

**2001 ANNUAL REPORT**

**OF THE**

**CLEAN WATER ENFORCEMENT ACT**

**PURSUANT TO N.J.S.A. 58:10A-14.1**

*Calendar Year 2001*



**October 2002**

*New Jersey Department of Environmental Protection*

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OF THE  
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*October 2002*

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## ACKNOWLEDGEMENTS

The New Jersey Department of Environmental Protection would like to thank various individuals and agencies listed below for their contributions to the *2001 Annual Report of the Clean Water Enforcement Act*.

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Hanover S.A.	Linden-Roselle S. A.
Joint Meeting of Essex and Union Counties	Morris Township
Middlesex County U. A.	North Bergen M.U.A.
Mount Holly M.U.A.	Ocean County U. A.
Northwest Bergen County U. A.	Pequannock, Lincoln Park and Fairfield S. A.
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Special thanks to Gene Callahan - Office of the Administrator, Water Compliance and Enforcement and to Amy Telford - Office of Pollution & Release Prevention for their support and assistance.

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## **EXECUTIVE SUMMARY**

In 1972, Congress enacted the first comprehensive national clean water legislation in response to growing public concern for serious and widespread water pollution. The Clean Water Act (CWA) is the primary federal law that protects our nation's waters, including lakes, rivers, aquifers and coastal areas.

The CWA established the basic structure for regulating discharges of pollutants into the waters of the United States by making it unlawful for any person to discharge any pollutant from a point source unless a permit was obtained under its provisions. The Water Pollution Control Act (WPCA), enacted in 1977, enabled New Jersey to implement the New Jersey Pollutant Discharge Elimination System (NJPDES) permitting system required under the CWA, whereby a person must obtain a NJPDES permit in order to discharge a pollutant into surface water or ground water of the State or to release a pollutant into a municipal treatment works.

In 1990, the Legislature enacted substantial amendments to the WPCA, commonly known as the Clean Water Enforcement Act (CWEA), P.L. 1990, c.28, which included the imposition of mandatory minimum penalties for certain violations of the WPCA. The CWEA requires the Department to prepare an annual report on implementation and enforcement actions which the Department and delegated local agencies (DLAs) have taken during the preceding calendar year. The Department has been implementing the major provisions of the CWEA, including the mandatory penalty scheme, since July 1, 1991; therefore, the information contained in this report enables the Department and the Legislature to reflect upon ten years of implementation and enforcement of the CWEA.

### **Permitting**

The Department's Division of Water Quality (DWQ) issues Discharge to Surface Water (DSW), Stormwater, Discharge to Groundwater (DGW), and Land Application of Residuals permits to regulate "discharges" of pollutants to the surface and ground waters of the State. The DWQ also issues Significant Indirect User ("SIU") permits which regulate the discharge of industrial wastewater into sewage treatment plants. The DWQ, at times, issues permits for "discharge types" rather than facilities, therefore a facility with more than one discharge type may have more than one permit. The number of permitted discharges regulated by the DWQ has been relatively stable over the past several years; the DWQ continues to issue permits to new facilities, while other facilities' permits are being terminated or not renewed.

The DWQ has increased the practice of providing a predraft of a permit to permittees prior to the formal public notice period. This provides the permittee with an opportunity to correct factual information used in the permit development before issuance of the formal draft permit. General permits contain certain conditions and effluent limitations that are the same for similar types of discharges. Once a general permit is issued, applicants may request authorization to discharge under the final general permit. In such cases, applicants are aware of the permit conditions and effluent limitations before they apply for the permit. Understanding the permit conditions prior to applying for a general permit and providing an opportunity to correct factual information for regular permits greatly improves acceptance of the permit by the permittee and thereby diminishes the filing of hearing requests. This practice has allowed the DWQ to focus its

resources on the issuance of permits.

## **Enforcement**

### *Inspections*

The Department is required to inspect permitted facilities and municipal treatment works at least annually. Additional inspections are required when the permittee is identified as a significant noncomplier (SNC). The inspection requirement applies to all facilities except those that discharge only stormwater or non-contact cooling water and to those facilities which a DLA is required to inspect. The Department eliminated routine interim inspections after July 1, 1994, which has significantly decreased the total number of inspections. Additionally, between 1992 and March of 1998, the number of permitted facilities had been steadily decreasing, with the largest decrease occurring in calendar years 1993 and 1994. In March of 1998, approximately 350 general permit authorizations were issued to facilities discharging sanitary wastewater to septic systems (T1 permits). The Department immediately commenced annual inspections of these T1 permit systems, increasing the number of DGW inspections performed beginning in 1998. It was not until 1999 that these facilities were all inspected. Both the numbers of DSW and SIU inspections have leveled off and have been within fairly constant ranges for the past six years.

### *Enforcement Actions*

The Department is required to report the number of actual permit violations that occurred, as well as the number of enforcement actions that resulted from facility inspections in the preceding calendar year. In 2001, the Department assessed penalties against 91 facilities for 596 violations of the WPCA. The number of violations addressed by the Department's actions was essentially the same as in 2000 (584) but substantially lower than in 1999 (959). In comparison, in 1992 the Department assessed penalties against 300 facilities for 2,483 violations. A closer look at the data shows that the penalty actions issued in 2001 were similar to those in the past few years in one respect: for penalty actions for effluent violations, more than one-half of the actions (42 of 71) were in response to just a single violation.

Effluent violations comprised 34.4 percent (205) of the 596 violations for which the Department assessed penalties in 2001. Strikingly, since 1992, there has been almost an 86 percent decrease in the number of effluent violations for which the Department assessed penalties (1,446 to 205). In 1992, effluent violations accounted for 58.2 percent of all violations. Of the 205 effluent violations in 2001, 76.1 percent (156) concerned discharges of nonhazardous pollutants, such as suspended solids, nutrients and fecal coliform. The remaining 23.9 percent (49) concerned discharges of hazardous pollutants, such as chlorine residual, metals, pesticides and organics.

Reporting violations accounted for 39.4 percent (235) of the violations for which the Department assessed a penalty. This number is similar to figures reported in previous years. Overall, the decrease in the number of reporting violations can be attributed to the Department's continual outreach efforts to explain the reporting requirements. The familiarity and comfort with the reporting procedures by the regulated community is a direct result of the Department's increased emphasis since 1988 on both issuance of enforcement actions and providing comprehensive compliance assistance.

In 2001, the Department identified and issued formal enforcement actions for 134 serious effluent violations (34 were from local permittees and 100 from nonlocals). These violations involved discharges from 66 facilities. Seven of these permittees have appealed penalty assessments for 30 of these violations. Of the 134 serious violations, 68.7 percent (92) involved violations of limitations for nonhazardous pollutants, and the remaining 31.3 percent (42) involved violations of limitations for hazardous pollutants. Serious violations have decreased from a reported high figure of 847 in 1992. However, there was clearly a significant increase in the number of serious violations by nonlocal agencies compared to the past three years (100 versus 63-76) with the 100 violations being the most reported since 1997. The Department is not aware of any particular reason for this increase and does not believe there is a negative trend towards higher numbers of serious violations at this point in time. The 66 facilities having serious effluent violations has increased from the past 3 years when it was approximately 50 facilities.

The Department uses both informal and formal enforcement actions to promote compliance with the WPCA. An informal enforcement action notifies a violator that it has violated a statute, regulation or permit requirement, and directs the violator to take corrective actions to comply. The Department typically takes formal administrative enforcement action when it is required by the CWEA to assess a mandatory penalty or when a permittee has failed to remedy a violation in response to an informal enforcement action previously taken by the Department. The Department only takes formal enforcement action when it has verified that a violation has occurred.

#### Formal Enforcement Actions:

In 2001, the Department initiated 114 formal enforcement actions compared with 752 in 1992 and a high of 941 in 1993. While a large portion of the decrease is due to the elimination of the Enforcement Directive category, both Orders (23 in 2001 vs. 274 in 1992) and Settlements (91 in 2001 vs. 152 in 1992) of all types decreased. Since these are the documents in which the Department assesses penalties and, since the Department typically initiates penalty actions only against a permittee committing a serious violation or violations which causes it to become an SNC, this is consistent with the improved compliance trend noted previously.

The reduction in formal actions since 1992 can be traced for the most part to the decrease in the issuance of administrative actions containing penalty assessments that could be adjudicated. Meanwhile, the number of Settlement Agreements with Penalty (SA/Ps), which now constitute approximately 50 percent of all formal enforcement actions, was down from a high of 126 in 1995 to only 72 in 2001. This indicates a drop in the number of facilities, which had violations that would trigger mandatory penalties under the CWEA (serious and SNC violations), that chose to enter into SA/Ps to avoid litigation costs and resolve violations quickly.

In 2001, the Department executed one Judicial Consent Order with Penalty (JCO/P) that established interim enforcement effluent limitations that modified permit limitations. In 1992, the Department executed 18 agreements that established interim enforcement effluent limitations.

In 2001, the Department issued formal enforcement actions to 14 permittees identified as SNCs. In 1992, 81 permittees were issued penalties for becoming an SNC. Therefore, the number of SNCs has dropped by 83 percent since 1992. In 2001, there was one permittee (Sybron

Chemicals, Inc. - NJ0005509 - Pemberton Township, Burlington County) that continued to be an SNC violator from 2000. In comparison, the number of permittees identified in the 1993 report that continued to be or were repeat SNC violators was 18.

#### Informal Enforcement Actions:

In 2001, the Department initiated 540 informal enforcement actions or Notices of Violation (NOVs) compared with 1,273 in 1992.

#### *Penalties Assessed and Collected*

In 2001, the Department assessed a total of \$2.81 million in civil and civil administrative penalties within 98 distinct enforcement actions. This is a very slight increase from the \$2.38 million assessed in 2000. Interestingly, this is the fewest number of total penalty actions taken in a calendar year since keeping records in 1991. With the exception of the \$671,375 assessment in the Rahway Valley Sewerage Authority JCO/P, the number of assessments and the dollar amounts were very similar to 2000.

In 2001, the Department collected \$1,307,504 in penalties from 87 permittees. Of the 101 payments received by the Department, 66 were for \$5,000 or less. The total amount includes partial payments that the Department has received pursuant to payment schedules and collections from previous years' penalty assessments. Penalty collections have ranged from a high of \$19.6 million in 1993 to a low of \$1.3 million in 1998 and 2001. The decreasing trend is consistent with the decrease in assessments over the past few years. As noted in prior annual reports, this overall decrease was expected based upon higher compliance rates and lower penalties assessed compared to earlier years. It is anticipated that the amount of penalties collected each year will remain in the range of \$1.0 to \$2.0 million or drop slightly lower.

#### **Delegated Local Agencies**

A DLA is a political subdivision of the State, or an agency or instrumentality thereof, which owns or operates a municipal treatment works in accordance with a department approved industrial pretreatment program. The 23 DLAs have issued permits to control the discharges from a total of 1,027 facilities discharging to their sewage treatment plants.

The CWEA requires DLAs to annually inspect each permitted facility discharging into their sewage treatment plant. For Category One permittees, the CWEA requires the DLA to annually conduct a representative sampling of the permittees' effluent. For Category Two permittees, the DLA is required to perform sampling only once every three years. The DLAs inspected and sampled 990 of the 1,027 permittees at least once during the calendar year.

The DLAs reported 1,382 permit violations by permitted facilities in 2001, compared with 1,533 violations in 2000. The DLAs reported a total of 56 indirect users who qualified as SNCs under the State definition during 2001. The analysis in the 2000 report indicated that 65 indirect users met the SNC definition. Therefore, there was a decrease of 9, or a 13.8 percent reduction in the number of facilities in significant noncompliance. The DLAs reported as a whole that by the end of calendar year 2001, 30 (53.6 percent) of the 56 indirect users in significant noncompliance had achieved compliance. During 2001, the DLAs

issued 502 enforcement actions as a result of inspections and/or sampling activities.

In calendar year 2001, 15 of the DLAs assessed a total of \$1,132,651 in penalties for 431 violations while collecting \$1,244,449. In 2000, 18 DLAs assessed \$1,516,993 in penalties for 478 violations while collecting \$1,038,502.

### **Criminal**

In 2001, the Division of Criminal Justice conducted a total of 24 WPCA investigations. The Division also reviewed over 450 department actions (NOV's, Orders, Penalty Assessments, etc.) for potential criminality. Division state investigators responded to 3 water pollution emergency response incidents, out of a total of 42 emergency response incidents. The Attorney General, through the Division of Criminal Justice, and county prosecutors filed 9 WPCA criminal actions in 2001 and secured 14 final dispositions for criminal violations of the WPCA (eight of the dispositions involve cases filed before January of 2001).

The Division and counties' activities in 2001 demonstrate the State's continuing commitment to criminal enforcement under the WPCA. None of the DLAs reported that the county prosecutor for their service area had filed any criminal actions in 2001.

### **Fiscal**

A total of \$802,222 in penalty receipts was deposited in the second half of FY2001 and \$501,826 in penalty receipts was deposited during the first half of fiscal year 2002. In calendar year 2001, the Fund disbursed \$602,322 to the Division of Law for the costs of litigating civil and administrative enforcement cases and other legal services; \$81,527 to the Office of Administrative Law for costs associated with adjudicating WPCA enforcement cases; and \$37,816 to the Office of Information Technology for the operation and maintenance of the NJPDES data system. The CWEF disbursed \$865,227 for expenses incurred by the Department (see Table VI-2 for additional details).

### **Water Quality Assessment**

Each year, the Department assesses the status of rivers, streams, lakes and coastal waters through extensive water quality monitoring networks. These results are then compiled and assessed biannually into a formal Water Quality Inventory Report. The overall results for water quality from the 2000 Report indicate that all or most monitored locations are meeting applicable criteria for dissolved oxygen (DO), unionized ammonia, and nitrate. In addition, trends were largely stable or toward improving water quality. Exceedences of pH criteria occurred primarily in streams near the Pinelands, and additional site-specific pH studies will be conducted. Exceedences of the total phosphorus criteria occur at many locations; approximately half of monitored stations had improving trends. Trends for nitrate indicated gradually increasing levels occurring; these trends will be evaluated in detail in each Watershed Management Area. Efforts are underway to manage nitrate to protect drinking water supplies in the Passaic Basin.

### **Overall**

Serious violations have decreased from a high of 847 in 1992 to 134 in 2001. This staggering decrease is a very positive trend indicating the regulated community, as a whole, is paying close attention to monitoring their discharges and taking the appropriate corrective action to prevent their facilities from having serious violations.

