responsibilities at the administrative hearing?	+2	+1	0	-1
The Hearing Process				
Were the AAD proceedings conducted in a timely and efficient manner?	+2	+1	0	-1
Were the AAD proceedings conducted in an unbiased and impartial manner?	+2	+1	0	-1
Did the AAD procedures eliminate unnecessary appearances in AAD?	+2	+1	0	-1
During AAD proceedings, the parties were treated with respect?	+2	+1	0	-1
Overall, do you feel the AAD process is efficient?	+2	+1	0	-1

Please circle the AAD Hearing Officers that you have appeared before:

Kathleen M. Lanphear

Joseph F. Baffoni

Mary F. McMahon

Open-ended Comments...

If you participated in conference calls, did you find that process helpful and/or efficient?

Do you feel AAD's procedures eliminate unnecessary appearances, why or why not?

Did you feel the administrative hearing was conducted in an impartial manner? Please explain.

Please provide any suggestions you would like to be considered.

Additional Comments

If you are an attorney, please complete the following section.

AAD procedures were cost effective for my client.	+2	+1	0	-1
Throughout my experiences with AAD, appeals were handled in an impartial manner.	+2	+1	0	-1
The decision of the Hearing Officer clearly set forth the findings of fact and conclusions of law on which it was based.	+2	+1	0	-1

Thank you for taking the time to complete this survey. When complete, please return the survey in the envelope provided or hand deliver the survey to:

DEM Ombudsman – Survey
Department of Environmental Management
235 Promenade Street, 4th Floor
Providence, RI 02908

APPENDIX B

APPLICATION APPEALS SURVEY

Please drawing a circle around the number corresponding to your response.

	Yes	Somewhat	Not Applicable / No Opinion	No
Administrative Assistance				
Was the AAD staff was polite and courteous?	+2	+1	0	-1
Did AAD staff return telephone calls in a timely manner?	+2	+1	0	-1
Did AAD staff provide you with well-informed answers to your questions?	+2	+1	0	-1
Were conferences and hearings scheduled promptly after filing your appeal?	+2	+1	0	-1
Was the AAD staff helpful in clarifying rules of practice and procedure?	+2	+1	0	-1
The Prehearing Process				
Was the Prehearing Order clear?	+2	+1	0	-1
Did the Prehearing Conference help to clarify the issues?	+2	+1	0	-1
At the Prehearing Conference, were the parties were informed as to what would be expected of them during the administrative hearing?	+2	+1	0	-1
Did the Prehearing Conference assist you in preparing me for the administrative hearing?	+2	+1	0	-1
Did the Notice of Administrative Hearing inform you of your responsibilities at the administrative hearing?	+2	+1	0	-1
Did the AAD process provide you with adequate time for settlement prior to hearing date?	+2	+1	0	-1
During the Prehearing Conference and Hearing, were you provided with understandable answers to your questions?	+2	+1	0	-1
The Hearing Process				
Were the AAD proceedings conducted in a timely and efficient manner?	+2	+1	0	-1
Did the AAD procedures eliminate unnecessary appearances in AAD?	+2	+1	0	-1
Were the AAD proceedings conducted in an unbiased and impartial manner?	+2	+1	0	-1
During AAD proceedings, the parties were treated with respect?	+2	+1	0	-1
Was your hearing deposit refunded to you in a timely manner?	+2	+1	0	-1
Overall, do you feel the AAD process is efficient?	+2	+1	0	-1

Please circle the AAD Hearing Officers that you have appeared before:

Kathleen M. Lanphear

Joseph F. Baffoni

Mary F. McMahon

Open-ended Comments...

If you participated in conference calls, did you find that process helpful and/or efficient?

Do you feel AAD's procedures eliminate unnecessary appearances, why or why not?

Did you feel the administrative hearing was conducted in an impartial manner? Please explain.

Please provide any suggestions you would like to be considered.

Additional Comments

If you are an attorney, please complete the following section.				
AAD procedures were cost effective for my client.	+2	+1	0	-1
Throughout my experiences with AAD, appeals were handled in an impartial manner.	+2	+1	0	-1
The decision of the Hearing Officer clearly set forth the findings of fact and conclusions of law on which it was based.	+2	+1	0	-1

Thank you for taking the time to complete this survey. When complete, please return the survey in the envelope provided or hand deliver the survey to:

DEM Ombudsman – Survey
Department of Environmental Management
235 Promenade Street, 4th Floor
Providence, RI 02908

APPENDIX C

Appendix C							
Survey Response Compilation							
Survey Category	Number of Analyzed Responses	Number of Yes responses	% of Yes responses	Number of Somewhat responses	Number of N/A N/O responses	Number of No responses	% of No responses
Application Appeals Survey (# of Questions)							
Administrative Assistance (5)	113	108	96	5	7	0	0
Prehearing Process (7)	146	133	92	12	21	1	<1
Hearing Process (6)	102	92	90	10	29	0	0
Attorney response							
a. Process Cost-effective?	7	5	71	0	1	2	29
b. AAD Impartial?	8	8	100	0	0	0	0
c. Decision Clear?	2	1	50	1	4	0	0
Category Totals	378	347	92	28	62	3	<1
Enforcement Appeals Survey							
Administrative Assistance (4)	96	88	92	7	2	1	1
Prehearing Process (8)	182	151	83	30	14	1	1
Hearing Process (5)	80	67	84	8	37	5	6
Attorney response							
b. Process Cost-effective?	17	9	53	5	0	3	18
b. AAD Impartial?	16	13	81	2	0	1	6
c. Decision Clear?	9	8	89	1	6	0	0
Category Totals	400	336	84	53	59	11	3
Total Survey Results	778	683	88	81	121	14	2

APPENDIX D

Appendix D Attorney Section Response Compilation							
Attorney response	Number of Analyzed Responses	Number of Yes responses	% of Yes responses	Number of Somewhat responses	Number of N/A N/O responses	Number of No responses	% of No responses
Administrative Appeals							
a. Process Cost-effective?	7	5	71	0	1	2	29
b. AAD Impartial?	8	8	100	0	0	0	0
c. Decision Clear?	2	1	50	1	4	0	0
Category Totals	17	14	82	1	5	2	12
Enforcement Appeals							
a. Process Cost- effective?	17	9	53	5	0	3	18
b. AAD Impartial?	16	13	81	2	0	1	6
c. Decision Clear?	9	8	89	1	6	0	0
Category Totals	42	30	71	8	6	4	10
Attorney Response – Combined Surveys							
Attorney response	Number of Analyzed Responses	Number of Yes responses	% of Yes responses	Number of Somewhat responses	Number of N/A N/O responses	Number of No responses	% of No responses
c. Process Cost-effective?	24	14	58	5	1	5	21
b. AAD Impartial?	24	21	88	2	0	1	4
c. Decision Clear?	11	9	82	2	10	0	0
Category Totals	59	44	75	9	11	6	10