As has been the case since 1996, the percentage of permittees in significant noncompliance in 2001 was less than 2.0 percent of the total NJPDES permittees with monitoring and reporting requirements in their permits. There has been a significant decreasing trend over the past nine year period (1997 being the single year exception) in the total number of chronic violators having serious discharge violations or failing to submit discharge monitoring reports (DMRs) which places them in significant noncompliance. Given the large total number of permitted discharges with reporting requirements and effluent limitations compared to the limited number of facilities in significant noncompliance during the past two years, a continuation of the steep decrease previously seen or any noteworthy further decrease in the number of facilities in significant noncompliance is not likely or expected. Only slight variation in the numbers is expected from year to year as we have seen this year compared to last year. Any new and more restrictive discharge limitations imposed in NJPDES permits in the future could actually result in nominal increases in the number of SNCs although the regulated community is more educated and prepared to address any such limitations and take the steps necessary to achieve and maintain compliance and therefore avoid SNC designation.

The Department believes its multifaceted compliance assistance program has played a major role in the significant reduction in SNCs and violations overall. The DMR manual, which was initially published in 1991 with a second edition in 1993 and updates in 2000 (through guidance on the new reporting forms), has been invaluable in providing guidance to permittees in proper discharge monitoring and completion of their DMRs. Seminars and training courses conducted with various organizations have assisted permittees and licensed operators in achieving a better understanding of the WPCA requirements. This has also resulted in numerous wastewater treatment system improvements at both local and nonlocal facilities.

However, the largest portion of the assistance program over the years has been performed by department personnel both during permit pre-application meetings, as part of the DWQ's technical assistance program, and in particular, while conducting compliance evaluation inspections. During these activities, detailed assistance and guidance has been given to the permittee on virtually every aspect of the NJPDES program. This education and outreach effort undoubtedly has played a significant role in the tremendous increase in compliance by the regulated community.



## I. INTRODUCTION

In 1972, Congress enacted the first comprehensive national clean water legislation in response to growing public concern for serious and widespread water pollution. The Clean Water Act (CWA) is the primary federal law that protects our nation's waters, including lakes, rivers, aquifers and coastal areas.

The CWA established the basic structure for regulating discharges of pollutants into the waters of the United States by making it unlawful for any person to discharge any pollutant from a point source unless a permit was obtained under its provisions. It also gave the United States Environmental Protection Agency (EPA) the authority to implement pollution control programs such as setting wastewater standards for industry and to delegate the primary responsibility to issue permits for discharges of pollutants and to enforce the permit system to individual states.

The Water Pollution Control Act (WPCA), enacted in 1977, enabled New Jersey to implement the permitting system required under the CWA. The WPCA established the New Jersey Pollutant Discharge Elimination System (NJPDES), whereby a person must obtain a NJPDES permit in order to discharge a pollutant into surface water or ground water of the State or to release a pollutant into a municipal treatment works.

The NJPDES permit is a legally binding agreement between a permittee and the Department, authorizing the permittee to discharge effluent into the State's waters under specified terms and conditions. These conditions include (a) the specific pollutants in the effluent stream, (b) the amount or concentration of those pollutants which the effluent may contain, (c) the type and number of tests of the effluent to be performed and (d) the reporting of test results to determine compliance. The permit normally provides for monthly reporting of these test results to the Department in a Discharge Monitoring Report (DMR).

In 1990, the Legislature enacted substantial amendments to the WPCA, commonly known as the Clean Water Enforcement Act (CWEA), P.L. 1990, c.28. The CWEA added strength to the enforcement of New Jersey's water pollution control program by including the imposition of mandatory minimum penalties for certain violations of the WPCA. The CWEA also requires the Department to prepare a report on implementation and enforcement actions which the Department and delegated local agencies (DLAs) have taken during the preceding calendar year. The statute also specifies the items that the report must contain.

In accordance with the CWEA, specifically N.J.S.A. 58:10A-14.1-14.2, this report provides information about Permitting, Enforcement Actions, DLAs, Criminal Actions, Fiscal, and Water Quality Assessment.

Permitting provides information related to permits, including the number of facilities permitted, the number of new permits, permit renewals and permit modifications issued and the number of permit approvals contested.

Enforcement provides the following:

- A. Information related to inspections, including the number of facilities (including publicly owned treatment works) and the number of discharges inspected at least once by the Department;

- B. Information related to violations and violators including the number of enforcement actions resulting from facility inspections, the number of permit violations, the number of violations of administrative orders and administrative consent orders, the number of violations of milestones in compliance schedules which have continued for more than 90 days, the number of effluent violations which constitute serious violations, the number of permittees qualifying as significant noncompliers, the number of violations for which civil penalties or civil administrative penalties have been assessed, the number of unpermitted discharges, and the number of affirmative defenses granted; and
  
- C. Information related to enforcement actions and penalties, including the dollar amount of civil penalties and civil administrative penalties assessed, the dollar amount of civil penalties and civil administrative penalties collected, and the dollar amount of enforcement costs recovered in civil actions and civil administrative actions.

DLAs provides enforcement and permitting information relating to local agencies' operations of sewage treatment plants with industrial pretreatment programs approved by the Department.

Criminal Actions provides information concerning criminal actions filed by the New Jersey State Attorney General and by county prosecutors.

Fiscal provides financial information, including the purposes for which program monies have been expended.

Water Quality Assessment provides an assessment of surface water quality in the context of the Department's Results Based Management system. Information on the Department's Ambient Stream Monitoring Network (ASMN) has been provided along with the current status of water quality in the State's streams, lakes and coastal waters.

## II. PERMITTING

The CWEA requires the Department to report the total number of facilities permitted pursuant to the WPCA, the number of new permits, renewals and modifications issued by the Department and permit actions contested in the preceding calendar year. This information is presented below. Since 2000, the former section on Stormwater Permitting has been incorporated into the Division of Water Quality (DWQ) section.

### A. DIVISION OF WATER QUALITY

The Department issues Discharge to Surface Water (DSW), Stormwater, Discharge to Groundwater (DGW), and Land Application of Residuals permits to regulate "discharges" of pollutants to the surface and ground waters of the State. DSW permits include Industrial permits issued to facilities discharging other types of wastewater to surface waters and Municipal permits issued to publicly owned treatment works ("POTWs") and privately owned treatment plants discharging primarily sanitary wastewater. Stormwater permits are required for stormwater discharges associated with industrial activity. Significant Indirect User ("SIU") permits regulate the discharge of industrial wastewater into sewage treatment plants. Facilities that discharge pollutants directly or indirectly to the ground waters of the State are issued DGW permits. Facilities that distribute, handle or land apply residuals are issued a Land Application of Residuals permit.

#### **Section One - Number of Facilities Permitted:**

The Department's DWQ regulated 825 facilities that discharge to the surface waters of the State in 2001, as compared to the 832 facilities regulated in 2000. The Department also regulates facilities discharging to ground water and to POTWs, discharging stormwater only, or that handle, distribute or land apply residuals. These types of facilities are listed under "Other" in Table II-1. In reports prior to year 2000, permit statistics for stormwater permits were reported separately from the other permit categories. Commencing with the 2000 report the information on stormwater permits was consolidated with the rest of the NJPDES permit information. In 2001, the DWQ regulated 3,201 of these other facilities, as compared to the 3,303 regulated in 2000, a decrease of 3 percent. The DWQ regulated a total of 3,787 facilities in 2001, compared with 3,916 facilities in 2000, also a decrease of 3 percent.

**TABLE II-1  
REGULATED FACILITIES  
1999-2001**

FACILITIES REGULATED	1999	2000 *	2001 *	% Growth 2000-2001
Discharge to Surface Water only	693	613	586	-4.4
DSW/Other combined	140	219	239	+9.1
Other only	856	3084	2962	-4.0

<b>TOTAL</b>	<b>1,689</b>	<b>3,916</b>	<b>3,787</b>	<b>-3.3</b>
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\* (including stormwater starting in 2000)

The Department may at times issue permits for "discharge types" rather than facilities, therefore a facility with more than one discharge type may have more than one permit. As of December 31, 2001, the Department permitted 4,154 discharge types for 3,787 facilities. Table II-2 below provides information regarding the number of discharge types permitted by the Department between 1998 and 2001.

**TABLE II - 2**  
**REGULATED DISCHARGES BY CATEGORY**  
**1998-2001**

<b>DISCHARGE ACTIVITY TYPE</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>
INDUSTRIAL	564	558	557	547
MUNICIPAL	273	276	275	258
SIU	68	68	75	83
GROUNDWATER	841	889	878	998
RESIDUALS	71	71	72	64
STORMWATER	2068	2033	2251	2204
<b>TOTAL</b>	<b>3,885</b>	<b>3,895</b>	<b>4,108</b>	<b>4,154</b>

The number of permitted discharges (adjusted for the inclusion of the stormwater discharges) regulated by the DWQ has been relatively stable over the past several years. The Department continues to issue permits to new facilities, while other facilities' permits are being terminated or not renewed. In 2001, the permitted facility universe increased by 46, due to increased efforts to address backlogged applications in the ground water permits program. The decrease of 47 stormwater permits is due to database cleanup efforts that removed duplicate facility listings.

**Section Two - Types of Permits and Permit Actions:**

The Department issues several different types of NJPDES permits. Permits are limited to a maximum term of five years. The permittee must reapply 180 days before the current permit expires if a permittee anticipates continuation of the discharge. The Department has classified its NJPDES permit actions based upon the technical complexity of the permit application and the potential environmental or health effects of the discharge, and reports the following permit categories in the Permit Activity Report in accordance with P.L. 1991, c.423:

*Requests for Authorization to discharge under a general permit:*

General permits reduce permit processing time because a standard set of conditions, specific to a discharge type or activity, are developed (rather than issuing individual permits for each discharge or activity). This permitting approach is well suited for regulating similar facilities or activities that have the same monitoring requirements. The following general permits are currently effective:

**TABLE II - 3  
GENERAL PERMITS**

<b>NJPDES No.</b>	<b>Category</b>	<b>Name of General Permit</b>	<b>Discharge Type</b>	<b>Year Issued</b>
NJ0070203	CG	Non-contact Cooling Water	DSW	2000
NJ0102709	B4B	Groundwater Petroleum Product Clean-up	DSW	1998
NJ0128589	B6	Swimming Pool Discharges	DSW	1998
NJ0134511	B7	Construction Dewatering	DSW	1999
NJ0132993	BG	Hydrostatic Test Water	DSW	1999
NJ0105023	CSO	Combined Sewer Overflow	DSW	2000
NJ0105767	EG	Land Application Food Processing Residuals	RES	1998
NJ0132519	ZG	Residuals Transfer Facilities	RES	1999
NJ0108308	I1	Stormwater Basins/SLF	DGW	2001
NJ0108642	I2	Potable WTP Basins/Drying Beds	DGW	1996
NJ0130281	T1	Sanitary Subsurface Disposal	DGW	1998
NJ0088315	5G2	Basic Industrial Stormwater	DST	1997
NJ0108456	CPM	Concrete Products Manufacturing	DST	1995
NJ0107671	SM	Scrap Metal Processing/Auto Recycling	DST	1999
NJ0134791	R5	Newark Airport Complex	DST	2000

In 2002, the Department anticipates renewing the Basic Industrial Stormwater General Permit and the Concrete Products Manufacturing General Permit. Both of these permits will be expanded to regulate stormwater discharges to groundwater. In addition, the Department will be issuing a new general permit for stormwater discharges from Concentrated Animal Feedlot Operations (CAFOs).

*Surface Water Permits:*

These are individual permits and renewals issued for the discharge of sanitary, industrial, cooling, decontaminated ground water and stormwater runoff not eligible for coverage under a general permit.

*Stormwater Permits:*

These are individual permits and renewals issued for the discharge of stormwater runoff not eligible for coverage under a general permit.

*Construction Stormwater General Permits:*

The Construction General Permit (NJ0088323) is for construction activities disturbing five acres or more and certain mining activities, all of which are considered industrial activities. Issued in 1997, this permit is

administered by the 17 local Soil Conservation Districts in conjunction with the Soil Erosion and Sediment Control Plan certification. The Department issued 641 construction activity general permits in 2001 for a total of 4,161 authorizations.

*Ground Water Permits:*

These are individual new permits and renewals issued to facilities for wastewater that is discharged directly or indirectly to the ground water of the State. The DWQ issues ground water permits for septic systems, infiltration-percolation lagoons, spray irrigation systems, overland flow and landfills.

*Significant Indirect Users:*

These are permits and renewals issued for wastewater discharges to publicly owned treatment works. There are 23 DLAs with the authority to issue SIU permits for significant discharges occurring within their respective service areas. The Department is responsible for permitting SIU discharges for the remainder of the State.

*Land Application of Residuals:*

These are permits and renewals issued to regulate the distribution, handling and land application of residuals originating from sewage treatment plants, industrial treatment plants, water treatment plants and food processing operations.

*Permit Modifications:*

These are modifications to existing permits and are usually requested by the NJPDES permittee. These modifications range from a transfer of ownership, or reduction in monitoring frequency, to a total re-design of a wastewater treatment plant operation. The Department can issue modifications for all discharge types except Requests for Authorization under a general permit. Permit modifications do not extend the expiration date of the permit.

*Permit Terminations (Revocations):*

These actions are also often initiated by the permittee when the regulated discharge of pollutants has ceased, usually as a result of regionalization, closure or recycling. Prior to terminating or revoking a permit, the Department ensures that sludge has been removed, outfalls have been sealed, and the treatment plant has been dismantled.

**Section Three - Permit Actions:**

Table II-4 summarizes formal permit actions by the categories described above. For the purposes of this presentation, "Request for Authorizations" are included as new or renewals, as appropriate, under the

applicable discharge type. Since the Construction General Permit (NJ0088323) is administered by the local Soil Conservation Districts, those permit actions are not summarized here. In each permit category, the number of new permits, renewal permits, permit modifications, and terminations (revocations) are listed.

In 2001, the Department took 560 formal permit actions, reflecting a 3.3 percent decrease in permit actions from 2000. Approximately 37 percent of the final permit actions were new facilities, 29 percent of the actions were permit renewals, 8 percent were for permit modifications, and 26 percent were for permit terminations. The 2001 permit outputs are comparable to those from 2000. New

**TABLE II - 4**  
**PERMIT ACTIONS TAKEN BY THE DIVISION OF WATER QUALITY**  
**1999 - 2001**

<b>TYPE OF PERMIT ACTION</b>	<b>1999</b>	<b>F. Contested 1999</b>	<b>2000</b>	<b>G. Contested 2000</b>	<b>2001</b>	<b>Contested 2001</b>
<b>Industrial Surface Water</b>						
- New	20	0	26	0	14	2
- Renewals	38	1	81	1	49	0
- Modifications	17	0	10	0	12	0
- Terminations	39	0	22	0	59	0
<b>Subtotal</b>	<b>114</b>	<b>1</b>	<b>139</b>	<b>1</b>	<b>134</b>	<b>2</b>
<b>Municipal Surface Water</b>						
- New	2	0	0	0	0	0
- Renewals	41	8	38	4	31	9
- Modifications	17	0	26	0	18	0
- Terminations	0	0	2	0	5	0
<b>Subtotal</b>	<b>60</b>	<b>8</b>	<b>66</b>	<b>4</b>	<b>54</b>	<b>9</b>
<b>Significant Indirect User</b>						
- New	1	0	9	0	10	0
- Renewals	5	0	17	0	8	0
- Modifications	2	0	0	0	0	0
- Terminations	4	0	3	0	2	0
<b>Subtotal</b>	<b>12</b>	<b>0</b>	<b>29</b>	<b>0</b>	<b>20</b>	<b>0</b>
<b>Ground Water</b>						
- New	57	0	45	0	37	2
- Renewals	37	0	18	0	48	2
- Modifications	3	0	5	0	3	0
- Terminations	24	1	21	0	11	0
<b>Subtotal</b>	<b>121</b>	<b>1</b>	<b>89</b>	<b>0</b>	<b>99</b>	<b>4</b>
<b>Land Application of Residuals</b>						
- New	6	0	4	0	1	0
- Renewals	5	0	3	0	7	1
- Modifications	0	0	0	0	0	0
- Terminations	8	0	3	0	2	0
<b>Subtotal</b>	<b>19</b>	<b>0</b>	<b>10</b>	<b>0</b>	<b>10</b>	<b>1</b>
<b>Stormwater</b>						
- New	104	1	88	0	145	0
- Renewals	8	0	63	0	22	0
- Modifications	2	0	5	0	12	0
- Terminations	130	0	91	0	64	0
<b>Subtotal</b>	<b>244</b>	<b>1</b>	<b>247</b>	<b>0</b>	<b>243</b>	<b>0</b>
<b>TOTALS</b>	<b>570</b>	<b>11</b>	<b>580</b>	<b>5</b>	<b>560</b>	<b>16</b>



permits and permit renewals are often controversial, particularly when the Department imposes new requirements or more stringent effluent limitations, and have historically been contested. In 2001, the Department received 16 requests for adjudicatory hearings, compared to 5 requests received in 2000. This is a request rate of 2.8 percent as a percent of permit actions. The Department recommends meeting with the applicant prior to issuing a draft permit to ensure that the data submitted in the application is current and to obtain any additional information that might be useful. This has resulted in better permits and a reduced number of requests for adjudicatory hearings. The increase in adjudicatory hearing requests received this year is mainly due to the number of municipal surface water major permits that were renewed in 2001.

The Department issued permit renewals to 30 major facilities in 2001. Over the past few years, DWQ has focused its permitting resources on renewing major permits. The Department also issued 207 new permits and received 4 hearing requests on these actions. The Department issued 165 permit renewals and received 12 hearing requests on these actions. The relatively low number of hearing requests can be attributed to the increased use of general permits and to providing predrafts to permittees. The general permits contain certain conditions and effluent limitations that are the same for similar types of discharges. Once a general permit is issued, applicants may request authorization to discharge under the final general permit. In such cases, applicants are aware of the permit conditions and effluent limitations before they apply for the permit. In the case of regular permits, the DWQ has increased the practice of providing a predraft of a permit to permittees prior to the formal public notice period. This provides the permittee with an opportunity to correct factual information used in the permit development before issuance of the formal draft permit.

Understanding the permit conditions prior to applying for a general permit and providing an opportunity to correct factual information for regular permits greatly improves acceptance of the permit by the permittee and thereby diminishes the filing of hearing requests.

For the Stormwater Permitting Program in 2001, 143 new general permit authorizations were issued, 11 were renewed, 1 was modified, and 56 general permit authorizations were terminated. In addition, 2 new individual permits were issued, 11 were renewed, 8 were terminated, and 11 individual permit modifications were completed. The DWQ has also received 9,253 Nonapplicability Forms to date, with 75 received in 2001.

Table II-5 reflects the total number of permit actions taken by the DWQ in each of the last four years.

**TABLE II - 5  
COMPARISON OF PERMIT ACTIONS  
1998 - 2001**

<b>TYPE OF PERMIT ACTION</b>	<b>1998</b>	<b>1999 *</b>	<b>2000 *</b>	<b>2001 *</b>
New	279	190	172	207
Renewal	370	134	220	165
Modifications	49	41	46	45
Terminations (Revocations)	52	205	142	143

TOTAL ACTIONS	750	570	580	560
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\* Adjusted to include Stormwater permit actions

## **B. NEW DEVELOPMENTS**

### **Section One - Groundwater General Permit Renewed**

The DWQ reissued the 11 NJPDES-DGW General Permit (NJG0108308) to authorize discharges to ground water from stormwater basins at operating landfills which requires semi-annual monitoring of stormwater effluent. Statistical analyses of monitoring data is used to demonstrate that the facility has sufficient control over the non-disposal areas of the landfill that collected runoff will not cause an adverse impact upon the underlying ground water. Authorization under the permit is issued only to those landfills with leachate collection systems under the disposal areas and that have monitoring with arrays for testing for leaks from the disposal areas. The authorizations for 11 facilities were renewed under the general permit upon adoption.

### **Section Two - Municipal and Industrial Surface Water Permitting**

Progress was achieved in the reduction of the NJPDES/DSW permit backlogs with the issuance of renewal permits for 33 major and 47 minor permits. These include the renewal NJPDES/DSW permit issued to the PSE&G Nuclear LLC - Salem Generating station. The renewal permit continues to require the implementation of measures to minimize fish mortality associated with the intake consistent with the application of Section 316(b) of the federal CWA. The permit requirements also include measures to enhance fish production in Delaware Bay. The outcome of ongoing EPA efforts to promulgate regulations concerning cooling water intake structures at existing power plants will be relevant to this permit.

### **Section Three - Permits for Residuals Management**

New Jersey has adopted a very proactive sewage sludge beneficial use policy. Examples of this are the direct land application of sewage sludges to farmland and the development of a sludge derived product such as compost, pellet, or liming material for horticultural and agricultural purposes. Such activities are regulated under a NJPDES permit issued by the Bureau of Pretreatment and Residuals. Currently over 70 percent of the sewage sludge generated in the state is beneficially used.

### **Section Four - Public Acceptance of Beneficial Uses of Residuals – Odors**

Recently, there has been an increase in public exposure to biosolids and therefore an increase in complaints to the Department over odors emitted by biosolids materials. In coordination with the Pennsylvania Department of Environmental Protection and the Pennsylvania State University, the Department has entered into a research project funded by a EPA grant to develop a standardized method for identifying and quantifying odorous emissions from biosolids which are to be land applied. The results of this research study will assist the Department in addressing these odors through proper regulatory action and best management practices thereby addressing the quality of life issues related to the beneficial use of biosolids.

## **Section Five - Removal Credits Project Approved**

In August 2001, the Bureau of Pretreatment and Residuals approved a removal credits project in acknowledgement of consistent pollutant removal by the Linden Roselle Sewerage Authority (LRSA). As a result, LRSA was authorized to modify the Merck and Co. Inc. discharge permit to include the revised federal categorical pretreatment standard (i.e., a less stringent limitation) for each pollutant for which a removal credit was granted. The removal credit project dealt with fifteen organic chemicals not previously regulated by the Pharmaceutical Manufacturing regulations and required technical assistance from the Department's Office of Quality Assurance due to the complex analytical questions involved. This project was important from a sustainability viewpoint because it allowed a balance between economics and environmental quality by achieving environmental protection while not requiring redundant secondary treatment to be installed. Prior to this project, the only other removal credits approved in the country were by EPA Region 5.

## **Section Six - Now Available on DWQ Web Site**

The DWQ continues to maintain a number of helpful documents on its website which were previously distributed to permittees with their Monitoring Report Forms (MRF). These documents include answers to frequently asked questions, and explanations of MRF signature requirements, preparation and mailing guidelines, and common reporting mistakes. These may be accessed at: [www.state.nj.us/dep/dwq/bpm.htm](http://www.state.nj.us/dep/dwq/bpm.htm).

Additionally, various NJPDES permit forms and checklists may be accessed at: [www.state.nj.us/dep/dwq/forms.htm](http://www.state.nj.us/dep/dwq/forms.htm). Other permitting and technical information may be viewed and/or downloaded at: [www.state.nj.us/dep/dwq/permitng.htm](http://www.state.nj.us/dep/dwq/permitng.htm).

### III. ENFORCEMENT

The CWEA requires the Department to report information annually concerning the number of inspections conducted, the number and types of violations identified, the number of enforcement actions initiated and the dollar amount of penalties assessed and collected. The provisions of the CWEA relevant to this Chapter are as follows:

#### *Inspections:*

The CWEA requires the Department to inspect permitted facilities and municipal treatment works at least annually. Additional inspections are required when the permittee is identified as a significant noncomplier (discussed below). The inspection requirement applies to all facilities except those that discharge only stormwater or non-contact cooling water and to those facilities which DLA is required to inspect. A DLA must inspect facilities discharging into its municipal treatment works, again excluding those facilities that discharge only stormwater or non-contact cooling water. Either the Department or the DLA is, however, required to inspect permitted facilities that discharge stormwater runoff which has come into contact with a Superfund site, listed on EPA's National Priorities List, or municipal treatment works receiving such stormwater runoff.

#### *Mandatory minimum penalties:*

Mandatory minimum penalties under the CWEA apply to violations of the WPCA that are considered serious violations and to violations by permittees designated as significant noncompliers (SNCs). A serious violation is an exceedance of an effluent limitation in a NJPDES permit by 20 percent or more for a hazardous pollutant or by 40 percent or more for a nonhazardous pollutant. An SNC is a permittee which:

1. Commits a serious violation for the same pollutant at the same discharge point source in any two months of any six-month period;
2. Exceeds the monthly average in any four months of any six-month period; or
3. Fails to submit a completed DMR in any two months of any six-month period.

For serious violations, the CWEA requires mandatory minimum penalties of \$1,000 per violation. SNCs are subject to mandatory minimum penalties of \$5,000 per violation.

The CWEA also requires the Department to impose a mandatory penalty when a permittee omits from a DMR required information relevant to an effluent limitation. The penalty is \$100 per day per effluent parameter omitted.

Effective January 19, 1999, the DLAs were required to assess mandatory minimum penalties against any indirect user that commits either a serious violation, a violation that causes a user to become or remain in significant noncompliance or an omission violation as noted in the preceding paragraph.

#### *Affirmative defenses:*

The CWEA establishes the following basis for affirmative defenses to mandatory minimum penalties: upsets, bypasses and testing or laboratory errors.

An upset is an exceptional incident (such as a flood or storm event) beyond the permittee's reasonable control that causes unintentional and temporary noncompliance with an effluent limitation. As part of the affirmative defense, the permittee must identify the cause of the upset whenever possible and establish that the permitted facility was being operated properly at the time of the upset and that all remedial measures required by the Department or the DLA were taken.

A bypass is an intentional diversion of waste streams from any portion of a treatment works. Whether or not the permittee anticipated the need for the bypass, a permittee may raise the affirmative defense only if the bypass was unavoidable to prevent loss of life, personal injury or severe property damage and there was no feasible alternative to the bypass. If the bypass was anticipated, the permittee should have provided the Department with prior notice in order to be eligible for the affirmative defense. If the bypass was unanticipated, the permittee should demonstrate that it was properly operating its facility and that it promptly notified the Department or the DLA as well as took remedial measures required by the Department or the DLA.

To establish an affirmative defense for testing or laboratory error, the permittee must establish that an exceedance of an effluent limitation resulted from unanticipated test interferences, sample contamination, analytical defects, procedural deficiencies in sampling or other similar circumstances beyond the permittee's control.

#### *Compliance schedules:*

Under the CWEA, the Department may establish a compliance schedule for a permittee to complete remedial measures necessary for compliance. However, the permittee must provide financial assurance for completion of those remedial measures in the form of a bond or other security approved by the Commissioner.

### **A. INSPECTIONS**

Each fiscal year the Department performs one full inspection of every regulated facility and an additional interim inspection, as needed, to determine compliance. In a full inspection, the Department reviews all DMRs and evaluates the entire water pollution control process for each discharge, including operation and maintenance practices, as well as monitoring and sampling procedures. As part of an interim inspection, the Department reviews the facility's DMRs and focuses upon specific compliance issues.

In 2001, the Department inspected 1,691 NJPDES permitted facilities. Since some facilities have more than one discharge type, the 1,691 permitted facilities represent 2,258 discharges. Excluding the facilities authorized to discharge under a stormwater program general permit, the Department conducted 2,258 facility inspections in 2001. Of the 2,258 facility inspections performed, 2,086 were full inspections and 172 were interim inspections.

The data presented below concerning the number of facilities and discharges inspected are organized into two categories of facilities: local and nonlocal. A local facility is a POTW or other facility, such as a school,

landfill or wastewater treatment plant, that is operated by a local agency (a political subdivision of the State, or an agency or instrumentality thereof). A nonlocal facility is any facility that is not operated by a local agency. The CWEA distinguishes between these two types of facilities in a number of ways. For instance, for local agencies, the CWEA establishes different criteria for financial assurance requirements as well as different settlement criteria.

The data presented below also distinguishes between the three different types of NJPDES permits: DSW, DGW, and discharges into a municipal treatment works by an SIU.

Table III-1 sets forth the number of inspections the Department performed from 1992 through 2001, by type of discharge and by type of facility. The Department eliminated routine interim inspections after July 1, 1994, which has significantly decreased the total number of inspections. Additionally, between 1992 and March of 1998, the number of permitted facilities had been steadily decreasing, with the largest decrease occurring in calendar years 1993 and 1994. In March of 1998, approximately 350 general permit authorizations were issued to facilities discharging sanitary wastewater to septic systems (T1 permits). The Department immediately commenced annual inspections of these T1 permit systems, which explains the sudden increase in the number of DGW inspections performed beginning in 1998. In fact, it was not until 1999 that all these facilities were inspected, and the number of DGW inspections in 1999 once again increased. Both the numbers of DSW and SIU inspections have leveled off and have been within fairly consistent ranges for the past six years. It is important to note that this table presents the number of inspections performed - not the number of discharges or facilities - in the listed categories.

**TABLE III - 1  
SUMMARY OF NJPDES INSPECTIONS PERFORMED**

<b>NUMBER OF INSPECTIONS</b>										
<b>BY DISCHARGE TYPE</b>										
<b>Discharge Type</b>	<b>1992</b>	<b>1993</b>	<b>1994</b>	<b>1995</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>
<b>DSW</b>	2,550	2,380	1,773	1,267	1,098	1,160	1,164	1,168	1,015	1,166
<b>DGW</b>	705	763	640	515	499	498	761	969	874	1,010
<b>SIU</b>	185	162	120	80	83	85	75	87	65	82
<b>TOTALS</b>	<b>3,440</b>	<b>3,305</b>	<b>2,533</b>	<b>1,862</b>	<b>1,680</b>	<b>1,743</b>	<b>2,000</b>	<b>2,224</b>	<b>1,954</b>	<b>2,258</b>
<b>BY FACILITY TYPE</b>										
<b>Facility Type</b>	<b>1992</b>	<b>1993</b>	<b>1994</b>	<b>1995</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>
<b>Local</b>	716	695	660	454	456	505	493	590	527	558
<b>Nonlocal</b>	2,203	2,562	1,816	1,360	1,202	1,205	1,491	1,634	1,427	1,700
<b>TOTALS</b>	<b>2,919</b>	<b>3,257</b>	<b>2,476</b>	<b>1,814</b>	<b>1,658</b>	<b>1,710</b>	<b>1,984</b>	<b>2,224</b>	<b>1,954</b>	<b>2,258</b>

**B. VIOLATIONS**

**Section One - Results of Facility Inspections:**

The Department is required to report the number of enforcement actions resulting from facility inspections. Whenever one or more serious or an SNC violation is discovered during an inspection, the Department issues a Notice of Violation (NOV) to the facility. NOVs are not typically issued for minor violations.

NOVs identify violations and direct the facility operator to correct the activity or condition constituting the violation within a specified period of time. As further discussed in Section C. Enforcement Actions, these documents are considered informal enforcement actions. The Department initiates a formal enforcement action, which may include the assessment of a civil administrative penalty, if a permittee fails to remedy a violation identified in an NOV. The Department will also initiate a formal enforcement action whenever it is required by the CWEA to assess a mandatory minimum penalty.

## **Section Two - Total Number of Permit Violations:**

The Department is required to report the number of actual permit violations that occurred in the preceding calendar year. There are two types of permit violations, effluent violations and reporting violations. Effluent violations occur when a discharge exceeds the limits established within the NJPDES permit or the interim limits established in a consent order. Reporting violations occur when a permittee fails to submit a DMR or submits a DMR that does not provide all of the required information. It is important to note that enforcement actions are taken only on verified violations. The number of effluent violations that were addressed by the issuance of a formal enforcement action in 2001 is reported in Section Six below.

## **Section Three - Violations of Administrative Orders and Consent Orders:**

The CWEA requires the Department to report the number of violations of administrative orders (AOs), administrative consent orders (ACOs) and compliance schedule milestones (dates set forth in an ACO for starting and/or completing construction, or for attaining full compliance). The Department must also report the number of permittees that are out of compliance by more than 90 days from the date established in a compliance schedule for starting and/or completing construction, or for attaining full compliance. Although not expressly required by the CWEA, the Department also includes in this section of the report, the number of violations of judicial orders (JOs) and judicial consent orders (JCOs). Information concerning violations is presented below.

### *Violations of Interim Effluent Limitations:*

In 2001, as also reported last year in 2000, the Department did not identify any violations of an interim effluent limitation established in an AO or ACO. In contrast, in 1992, the Department identified 191 violations of interim effluent limitations established in 29 ACOs. Of these 191 violations, 95 percent (181) involved nonhazardous pollutants and 5 percent (10) involved hazardous pollutants.

### *Violations of Compliance Schedules:*

In 2001, the Department did not take any formal actions against any permittee which was more than 90 days out of compliance with the schedule established in its ACO.

## **Section Four - Unpermitted Discharges:**

An unpermitted discharge is the release of pollutants into surface water, ground water or a municipal treatment works when the discharger does not hold a valid NJPDES permit or when the discharge is not authorized under the discharger's permit.

In 2001, the Department issued 182 informal NOVs and 10 formal enforcement actions against 160 facilities responsible for unpermitted discharges. Of the 192 total unpermitted discharge enforcement actions, 52 involved discharges to ground water and 137 involved discharges to surface water. Three involved a discharge into a municipal treatment works by an SIU.

### **Section Five - Affirmative Defenses:**

The CWEA requires the Department to report the number of affirmative defenses granted that involved serious violations. The CWEA specifically provides affirmative defenses to penalty liability for serious violations and violations by significant noncompliers. It also indicates that the Department may allow these defenses for any effluent violation for which NJPDES regulations also provide defenses. The CWEA requires the permittee to assert the affirmative defense promptly after the violation occurs, enabling the Department to evaluate the asserted defense before assessing a penalty. Therefore, this report includes information on all affirmative defenses asserted, as well as affirmative defenses granted, for serious violations.

This year, in addition to the information on affirmative defenses for effluent violations, the Department is once again providing data on extenuating circumstance-type defenses, as provided for pursuant to N.J.S.A. 58:10A-10.1.d and N.J.A.C. 7:14-8.9(e), for DMR omissions or DMR nonsubmittal.

In 2001, the Department granted 39 affirmative defenses asserted by 34 facilities for 79 effluent violations or parameter omissions. Twenty-one of the affirmative defenses granted concerned upsets, 12 concerned defenses granted for extenuating circumstances and 6 concerned laboratory error. None of the defenses were attributed to a bypass. In the 39 defenses granted, 59 violations concerned a discharge to surface water, 6 involved discharges to ground water and 14 related to SIU discharges. Fifteen of the defenses granted involved discharges by local agencies, whereas 24 involved nonlocal agency permittees.

In 2001, the Department rejected 14 affirmative defenses asserted by 13 facilities for 19 effluent violations. Five of the affirmative defenses denied concerned upsets, seven concerned laboratory error, and two were attributed to extenuating circumstances. None of the defenses were attributed to a bypass. In 14 defenses denied, 14 violations concerned a discharge to surface water, none involved discharges to ground water and 5 were related to SIU discharges. Three of the defenses denied involved discharges by local agencies and 11 involved nonlocal agency permittees.

### **Section Six - Violations for Which the Department Assessed a Penalty:**

In 2001, the Department assessed penalties against 91 facilities for 596 violations of the WPCA. The number of violations addressed by the Department's actions was essentially the same as in 2000 (584) but substantially lower than in 1999 (959). In comparison, in 1992 the Department assessed penalties against 300 facilities for 2,483 violations. A closer look at the data shows that the penalty actions issued in 2001 were similar to those in the past few years in one respect: for penalty actions for effluent violations, more than one-half of the actions (42 of 71) were in response to just a single violation.



Table III-2 below groups violations into the following categories: effluent violations, violations of compliance schedules, DMR reporting violations and other violations.

**TABLE III - 2**  
**SUMMARY OF VIOLATIONS FOR WHICH A PENALTY WAS ASSESSED**  
**Calendar Year 2001**

<b>VIOLATION CATEGORY</b>	<b>Number</b>	<b>Percentage</b>
<b>Effluent</b>	<b>205</b>	<b>34.4</b>
- Nonhazardous	156	76.1
- Hazardous	49	23.9
<b>Compliance Schedule</b>	<b>2</b>	<b>0.3</b>
<b>Reporting</b>	<b>235</b>	<b>39.4</b>
- Nonsubmittal	41	17.4
- Omissions	194	82.6
<b>Other</b>	<b>154</b>	<b>25.8</b>
<b>TOTALS</b>	<b>596</b>	<b>100.0</b>

Effluent violations comprised 34.4 percent (205) of the 596 violations for which the Department assessed penalties in 2001. Strikingly, since 1992, there has been almost an 86 percent decrease in the number of effluent violations for which the Department assessed penalties (1,446 to 205). In 1992, effluent violations accounted for 58.2 percent of all violations. Of the 205 effluent violations in 2001, 76.1 percent (156) concerned discharges of nonhazardous pollutants, such as suspended solids, nutrients and fecal coliform. The remaining 23.9 percent (49) concerned discharges of hazardous pollutants, such as chlorine residual, metals, pesticides and organics.

As mentioned above, more than one-half of the penalty actions (42 of 71) issued for effluent violations were in response to just a single violation. Only eight actions involved five or more effluent violations. Of the 205 effluent violations, 82 violations were from just 4 permittees. They were: Rahway Valley Sewerage Authority (RVSA)- NJ0024643- (28 violations), Sybron Chemical, Inc. - NJ0005509- (19 violations), Minot food Packers, Inc. - NJ0053911- (18 violations) and Oxford Textile, Inc. - NJ0004901- (17 violations).

Reporting violations accounted for 39.4 percent (235) of the violations for which the Department assessed a penalty. This number is similar to figures reported in previous years. It is important to point out that the 235 reporting violations in 2001 is not an indication that numerous permittees are having reporting violations. Only 15 permittees had such violations - two of which were responsible for 79percent or 185 of the 235 reporting violations: Conectiv Power Delivery NJPDES No. - NJ0005363 - Pennsville Township, Salem County reported 144 reporting violations and Carteret Packaging, Inc. - NJPDES No. NJ0108901 - Carteret Borough, Middlesex County was accountable for 41 violations, respectively. Overall, the decrease in the number of reporting violations can be attributed to the Department's continual outreach efforts to explain the reporting requirements. The familiarity and comfort with the reporting procedures by the regulated community is a direct result of the Department's increased emphasis since 1988 on both issuance of enforcement actions and providing comprehensive compliance assistance.

The "Other" Violations category includes Combined Sewer Overflows (CSO) permit requirements, unpermitted discharges, improper sampling, and sewer connection/extension violations. Of the 154 Other Violations addressed in formal enforcement actions, 96 of the violations were in a JCO/P executed with the RVSA- NJ0024643.

Local agencies accounted for 206 of the violations for which the Department assessed penalties, nonlocal agencies accounted for the remaining 390 violations.

Table III-3 below lists the number and percentage of effluent, compliance schedule and reporting violations by calendar year for local and nonlocal agencies.

Table III-4 contains only the data from **nonlocal** agencies. Noteworthy on this table is the fact that the number of DMR non-submittal violations was the highest ever reported (41). However, all 41 violations were from just one permittee, Carteret Packaging (NJ0108901). Additionally, 144 of the 184 DMR omission violations were attributed to just one facility, Conectiv Power Delivery (NJ0005363).

Table III-5 illustrates the violation data just for **local** agencies. The number of "Other" type violations was unusually high compared to past years. RVSA (96 violations) and Molitor Water Pollution Control Facility-NJ0109410 (20 violations) were responsible for 116 of the 129 violations.

**TABLE III - 3  
SUMMARY OF VIOLATIONS BY CATEGORY ~ LOCAL AND NONLOCAL**

		Violation Category								
Year	Number / Percentage	Effluent			Compliance Schedule	Discharge Monitoring Report			Other	Totals (columns 5,6,9,10)
		Non-hazardous	Hazardous	Subtotal		Non-submittal	Omissions	Subtotal		
<b>1992</b>	Number	1,192	254	1,446	73	38	370	408	556	2,483
	Percentage	82.4%	17.6%	58.2%	2.9%	9.3%	90.7%	16.4%	22.4%	100.0%
<b>1993</b>	Number	1,167	253	1,420	2	35	213	248	384	2,054
	Percentage	82.2%	17.8%	69.1%	0.1%	14.1%	85.9%	12.1%	18.7%	100.0%
<b>1994</b>	Number	758	146	904	7	3	139	142	691	1,744
	Percentage	83.8%	16.2%	51.8%	0.4%	2.1%	97.9%	8.1%	39.6%	100.0%
<b>1995</b>	Number	578	99	677	0	7	107	114	72	863
	Percentage	85.4%	14.6%	78.4%	0.0%	6.1%	93.9%	13.2%	8.3%	100.0%
<b>1996</b>	Number	221	85	306	94	0	88	88	39	527
	Percentage	72.2%	27.8%	58.1%	17.8%	0.0%	100.0%	16.7%	7.4%	100.0%
<b>1997</b> <sup>1</sup>	Number	426	64	490	8	8	246	254	71	823
	Percentage	86.9%	13.1%	59.5%	1.0%	3.1%	96.9%	30.9%	8.6%	100.0%
<b>1998</b>	Number	103	18	121	1	1	84	85	84	291
	Percentage	85.1%	14.9%	41.6%	0.3%	1.2%	98.8%	29.2%	28.9%	100.0%
<b>1999</b> <sup>2</sup>	Number	72	41	113	5	20	199	219	622	959
	Percentage	63.7%	36.3%	11.8%	0.5%	9.1%	90.9%	22.8%	64.9%	100.0%
<b>2000</b>	Number	165	19	184	1	27	179	206	193	584
	Percentage	89.7%	10.3%	31.5%	0.2%	13.1%	86.9%	35.3%	33.0%	100.0%
<b>2001</b>	Number	156	49	205	2	41	194	235	154	596
	Percentage	76.1%	23.9%	34.4%	0.3%	17.4%	82.6%	39.4%	25.8%	100.0%

<sup>1</sup>Of the 490 Effluent violations for 1997, 70 are attributable to the Ringwood Board of Education - Robert Erskine School STP; 63 to the Lighthouse Bar and Restaurant; 59 to the New Jersey Turnpike Authority; 57 to the RVSA; and 37 to the Burlington County Solid Waste Facility. Of the 254 Discharge Monitoring Report violations for 1997, 197 are attributable to the Lighthouse Bar and Restaurant.

<sup>2</sup>Five facilities were responsible for 168 of the 219 Discharge Monitoring Reports violations Kearfott Guidance & Navigation Corporation, Plant #1 (65 omission violations); Kearfott Guidance & Navigation Corporation, Plant #3 (55 omission violations); Phillips Electronics North America Corporation (22 omission violations); Anadigics, Inc. (16 omission violations); and John T. Handy, Inc. (10 DMR nonsubmittal violations). Of the 622 Other violations, 480 violations were noted at one facility - Harmony Dale Farms.

**TABLE III - 4  
SUMMARY OF VIOLATIONS BY CATEGORY ~ NONLOCAL AGENCIES**

		<b>Violation Category</b>								
<b>Year</b>	<b>Number / Percentage</b>	<b>Effluent</b>			<b>Compliance Schedule</b>	<b>Discharge Monitoring Report</b>			<b>Other</b>	<b>Grand Total</b> <small>(columns 5,6,9,10)</small>
		<b>Non- hazardous</b>	<b>Hazardous</b>	<b>Total</b>		<b>Non- submittal</b>	<b>Omission s</b>	<b>Total</b>		
<b>1992</b>	<b>Number</b>	782	209	991	2	38	336	374	538	1,905
	<b>Percentage</b>	78.9%	21.1%	52.0%	0.1%	10.2%	89.8%	19.6%	28.2%	100.0%
<b>1993</b>	<b>Number</b>	672	223	895	0	24	181	205	346	1,446
	<b>Percentage</b>	75.1%	24.9%	61.9%	0.0%	11.7%	88.3%	14.2%	23.9%	100.0%
<b>1994</b>	<b>Number</b>	595	118	713	0	2	119	121	135	969
	<b>Percentage</b>	83.5%	16.5%	73.6%	0.0%	1.7%	98.3%	12.5%	13.9%	100.0%
<b>1995</b>	<b>Number</b>	348	68	416	0	7	103	110	40	566
	<b>Percentage</b>	83.7%	16.3%	73.5%	0.0%	6.4%	93.6%	19.4%	7.1%	100.0%
<b>1996</b>	<b>Number</b>	156	55	211	0	0	86	86	26	323
	<b>Percentage</b>	73.9%	26.1%	65.3%	0.0%	0.0%	100.0%	26.6%	8.0%	100.0%
<b>1997</b>	<b>Number</b>	187	24	211	1	6	234	240	52	504
	<b>Percentage</b>	88.6%	11.4%	41.9%	0.2%	2.5%	97.5%	47.6%	10.3%	100.0%
<b>1998</b>	<b>Number</b>	76	9	85	1	1	78	79	42	207
	<b>Percentage</b>	89.4%	10.6%	41.1%	0.5%	1.3%	98.7%	38.2%	20.3%	100.0%
<b>1999</b>	<b>Number</b>	54	28	82	0	18	183	201	558	841
	<b>Percentage</b>	65.9%	34.1%	9.8%	0.0%	9.0%	91.0%	23.9%	66.3%	100.0%
<b>2000</b>	<b>Number</b>	97	11	108	0	27	160	187	181	476
	<b>Percentage</b>	89.8%	10.2%	22.7%	0.0%	14.4%	85.6%	39.3%	38.0%	100.0%
<b>2001</b>	<b>Number</b>	105	35	140	0	41	184	225	25	390
	<b>Percentage</b>	75.0%	25.0%	35.9%	0.0%	18.2%	81.8%	57.7%	6.4%	100.0%

**TABLE III - 5  
SUMMARY OF VIOLATIONS BY CATEGORY ~ LOCAL AGENCIES**

		<b>Violation Category</b>								
<b>Year</b>	<b>Number / Percentage</b>	<b>Effluent</b>			<b>Compliance Schedule</b>	<b>Discharge Monitoring Report</b>			<b>Other</b>	<b>Grand Total</b> <small>(columns 5,6,9,10)</small>
		<b>Non-hazardous</b>	<b>Hazardous</b>	<b>Total</b>		<b>Non-submittal</b>	<b>Omissions</b>	<b>Total</b>		
<b>1992</b>	<b>Number</b>	410	45	455	71	0	34	34	18	578
	<b>Percentage</b>	90.1%	9.9%	78.7%	12.3%	0.0%	100.0%	5.9%	3.1%	100.0%
<b>1993</b>	<b>Number</b>	495	30	525	2	11	32	43	38	608
	<b>Percentage</b>	94.3%	5.7%	86.3%	0.3%	25.6%	74.4%	7.1%	6.3%	100.0%
<b>1994</b>	<b>Number</b>	163	28	191	7	0	20	20	556	774
	<b>Percentage</b>	85.3%	14.7%	24.7%	0.9%	0.0%	100.0%	2.6%	71.8%	100.0%
<b>1995</b>	<b>Number</b>	230	31	261	0	0	4	4	32	297
	<b>Percentage</b>	88.1%	11.9%	87.9%	0.0%	0.0%	100.0%	1.3%	10.8%	100.0%
<b>1996</b>	<b>Number</b>	65	30	95	94	0	2	2	13	204
	<b>Percentage</b>	68.4%	31.6%	46.6%	46.1%	0.0%	100.0%	1.0%	6.4%	100.0%
<b>1997</b>	<b>Number</b>	239	40	279	7	2	12	14	19	319
	<b>Percentage</b>	85.7%	14.3%	87.5%	2.2%	14.3%	85.7%	4.4%	6.0%	100.0%
<b>1998</b>	<b>Number</b>	27	9	36	0	0	6	6	42	84
	<b>Percentage</b>	75.0%	25.0%	42.9%	0.0%	0.0%	100.0%	7.1%	50.0%	100.0%
<b>1999</b>	<b>Number</b>	18	13	31	5	2	16	18	64	118
	<b>Percentage</b>	58.1%	41.9%	26.3%	4.2%	11.1%	88.9%	15.3%	54.2%	100.0%
<b>2000</b>	<b>Number</b>	68	8	76	1	0	19	19	12	108
	<b>Percentage</b>	89.5%	10.5%	70.4%	0.9%	0.0%	100.0%	17.6%	11.1%	100.0%
<b>2001</b>	<b>Number</b>	51	14	65	2	0	10	10	129	206
	<b>Percentage</b>	78.5%	21.5%	31.6%	1.0%	0.0%	100.0%	4.9%	62.6%	100.0%

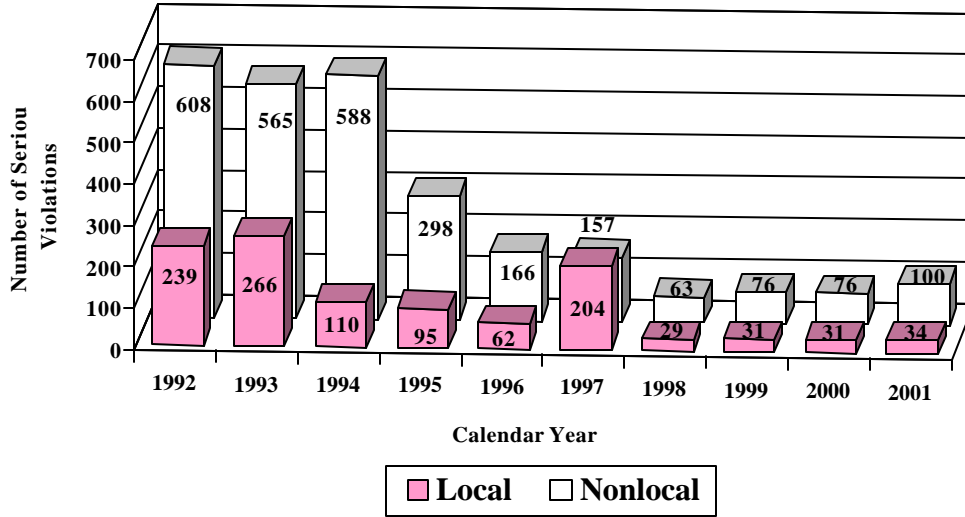
## **Section Seven - Serious Violations:**

The CWEA requires the Department to report the number of actual effluent violations constituting serious violations, including those violations that are being contested by the permittee. The CWEA defines a serious violation as an exceedance of a valid effluent limitation by 20 percent or more for hazardous pollutants and by 40 percent or more for nonhazardous pollutants. The CWEA establishes mandatory minimum penalties for serious violations and requires the Department to assess a penalty for a serious violation within six months of the violation.

In 2001, the Department identified and issued formal enforcement actions for 134 serious effluent violations (34 were from local permittees and 100 from nonlocals). These violations involved discharges from 66 facilities. Seven of these permittees have appealed penalty assessments for 30 of these violations. Of the 134 serious violations, 68.7 percent (92) involved violations of limitations for nonhazardous pollutants, and the remaining 31.3 percent (42) involved violations of limitations for hazardous pollutants. In Chart III-1 below, the serious violations are separated into those from either local or nonlocal permittees. Serious violations have decreased from a reported high figure of 847 in 1992. This staggering decrease is a very positive trend indicating the regulated community, as a whole, is paying close attention to monitoring their discharges and taking the appropriate corrective action to prevent their facilities from having serious violations.

However, there was clearly a significant increase in the number of serious violations by nonlocal agencies compared to the past three years (100 versus 63-76) with the 100 violations being the most reported since 1997. The Department is not aware of any particular reason for this increase and does not believe there is a negative trend towards higher numbers of serious violations at this point in time. The 66 facilities having serious effluent violations has increased from the past 3 years when it was approximately 50 facilities.

**CHART III - 1  
SERIOUS VIOLATIONS**



**Section Eight - Significant Noncompliers:**

The CWEA requires the Department to report the number of permittees qualifying as SNCs, including permittees contesting such designation and to provide certain information pertaining to each permittee designated as an SNC. An SNC is a permittee which: (1) commits a serious violation for the same pollutant at the same discharge point source in any two months of any six-month period; (2) exceeds the monthly average in any four months of any six-month period or (3) fails to submit a completed DMR in any two months of any six-month period (N.J.S.A. 58:10A-3w). The Department reviews each violation to determine whether the violation has caused the permittee to become an SNC or continue to be an SNC. If the permittee is or has become an SNC, the Department initiates formal enforcement action, assessing a civil administrative penalty in an amount at least equal to the statutory minimum, and directing the SNC to attain compliance.

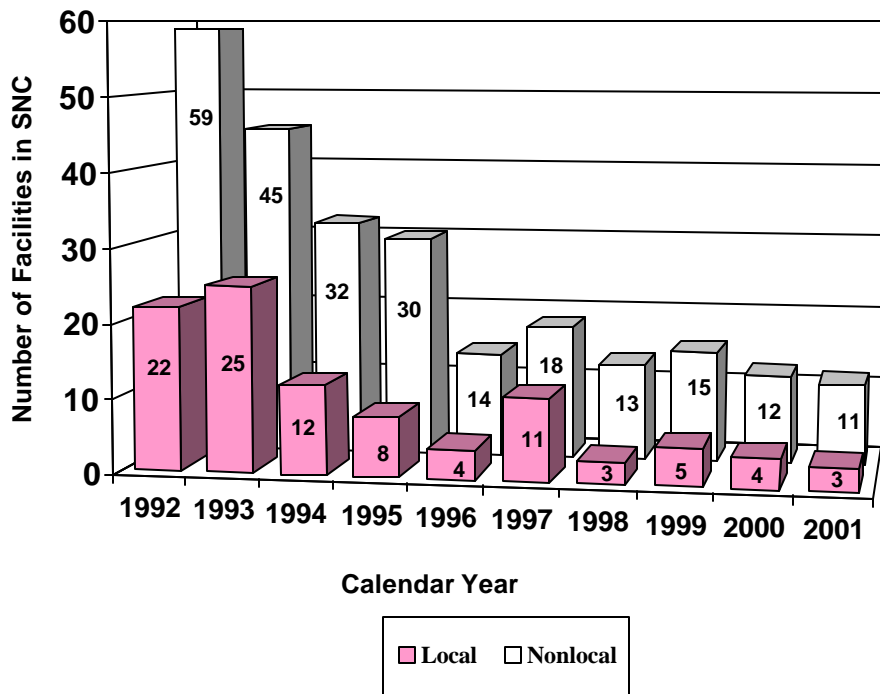
In 2001, the Department issued formal enforcement actions to 14 permittees identified as SNCs. Five permittees have contested their individual designations as SNCs. Appendix III-A of this report identifies each SNC and sets forth information concerning each SNC's violations. In 1992, 81 permittees were issued penalties for becoming an SNC. Therefore, the number of SNCs has dropped by 83 percent since 1992. In 2001, 11 of the 16 SNC permittees were nonlocal agencies and 3 were local agencies. Twelve of the permits violated by the SNCs DSWs, one permit was for a DGW and one was an SIU permit. In 2001, there was one permittee (Sybron Chemicals, Inc. - NJ0005509 - Pemberton Township, Burlington County) that continued to be an SNC violator from 2000. In comparison, the number of permittees identified in the 1993 report that continued to be or were repeat SNC violators was 18.



Of the 14 permittees identified as SNCs in 2001, 29 percent (4) had only violations of limitations for nonhazardous pollutants, 21 percent (3) involved only violations of limitations for hazardous pollutants, 14 percent (2) had violations of limitations for both nonhazardous and hazardous pollutants, and 36 percent (5) had both reporting and effluent violations. There were no failures to submit DMRs or reporting of incomplete information on DMRs.

As has been the case since 1996, the percentage of permittees in significant noncompliance in 2001 was less than 2.0 percent of the total NJPDES permittees with monitoring and reporting requirements in their permits. Chart III-2 below shows the number of local and nonlocal facilities which the Water Compliance and Enforcement Element has taken formal enforcement action against because they had reporting or discharge violations of their permit effluent limitations that caused them to be, or continue to be, in significant noncompliance as defined by the 1990 amendments to the WPCA (N.J.S.A. 58:10A-1 et seq.).

**CHART III - 2  
SIGNIFICANT NONCOMPLIERS**



There were three times more nonlocal facilities than locals in SNC in calendar year 2001. Similar ratios have been seen in most calendar years with calendar year 1997 being the exception. However, the significant noncompliance rates between nonlocals and local entities have been essentially the same because there are almost three times as many nonlocal dischargers than local (approximately 1,100 to 400 respectively as of 2000). Since calendar year 1996, the percentage of NJPDES permitted facilities in significant noncompliance has remained below two percent.

Chart III-2 shows a significant decreasing trend over the past nine year period (1997 being the single year exception) in the total number of chronic violators having serious discharge violations or failing to submit discharge monitoring reports which places them in significant noncompliance. Given the large total number of permitted discharges with reporting requirements and effluent limitations compared to the limited number of facilities in significant noncompliance during the past two years, a continuation of the steep decrease previously seen or any noteworthy further decrease in the number of facilities in significant noncompliance is not likely or expected. Only slight variation in the numbers is expected from year to year as we have seen this year compared to last year. Any new and more restrictive discharge limitations imposed in NJPDES permits in the future could actually result in nominal increases in the number of SNCs although the regulated community is more educated and prepared to address any such limitations and take the steps necessary to achieve and maintain compliance and therefore avoid SNC designation.

The Department believes its multifaceted compliance assistance program has played a major role in the significant reduction in SNCs and violations overall. The DMR manual, which was initially published in

1991 with a second edition in 1993 and updates in 2000 (through guidance on the new reporting forms), has been invaluable in providing guidance to permittees in proper discharge monitoring and completion of their DMRs. Seminars and training courses conducted with various organizations have assisted permittees and licensed operators in achieving a better understanding of the WPCA requirements. This has also resulted in numerous wastewater treatment system improvements at both local and nonlocal facilities.

However, the largest portion of the assistance program over the years has been performed by department personnel both during permit pre-application meetings, as part of the DWQ's technical assistance program, and in particular, while conducting compliance evaluation inspections. During these activities, detailed assistance and guidance has been given to the permittee on virtually every aspect of the NJPDES program. This education and outreach effort undoubtedly has played a significant role in the tremendous increase in compliance by the regulated community.

### **Section Nine - Violations for which the Department Did Not Assess a Penalty:**

The Department assesses a penalty only after conducting an inspection or confirming the violation by some other contact with the permittee. Accordingly, serious violations and violations which cause a permittee to become an SNC, which were reported on DMRs but not confirmed before the end of the 2001 calendar year, will be the subject of penalty assessments once the Department confirms that the violations occurred.

If the Department establishes that a report of an exceedance was in error (for example, if the reported exceedance is attributable to a mistake in the reporting or processing of discharge data), the Department does not take an enforcement action for the reported exceedance.

## **C. ENFORCEMENT ACTIONS**

### **Section One - Types of Enforcement Actions:**

#### *Informal Enforcement Actions:*

The Department uses both formal and informal enforcement actions to promote compliance with the WPCA. An informal enforcement action notifies a violator that it has violated a statute, regulation or permit requirement, and directs the violator to take corrective actions to comply. Typically, informal actions are a first step in the enforcement process and are taken at the time the Department identifies a violation. The Department does not assess penalties in informal enforcement actions, which are preliminary in nature and do not provide an opportunity to contest the action in an adjudicatory hearing. However, the Department is always willing and available to discuss the violation with a permittee.

The Department takes an informal enforcement action by issuing an NOV at the time a violation is identified during a field inspection. An NOV not only identifies a violation but also requires the violator to advise the Department of the action taken to remedy the violation.

Until July of 1994, the Department counted inspection letters that gave an Unacceptable rating to a facility as Directive Letters (DRLs) since corrective action was directed to be performed. Inspection reports no longer contain ratings and they are no longer counted as a type of informal enforcement action. The Department decided to modify its tracking and reporting protocol of DRLs

for various administrative reasons back in 1995. In addition, the Department believes it is more appropriate to place emphasis on the NOV's (rather than DRLs) which are typically issued to facilities at the time of inspections if violations are noted.

As noted earlier, the Department has eliminated routine interim inspections. If a review of discharge data indicates an individual serious violation, the Department will contact the permittee to confirm the violation(s) prior to assessing a penalty.

#### *Formal Enforcement Actions:*

The Department typically takes formal administrative enforcement action when it is required by the CWEA to assess a mandatory penalty or when a permittee has failed to remedy a violation in response to an informal enforcement action previously taken by the Department. The Department only takes formal enforcement action when it has verified that a violation has occurred. The Department usually initiates formal administrative enforcement action through the issuance of an (AO) or Settlement Agreement with Penalty (SA/P). The Department has utilized several types of AOs.

An AO is a unilateral enforcement action taken by the Department ordering a violator to take corrective action. The Department usually issues an AO to require a permittee to comply with its permit and may prescribe specific measures to be taken by the violator.

An Administrative Order/Notice of Civil Administrative Penalty Assessment (AO/NOCAPA) identifies a violation, assesses a civil administrative penalty, and also orders a violator to take specific, detailed compliance measures.

A Notice of Civil Administrative Penalty Assessment (NOCAPA) is an action that identifies a violation and assesses a civil administrative penalty. Compliance has already been achieved in most cases.

An Attorney General Referral (AGR) is made by the Department to the New Jersey State Attorney General to initiate a civil enforcement action against a violator to compel compliance, collect a penalty, or an activity or condition poses an immediate and substantial threat to public health and the environment. An AGR is also made when a permittee has failed to work cooperatively with the Department toward attaining compliance despite formal administrative enforcement actions. The State Attorney General, on behalf of the Department, will then file civil enforcement actions in the New Jersey State Superior Court against the violator. When the Court finds that a defendant has violated the WPCA, it will typically issue a JO directing the defendant to comply within a specified period of time and may also require the defendant to pay a civil penalty (JO/P).

The Department issues Stipulated Penalty Demand Letters (SPDLs) to permittees demanding payment of penalties stipulated under an ACO or JCO for the permittee's failure to comply with terms of the order.

At one time, the Department issued Enforcement Directives (EDs) to grant or deny the assertion of an affirmative defense or a Force Majeure claim. While the Department continues to respond to such

claims, in July of 1999 it ceased labeling and counting these actions as EDs, which explains the abrupt decrease in the number issued.

## **Section Two - Types of Settlement Agreements:**

The Department resolves administrative and judicial enforcement actions through the execution of several types of SAs (SAs).

An SA resolves an administrative enforcement action, including a penalty previously assessed by the Department. The SA does not typically impose requirements for corrective action. An SAP(SA/P) usually resolves an outstanding confirmed violation or an administrative enforcement action and provides for payment of penalties not previously assessed.

An ACO requires a permittee to take specific measures to attain compliance through a binding agreement between the Department and the violator. It may resolve a previously issued civil administrative enforcement action. A consent order may provide interim effluent limitations, relaxing limits contained in a permit until specified improvements are made in accordance with a compliance schedule. Compliance schedules usually establish milestones for starting and completing construction of required facility improvements, or implementing other measures to achieve compliance. Consent orders also normally provide for stipulated penalties - to be paid by the violator if it fails to comply with the compliance schedule or exceeds interim effluent limitations.

A JCO resolves a judicial enforcement action and is therefore subject to the Court's approval and its ongoing jurisdiction.

An ACO/P or JCO/P assesses a new penalty in addition to requiring a permittee to take specific measures to attain compliance.

## **Section Three - Enforcement Actions Initiated in 2001:**

### *Informal Enforcement Actions:*

In 2001, the Department initiated 540 informal enforcement actions (NOVs) compared with 1,273 in 1992. Table III-6 summarizes the enforcement actions taken from 1992 through 2001.

### *Formal Enforcement Actions:*

In 2001, the Department initiated 114 formal enforcement actions compared with 752 in 1992 and a high of 941 in 1993. While a large portion of the decrease is due to the elimination of the ED category as previously explained, both Orders (23 in 2001 vs. 274 in 1992) and Settlements (91 in 2001 vs. 152 in 1992) of all types decreased. Since these are the documents in which the Department assesses penalties and, since the Department typically initiates penalty actions only against a permittee committing a serious violation or violations which causes it to become an SNC, this is consistent with the improved compliance

trend noted previously.

The reduction in formal actions since 1992 can be traced for the most part to the decrease in the

issuance of administrative actions containing penalty assessments that could be adjudicated. Meanwhile, the number of SA/Ps, which now constitute approximately 50 percent of all formal enforcement actions, was down from a high of 126 in 1995 to only 72 in 2001. This indicates a drop in the number of facilities, which had violations that would trigger mandatory penalties under the CWEA (serious and SNC violations), that chose to enter into SA/Ps to avoid litigation costs and resolve violations quickly.

In 2001, the Department executed one JCO/P with the RVSA that established interim enforcement effluent limitations that modified permit limitations. In 1992, the Department executed 18 agreements that established interim enforcement effluent limitations.

**TABLE III - 6  
SUMMARY OF ENFORCEMENT ACTIONS**

<b>TYPE OF ENFORCEMENT ACTION</b>	<b>1992</b>	<b>1993</b>	<b>1994</b>	<b>1995</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>
<b>INFORMAL ACTIONS</b>	1273	1,055	561	323	226	247	314	340	336	540
- DRL	505	337	74	N/A	N/A	N/A	N/A	N/A	N/A	N/A
- NOV	768	718	487	323	226	247	314	340	336	540
<b>FORMAL ACTIONS</b>	752	941	913	638	449	383	236	165	127	114
- ENFORCEMENT DIRECTIVES	317	480	522	371	304	233	117	N/A	N/A	N/A
- <b>ORDERS</b>	274	198	147	71	47	50	45	69	37	23
AO	0	6	0	1	2	0	0	0	0	0
AO/NOCAPA	8	3	9	1	0	18	23	44	28	15
NOCAPA	7	8	6	8	9	4	8	12	5	3
IRO/P <sup>1</sup>	222	129	77	29	11	10	N/A	N/A	N/A	N/A
SPDL	34	45	32	20	17	11	6	7	2	1
JO	1	5	5	1	3	2	4	1	0	2
JO/P	2	2	4	4	0	0	2	1	1	1
AGR	-	6	14	7	5	5	2	4	1	1
- <b>SETTLEMENTS</b>	152	260	244	196	98	100	74	96	90	91
ACO	32	26	21	14	6	4	1	2	5	2
ACO/P	17	30	15	8	8	7	5	3	1	4
SA	56	121	80	45	10	11	9	11	16	12
SA/P	32	77	121	126	74	75	57	77	65	72
JCO	4	4	3	2	0	2	2	1	0	0
JCO/P	2	2	4	1	0	1	0	2	3	1
- <b>AUTO PAYMENTS</b>	9	3	0	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<b>TOTALS</b>	<b>2,025</b>	<b>1,996</b>	<b>1,474</b>	<b>961</b>	<b>675</b>	<b>630</b>	<b>550</b>	<b>505</b>	<b>463</b>	<b>654</b>

<sup>1</sup> An Immediate Response Order with Penalty (IRO/P) was an administrative order that usually ordered a permittee to comply with its permit and also assessed a civil administrative penalty. In July of 1998, the Department modified its tracking and reporting protocol of IRO/Ps. This type of enforcement action was eliminated since it was essentially the same as AO/NOCAPA.

#### Section Four - Laboratory Certification Program:

On July 1, 1995, the Water Compliance and Enforcement Element received enforcement jurisdiction over the Laboratory Certification program for violations under the WPCA as well as other statutes. The Air and Environmental Quality Element within the Department previously performed this function.

Formal enforcement actions are taken based upon violations discovered by the Department's Office of Quality Assurance during its audits of certified laboratories or as a result of a laboratory's failure to comply with the proficiency testing program. While the actions shown below in Table III-7 were taken pursuant to the WPCA, they are being reported here separately from the other sections of this report since inclusion of these actions would alter any trend analysis contained herein. Additionally, some of the enforcement actions involve the issuance of a Notice of Certification Suspension that is unique to only this program. The statistics for calendar year 2001 and earlier listed in Table III-7 are not included in Table III-6 or Table III-9.

**TABLE III - 7  
LABORATORY CERTIFICATION ACTIVITIES**

TYPE OF ACTIVITY	1995	1996	1997	1998	1999	2000	2001
- ENFORCEMENT ACTIONS							
AO/NOCAPA	9	4	1	4	10	4	1
AO/S	81	3	72	33	1	0	0
AO/P/S	1	1	0	0	0	0	0
IRO/P	0	2	0	0	0	0	0
ACO/P	0	0	1	0	0	0	0
SA	0	2	2	1	0	3	3
SA/P	0	0	0	0	1	0	0
- PENALTIES ASSESSED	\$6,900	\$3,000	\$13,725	\$84,000	\$157,500	\$48,000	\$53,250
- PENALTIES COLLECTED	\$1,500	\$7,500	\$1,350	\$4,004	\$27,560	\$11,473	\$40,877

Notes: AO/S - Administrative Order and Notice of Certification Suspension

AO/P/S - Administrative Order, Notice of Civil Administrative Penalty Assessment and Notice of Certification Suspension

The number of AO/Ss is significantly down since 1998 because of the termination of the EPA laboratory proficiency study program in June of 1998. As part of this program in New Jersey, a laboratory's repeated failure to analyze proficiency samples and submit the results or failure to obtain results within the determined acceptable range of values would be cause for an AO/S to be issued.

The \$157,500 in civil administrative penalties assessed in 1999 was much higher than in past years due to the increased number of referrals received from the Office of Quality



Assurance based upon audits they performed of certified laboratories.

## D. STORMWATER ENFORCEMENT

The information provided in this section pertains exclusively to facilities that received authorization to discharge under a general stormwater permit. Any data related to facilities which discharge stormwater under an individual permit is included elsewhere in this report under the appropriate section. The statistics for calendar year 2001 and earlier listed in Table III-8 are not included in Table III-6 or Table III-9.

**TABLE III - 8  
STORMWATER INSPECTION AND ENFORCEMENT ACTIVITIES**

TYPE OF ENFORCEMENT ACTIVITY	1995	1996	1997	1998	1999	2000	2001
<b>FULL COMPLIANCE INSPECTIONS</b>	51	900	531	701	660	511	847
<b>DISCHARGE INVESTIGATIONS</b>	N/A	52	164	50	60	45	76
<b>INFORMAL ACTIONS</b> - NOV	2	196	90	78	49	89	124
<b>FORMAL ACTIONS</b>							
- ENFORCEMENT DIRECTIVES	1	48	30	12	N/A	N/A	N/A
-ORDERS							
AO/NOCAPA	2	1	3	5	11	3	2
APA	1	0	0	0	0	0	0
IRO/P	1	2	1	N/A	N/A	N/A	N/A
AGR	0	0	0	1	0	2	0
- SETTLEMENTS							
ACO	0	0	0	0	1	1	0
ACO/P	0	0	1	0	0	0	0
SA	4	0	0	1	0	0	2
SA/P	0	2	1	0	1	0	1
- PENALTIES ASSESSED	-	\$11,250	\$14,135	\$31,750	\$44,850	\$25,000	\$42,500
- PENALTIES COLLECTED	-	\$4,500	\$3,500	\$7,510	\$19,063	\$6,284	\$30,875

Since 1996, the Department's compliance and enforcement efforts have been shifted from inspecting those facilities identified by EPA rules as requiring a stormwater permit and those facilities which the Department determined may have responded erroneously that they did not have a stormwater DSW. Now, the focus is on conducting compliance evaluation inspections of facilities authorized to discharge.

## E. COMBINED SEWER SYSTEM ENFORCEMENT

The Department issued a general NJPDES - DSW Permit (permit) for Combined Sewer Systems (CSS) and Combined Sewer Overflows (CSO) in order to comply with the New Jersey Sewage Infrastructure Improvement Act. The effective date of the permit was March 1, 1995. The permit required that, within one month of the effective date of the permit, each individual CSS owner and CSO discharger request authorization to discharge. The permit also required that authorized CSO dischargers develop Combined Sewer Overflow Interim and Long-term Solids/Floatables Control Plans on or before March 1, 1996. These requirements are the first steps in the control of pollutants from these types of systems. The CSO General Permit (NJ0105023) requires a comprehensive discharge-point-by-discharge-point evaluation of the control methods to be used. The general permit requires that the permittee capture and remove solids and floatables that can not pass through a bar screen having a 0.5-inch opening. The permit does not specify the technology to be used. If solids/floatables removal can not meet the 0.5-inch standard, the permittee must demonstrate the most appropriate alternative control measures for each CSO point that can not meet this standard. The alternatives chosen would be based on an incremental cost/performance analysis. The general permit requires that these solids/floatables control plans be implemented according to a compliance schedule. The overall process of addressing these CSO discharges is expected to take a number of years and cost an estimated \$3.4 billion.

This general permit was renewed by the division in February 2000. Any person who currently owns and/or operates any part of a combined sewer system must apply for this NJPDES General Permit. Water Compliance & Enforcement (WC&E) has been coordinating a major effort with the DWQ to ensure that all CSO owners are appropriately committed to both the interim and long-term solids and floatables control measures required by these general NJPDES permits. When WC&E identifies situations where permittees are not in compliance with the planning, design or construction milestones in their NJPDES permits, it issues appropriate formal enforcement actions which establish an alternative compliance schedule and assesses penalties for the noncompliance. The penalties are comprised of both a punitive component and an economic benefit component (the economic benefit realized by the violator in delaying expenditures necessary for attaining compliance).

The following is a summary of some of the major CSO enforcement actions in 2001:

**City of Elizabeth** – an NOCAPA in the amount of \$163,786 (\$148,786 is the economic benefit component) was issued on June 8, 2001 to the City for its failure to submit a Stage II/III Treatment Works Approval application for a Long-term Solids/Floatables Control Measures Plan.

**City of Newark** – an ACO was executed by the Department and the City on May 21, 2001 which requires Newark to submit a Treatment Works Approval application for a Long-term Solids/Floatables Control plan and a penalty payment of \$30,709 (\$23,209 is the economic benefit component).

In a related matter, the Department executed a significant settlement with the RVSA in a Sanitary Sewer Overflow (SSO) case – A JCO was signed with RVSA on October 12, 2001, requiring them to construct adequate conveyance and treatment works facilities to collect, treat and discharge in accordance with their permit. Two sewage overflow points will be eliminated. A relief outfall is to be evaluated by RVSA through a water quality study. Based on the outcome of the study, RVSA will determine how best to make improvements which will include final effluent polishing, improved disinfection, additional pumping capacity, sampling chambers and auxiliary power. RVSA also paid penalties of \$725,000 to the Department.

The total penalties assessed referenced above were included in Table III-9. WC&E continues to closely monitor permittees' progress with their compliance schedules.

## **F. PENALTIES ASSESSED AND COLLECTED**

The CWEA requires the Department to report the dollar amount of all civil and civil administrative penalties assessed and collected.

### **Section One - Penalties Assessed:**

In 2001, the Department assessed a total of \$2.81 million in civil and civil administrative penalties within 98 distinct enforcement actions. This is a very slight increase from the \$2.38 million assessed in 2000. Interestingly, this is the fewest number of total penalty actions taken in a calendar year since keeping records in 1991. With the exception of the \$671,375 assessment in the RVSA JCO/P, the number of assessments and the dollar amounts were very similar to 2000.

**TABLE III - 9  
LOCAL (LOC) AND NONLOCAL (NL) PENALTIES ASSESSED**

PENALTY RANGES	1993			1994			1995		
	\$ AMOUNT ASSESSED IN RANGE	TOTAL # OF ACTIONS	LOC/NL PENALTY ASSESSED	\$ AMOUNT ASSESSED IN RANGE	TOTAL # OF ACTIONS	LOC/NL PENALTY ASSESSED	\$ AMOUNT ASSESSED IN RANGE	TOTAL # OF ACTIONS	LOC/NL PENALTY ASSESSED
>\$500,000	\$13,033,000	3	00/03	\$17,829,680	4	01/03	\$942,000	1	00/01
250,001 - \$500,000	2,000,987	6	03/03	0	0	00/00	723,750	2	02/00
100,001 - 250,000	2,549,141	17	04/13	1,332,999	9	02/07	1,138,746	8	01/07
25,000 - 100,000	2,556,330	57	22/35	1,433,252	33	11/22	1,128,432	25	06/19
1 - 25,000	1,909,697	214	49/165	1,621,187	212	59/153	776,803	161	27/134
<b>TOTALS</b>	<b>\$22,049,155</b>	<b>297</b>	<b>78/219</b>	<b>\$22,217,118</b>	<b>258</b>	<b>73/185</b>	<b>\$4,709,731</b>	<b>197</b>	<b>36/161</b>

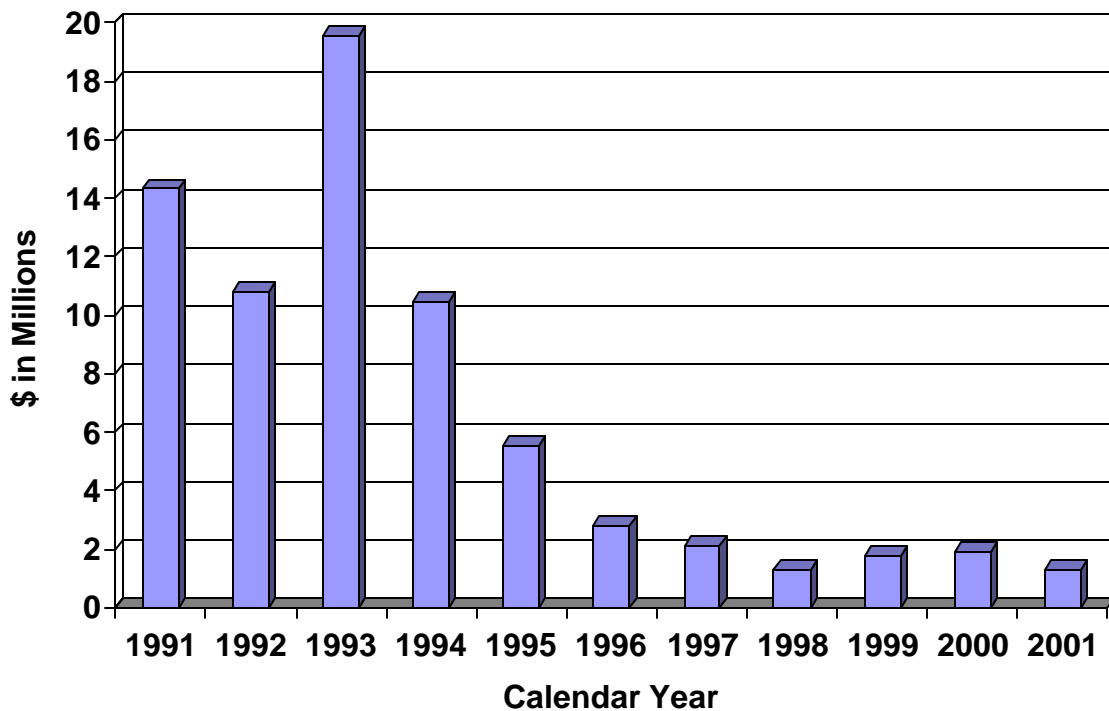
PENALTY RANGES	1996			1997			1998		
	\$ AMOUNT ASSESSED IN RANGE	TOTAL # OF ACTIONS	LOC/NL PENALTY ASSESSED	\$ AMOUNT ASSESSED IN RANGE	TOTAL # OF ACTIONS	LOC/NL PENALTY ASSESSED	\$ AMOUNT ASSESSED IN RANGE	TOTAL # OF ACTIONS	LOC/NL PENALTY ASSESSED
>\$500,000	\$0	0	00/00	\$659,000	1	00/01	0	0	00/00
250,001 - \$500,000	0	0	00/00	259,000	1	01/00	0	0	00/00
100,001 - 250,000	515,081	3	00/03	624,440	4	03/01	117,398	1	00/01
25,000 - 100,000	855,699	17	06/11	920,520	20	09/11	731,334	15	06/09
1 - 25,000	484,660	101	31/70	656,313	99	32/67	447,569	84	27/57
<b>TOTALS</b>	<b>\$1,855,440</b>	<b>121</b>	<b>37/84</b>	<b>\$3,119,273</b>	<b>125</b>	<b>45/80</b>	<b>1,296,301</b>	<b>100</b>	<b>33/67</b>

PENALTY RANGES	1999			2000			2001		
	\$ AMOUNT ASSESSED IN RANGE	TOTAL # OF ACTIONS	LOC/NL PENALTY ASSESSED	\$ AMOUNT ASSESSED IN RANGE	TOTAL # OF ACTIONS	LOC/NL PENALTY ASSESSED	\$ AMOUNT ASSESSED IN RANGE	TOTAL # OF ACTIONS	LOC/NL PENALTY ASSESSED
>\$500,000	\$659,000	1	00/01	\$0	0	00/00	\$671,375	1	01/00
250,001 - \$500,000	259,000	1	01/00	\$267,900	1	00/01	\$720,127	2	00/02
100,001 - 250,000	624,440	4	03/01	\$939,553	6	01/05	\$514,536	3	01/02
25,000 - 100,000	920,520	20	09/11	\$667,580	14	06/08	\$556,681	13	03/10
1 - 25,000	656,313	99	32/67	\$502,200	84	21/63	\$346,098	79	29/50
<b>TOTALS</b>	<b>\$3,119,273</b>	<b>125</b>	<b>45/80</b>	<b>\$2,377,233</b>	<b>105</b>	<b>28/77</b>	<b>\$2,808,817</b>	<b>98</b>	<b>34/64</b>

## Section Two - Penalties Collected:

In 2001, the Department collected \$1,307,504 in penalties from 87 permittees. Of the 101 payments received by the Department, 66 were for \$5,000 or less. The total amount includes partial payments that the Department has received pursuant to payment schedules and collections from previous years' penalty assessments. As shown in Chart III-3 below, penalty collections have ranged from a high of \$19.6 million in 1993 to a low of \$1.3 million in 1998 and 2001. The decreasing trend is consistent with the decrease in assessments over the past few years. As noted in prior annual reports, this overall decrease was expected based upon higher compliance rates and lower penalties assessed compared to earlier years. It is anticipated that the amount of penalties collected each year will remain in the range of \$1.0 to \$2.0 million or drop slightly lower. Of course, one large payment of an outstanding assessment could temporarily reverse this trend.

**CHART III - 3  
PENALTIES COLLECTED 1991-2001**



## IV. DELEGATED LOCAL AGENCIES

### A. INTRODUCTION

A DLA is a political subdivision of the State, or an agency or instrumentality thereof, which owns or operates a municipal treatment works in accordance with a department approved industrial pretreatment program. The Department approves pretreatment programs pursuant to the General Pretreatment Regulations for Existing and New Sources of Pollution, 40 CFR Part 403, as adopted in the NJPDES regulations, N.J.A.C. 7:14A-1 et seq. Under these Federal regulations, the Department may approve a pretreatment program only if the DLA has specified types of legal authority and implements specified procedures including the following:

1. Control indirect discharges through permit, order or similar means to ensure compliance with applicable pretreatment standards;
2. Randomly sample and analyze the effluent from indirect users and conduct surveillance activities in order to identify, independent of information supplied by indirect users, occasional and continuing noncompliance with pretreatment standards;
3. Inspect and sample the effluent from each significant indirect user at least once a year;
4. Investigate and respond to instances of noncompliance through appropriate enforcement action.

An indirect discharge is an introduction of pollutants into a POTW from any non-domestic source regulated under section 307(b), (c), or (d) of the Federal CWA. The DLA classifies an indirect discharger as an SIU if the user is subject to the Federal Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N, or based upon factors such as the quantity of its discharge, the percentage of the POTW's capacity which it contributes, its potential to affect the POTW's operation adversely, or its potential to violate a pretreatment standard or requirement.

Twenty-three DLAs currently have obtained the Department's approval for their industrial pretreatment programs, which they implement with oversight by the Department. A listing of the DLAs is provided at the end of this chapter. The Department's oversight includes: (i) conducting periodic audits of the DLA's pretreatment program; (ii) reviewing the annual report required by 40 CFR Part 403; and (iii) providing technical assistance the DLA requests. The audit includes a review of industry files maintained by the DLA to determine whether the DLA has met its permitting, sampling, inspection, and enforcement obligations.

The annual report required by 40 CFR Part 403 is a detailed discussion of the implementation of the approved pretreatment program and includes elements that allow the Department to gauge the program's success.

In addition to the Federal reporting requirements, the CWEA requires each DLA to file information with the Department annually, for inclusion in the Department's annual CWEA report. The information discussed in this chapter represents cumulative totals from these 23 DLA submissions received by the February 1,

2002 statutory deadline as well as any addenda received as of March 1, 2002. Appendix IV-A summarizes the information submitted by the DLAs. The original documents are available for review upon request.

## **B. PERMITS**

The 23 DLAs have issued permits to control the discharges from a total of 1,027 facilities discharging to their sewage treatment plants. In its report, each DLA groups these dischargers into two categories based on the flow and character of the discharge.

Category One includes: (i) dischargers in categories of industries for which EPA has established national pretreatment standards pursuant to 40 CFR 403.6; (ii) dischargers defined as significant by either Federal, State or local definition; and (iii) dischargers which are considered major under the applicable local definition. Category One is referred to as CSM (categorical/significant/major).

Category Two includes any permitted discharger that does not fall within Category One. Category Two is referred to as OR (other regulated non-categorical).

The CWEA requires DLAs to annually inspect each permitted facility discharging into their sewage treatment plant. For Category One permittees, the CWEA requires the DLA to annually conduct a representative sampling of the permittees' effluent. For Category Two permittees, the DLA is required to perform sampling only once every three years.

In 2000, the DLAs issued a total of 63 new permits, 339 renewals, and 112 permit modifications with six permits contested by interested parties. Of the DLA regulated total of 1,043 dischargers; 615 were classified as CSM and 428 were classified as OR. In 2001, the DLAs issued 57 new permits, 378 renewals, and 164 permit modifications with one permit contested by interested parties. As of December 31, 2001, the DLAs had issued permits to 596 CSM facilities and 431 OR facilities for a total of 1,027 permits. Table IV - 1 Details the permit actions mentioned above and identifies the CSM and OR categories.

**TABLE IV - 1  
PERMIT ACTIVITY SUMMARY  
January 1 - December 31, 2001**

<b>PERMIT ACTIONS</b>	<b>CSM</b>	<b>OR</b>	<b>TOTAL</b>
<b>New Permits</b>	<b>36</b>	<b>21</b>	<b>57</b>
<b>Permit Renewals</b>	<b>183</b>	<b>195</b>	<b>378</b>
<b>Permit Modifications</b>	<b>116</b>	<b>48</b>	<b>164</b>
<b>Permits contested by interested parties</b>	<b>1</b>	<b>0</b>	<b>1</b>
<b>AO/ACO compliance</b>	<b>5</b>	<b>0</b>	<b>5</b>



schedules relaxing local limits			
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**C. INSPECTIONS AND SAMPLINGS**

The CWEA requires a DLA to inspect, at least annually, each permitted facility discharging into its sewage treatment plant. Under the CWEA, a DLA must sample the effluent from each of the CSM permittees annually and conduct sampling of the OR permittees once every three years.

The DLAs inspected and sampled 990 of the 1,027 permittees at least once during the calendar year. The DLAs inspected and sampled 566 (95.0 percent) of the 596 CSM permittees and 424 (98.4 percent) of the 431 OR facilities. In 2000, the DLAs inspected and sampled 986 of the permittees at least once. The DLAs inspected and sampled 578 (94.0 percent) of the 615 CSM permittees and 408 (95.3 percent) of the 428 OR permittees. In 2001, there was a shortfall of approximately 5percent in the number of CSM facilities both inspected and sampled as compared to a 6percent shortfall from last year. A significant number of the facilities that were not sampled/inspected during the calendar year were either not currently discharging, had not begun discharging, or were new permittees thus causing the shortfall. In assessing compliance with pretreatment program requirements, EPA guidance indicates that a 20 percent shortfall would place the DLA in reportable noncompliance. There was no sampling/inspection shortfall in the OR category as the CWEA only requires one third of these facilities to be both sampled and inspected annually. The DLAs inspected and sampled 424 of the 431 OR facilities (or 98.4 percent of the universe) in calendar year 2001, as compared to the statutory requirement of 33 percent.

**D. VIOLATIONS**

**Section One - Violations by Permitted Facilities:**

The DLAs reported 1,382 permit violations by permitted facilities in 2001, compared with 1,533 violations in 2000. Violations fall into the following categories: (i) effluent violations where the discharge exceeds the limits established within the permit; and (ii) reporting violations where self-monitoring data has not been submitted or has been submitted in an incomplete manner.

Of the 1,382 permit violations reported in 2001, 961 (69.5 percent) were effluent violations, and 421 (30.5 percent) were reporting violations, compared with 1,533 (71.9 percent) effluent violations and 431 (28.1 percent) reporting violations in 2000. The total number of violations reported decreased by 151 (9.8 percent) compared to 2000.

Of the 961 effluent violations, 390 (40.6 percent) were for non-hazardous discharges of conventional pollutants, such as suspended solids and nutrients, and 571 (59.4 percent) were for hazardous pollutant discharges, such as metals, organics and other toxic substances. In 2000, 457 effluent violations were for non-hazardous pollutants and 645 effluent violations were for hazardous pollutants. Of the total number

of effluent violations in 2001, 333 (34.7 percent) constituted serious violations compared with 425 (38.6 percent) serious violations in 2000.

Table IV-2 - Details the permit violations mentioned above and identifies the CSM and OR categories.

**TABLE IV-2  
SUMMARY OF ALL PERMIT VIOLATIONS  
January 1 - December 31, 2001**

VIOLATION TYPE	CSM	OR	TOTAL	%
Non-hazardous pollutants	239	151	390	28.2
Hazardous pollutants	377	194	571	41.3
Reporting violations	255	166	421	30.5
<b>TOTALS</b>	<b>871</b>	<b>511</b>	<b>1,382</b>	<b>100.0</b>

**Section Two - Unpermitted Discharges and Pass Throughs:**

An unpermitted discharge is the release of pollutants, into the sanitary sewer, which is not covered under an existing permit. Unpermitted discharges include any newly identified facilities that have recently come within the jurisdiction of a DLA due to service area expansions by regional sewerage facilities and therefore must obtain a permit. In 2001, the DLAs reported seven unpermitted discharges; three were CSM facilities and four were OR facilities. This was attributed to new industries, recently identified industries and industries that have undergone a change in their classification. In 2000, the DLAs reported 25 unpermitted discharges.

The term pass through means a discharge which exits the treatment plant and enters the waters of the State in quantities or concentrations which alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the treatment plant’s permit, including an increase in the magnitude or duration of a violation. No pass through of pollutant incidents were reported in calendar year 2001 or in calendar year 2000.

**Section Three - Significant Noncompliance:**

The CWEA requires that DLAs identify facilities designated as SNCs in accordance with the definition of significant noncompliance as defined by the New Jersey WPCA under N.J.S.A. 58:10A-3.w.

The DLAs reported a total of 56 indirect users who qualified as SNCs under the State definition during 2001. The analysis in the 2000 report indicated that 65 indirect users met the SNC definition. Therefore, there was a decrease of 9, or a 13.8 percent reduction in the number of facilities in significant noncompliance. The DLAs reported as a whole that by the end of calendar year 2001, 30 (53.6percent)

of the 56 indirect users in significant noncompliance had achieved compliance. Appendix IV-B provides information submitted by each DLA regarding the individual indirect users in significant noncompliance.

#### **Section Four - Violations of Administrative Orders and Administrative Consent Orders**

The DLAs reported four violations of AOs or ACOs, including violations of interim limits, compliance schedule milestones for starting or completing construction, and failure to attain full compliance. (four CSM facilities were responsible for these violations). Four indirect users were reported to have violated their compliance schedules by more than 90 days. In 2000, the DLAs reported 36 violations of AOs and ACOs and no exceedance by more than 90 days was reported.

As required by the Act, a DLA must report any permittee who was at least six months behind in the construction phase of a compliance schedule. No permittees were reported to have met this criterion in 2001.

#### **Section Five - Affirmative Defenses:**

Seven DLAs granted 39 affirmative defenses for upsets, bypasses, testing or laboratory errors for serious violations. Twenty-two (or 56.4percent) of the 39 affirmative defenses were given due to laboratory error, and 7 (or 17.9percent) were for matrix interference problems. Other affirmative defenses were granted due to testing errors, upsets, or bypasses. It should be noted that in the cases in which affirmative defenses were granted for "bypasses" no discharge actually occurred. In these instances, two cases (or 5percent) were granted an affirmative defense because analytical data noted serious violations prior to discharge. The wastewater was then rerouted within the facility's treatment system for additional pretreatment because it did not meet the discharge standards. In calendar year 2000, 52 affirmative defenses were granted.

### **E. ENFORCEMENT ACTIONS AND PENALTIES**

#### **Section One - Enforcement Actions:**

During 2001, the DLAs issued 502 enforcement actions as a result of inspections and/or sampling activities. CSM permittees were the subject of 56 percent (281) of these actions, and OR permittees were the subject of the remaining 44 percent (221). In 2000, the DLAs issued 500 enforcement actions. CSM permittees were the subject of 249 (49.8 percent) of these actions and OR permittees were subject to 251 (50.2 percent) of these enforcement actions

It is important to note that the Department requires that DLAs respond to all indirect user violations. This section of this report only reflects the 502 enforcement actions taken as a result of DLA inspection and

sampling activity as specifically required by statute and not those enforcement actions taken by DLAs based upon indirect user self-monitoring report results. Subsequent sections of this chapter reflect these additional enforcement actions taken by DLAs.

## **Section Two - Penalty Assessments and Collections:**

In calendar year 2001, 15 of the DLAs assessed a total of \$1,132,651 in penalties for 431 violations while collecting \$1,244,449. In 2000, 18 DLAs assessed \$1,516,993 in penalties for 478 violations while collecting \$1,038,502.

Two DLAs, the Joint Meeting of Essex and Union Counties and the Northwest Bergen County Utilities Authority, recovered enforcement costs in civil actions and civil administrative actions totaling \$66,687.

None of the DLAs reported that the county prosecutor for their service area had filed any criminal actions in 2001.

The CWEA mandates that 10 percent of all penalties collected by DLAs be deposited in the State Licensed Operator Training Account, but allows DLAs flexibility concerning the expenditure of the remaining balance. The DLAs use the penalty money primarily to offset the cost of the pretreatment program, and do so by depositing the money in their general operating account. Accordingly, penalty receipts collected by DLAs are used to fund salaries, sampling equipment, contract services such as legal and engineering assistance, as well as to purchase computer equipment and fund public education programs. Appendix IV-C lists the specific purposes for which penalty monies were expended.

## F. LIST OF DLAs

Each of the DLAs listed below has filed the required CWEA annual report:

<u>Delegated Local Agency</u>	<u>Facility Mailing Address</u>
Bayshore Regional S.A.	100 Oak Street Union Beach, NJ 07735
Bergen County U.A.	PO Box 122 Little Ferry, NJ 07643
Camden County M.U.A.	PO Box 1432 Camden, NJ 08101
Ewing-Lawrence S.A.	600 Whitehead Road Lawrenceville, NJ 08648
Gloucester County U.A.	PO Box 340 Thorofare, NJ 08086
Hamilton Township Dept. of Pollution Control	300 Hobson Ave. Hamilton, NJ 08610
Hanover S.A.	PO Box 250 Whippany, NJ 07981
Joint Meeting of Essex and Union Counties	500 South First Street Elizabeth, NJ 07202
Linden-Roselle S.A.	PO Box 4118 Linden, NJ 07036
Middlesex County U.A.	PO Box 159 Sayreville, NJ 08872
Morris Township	50 Woodland Ave. PO Box 7603 Convent Station, NJ 07961
Mount Holly M.U.A.	37 Washington St. PO Box 486 Mount Holly, NJ 08060
North Bergen M.U.A.	6200 Tonnelle Ave.

	PO Box 5218 North Bergen, NJ 07047
Northwest Bergen County U.A.	Dow Avenue Waldwick, NJ 07463
Ocean County U.A.	PO Box P Bayville, NJ 08721
Passaic Valley Sewerage Commissioners	600 Wilson Avenue Newark, NJ 07105
Pequannock, Lincoln Park and Fairfield S.A.	PO Box 188 Lincoln Park, NJ 07035
Rahway Valley S.A.	1050 E. Hazelwood Ave. Rahway, NJ 07065
Rockaway Valley Regional S.A.	99 Green Bank Rd, RD#1 Boonton, NJ 07005
Somerset-Raritan Valley S.A.	PO Box 6400 Bridgewater, NJ 08807
Stony Brook Regional S.A.	290 River Road Princeton, NJ 08540
Trenton, City of	1502 Lambertton Road Trenton, NJ 08611
Wayne Township	475 Valley Road Municipal Bldg. Wayne, NJ 07470

## V. CRIMINAL ACTIONS

In 2001, the Attorney General, through the Division of Criminal Justice, Environmental Crimes Bureau, and several county prosecutors, continued its commitment to the enforcement of the criminal provisions of the WPCA.

The Division of Criminal Justice, Environmental Crimes Bureau, investigates and prosecutes violations of the State's water pollution laws on a statewide basis, as well as violations of air pollution, hazardous waste, solid waste and regulated medical waste laws. It also investigates and prosecutes traditional crimes, such as racketeering, thefts, frauds and official misconduct that have an impact on environmental regulatory programs, including the Department's water pollution program. The Division handles matters brought to its attention by the Department, county health departments, local police and fire departments and citizens.

In addition, the Division coordinates the criminal enforcement efforts of the county prosecutors and provides technical and legal training and assistance to those offices.

In 2001, the Division of Criminal Justice conducted a total of 24 WPCA investigations. The Division also reviewed over 450 department actions (NOV's, Orders, Penalty Assessments, etc.) for potential criminality. Division state investigators responded to 3 water pollution emergency response incidents, out of a total of 42 emergency response incidents. The Division filed four criminal actions (indictments and accusations) for violations of the WPCA. This included three counts in three indictments and one accusation (the Division filed a total of 15 criminal actions in Environmental Cases). Each of these constituted third degree charges involving a purposeful, knowing or reckless unlawful discharge of a pollutant into the State's waters and two of them have been resolved through guilty pleas. The Division also obtained convictions against six defendants for violations of the WPCA. The Division thus obtained a total of eight convictions against eight defendants for violations of the WPCA.

In addition to its own investigative and prosecutorial activities, the Division worked closely with county prosecutors' offices to assist them in the handling of WPCA investigations by providing legal and technical advice.

In 2001, county prosecutor's offices filed five criminal actions for violations of the WPCA. This included a total of two complaints, one indictment and two accusations. This total is derived from actions filed by the prosecutors of Morris (4) and Ocean (1) counties. Of this total, five involved third degree charges and one also included a fourth degree charge involving unlawful negligent discharge into the State's waters.<sup>1</sup> The Morris County Prosecutor's Office also secured a sentencing from a 2000 indictment.

Discussed below are the WPCA criminal actions and dispositions secured by the Division and by county prosecutors.

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1 The Ocean County case involved one 3<sup>rd</sup> degree count and one 4<sup>th</sup> degree count.

In **State v. Columbia Terminals, Inc.** and **State v. Stephen Fiverson**, Columbia, a chemical re-blending and repackaging company in Kearny pled guilty to mixing chemicals with fuel to fire its industrial boiler. The company also pled guilty to unlawfully storing hazardous waste in a 500,000-gallon above-ground storage tank, in 8 tanker trailers and 100 - 55 gallon drums in 17 box trailers. Columbia also pled guilty to 3<sup>rd</sup> degree water pollution and to theft for unlawfully obtaining payments from its insurance carrier to pay for the removal of hazardous waste from the above-ground storage tanks. Columbia president, Stephen Fiverson, pled guilty to an air pollution violation and to unlawfully disposing of hazardous waste in an industrial furnace and unlawfully storing hazardous waste. The Honorable Kevin Callahan, J.S.C., imposed one of New Jersey's largest criminal fines ever in an environmental prosecution case. Columbia paid \$775,000 in criminal fines and Fiverson paid \$225,000 in restitution. Moreover, Columbia was required to enter into an administrative consent order (ACO) with the DEP which requires Columbia to pay an additional \$300,000 in civil penalties and post \$500,000 in financial guarantees to address remediation issues at the site.

In **State v. Salem Packing Company and Anthony Bonaccorso**, the Division of Criminal Justice obtained a two count superseding indictment in 2000 against the defendants charging them with two counts of third degree WPCA violations. The indictment alleges that the crimes occurred between July 6, 1999, and February 23, 2000, and also on July 12, 2000. Both incidents involved discharges of blood and animal waste from Salem Packing's slaughterhouse operations into nearby streams. Each defendant pled guilty to one count of water pollution. The Honorable William L. Forester, J.S.C., sitting in Salem County Superior Court sentenced each of the defendants to pay a \$5,000 fine into the Clean Water Enforcement Fund (CWEF).

In **State v. Joseph Johanson and Robert Johanson**, the Division of Criminal Justice obtained a two count indictment charging Joseph Johanson with both water pollution and solid waste crimes. Joseph Johanson is the owner of a swine farm in Salem County. The indictment alleges that he caused water pollution to discharge into a local stream for almost two years from a solid waste landfill he created. This matter was venued in Salem County Superior Court.

In **State v. George Merino and Professional Touch Cleaners**, the Division of Criminal Justice obtained a two count indictment alleging that the defendants dumped toxic pollutants into the Bayonne sewer system for over three years. The Honorable Elaine Davis, P.J.S.C., sentenced the company to pay a \$5,000 fine to the CWEF as a result of its guilty plea to 3<sup>rd</sup> degree water pollution. The Honorable Elaine Davis, P.J.S.C., sentenced Merino to pay a \$500 fine and to a one-year probationary term as a result of his guilty plea to 3<sup>rd</sup> degree release of toxic pollutants.

In **State v. Richard Moore** and **State v. Moore's Cruise Line, Inc.**, the Division of Criminal Justice filed accusations in Monmouth County Superior Court in 2000 charging 4<sup>th</sup> degree WPCA violations against the defendants. This matter involved the discharge of raw sewage from a vessel, the "Royal Teal", into the Sandy Hook Bay between January 1, 1998, and December 22, 1999. The charges were a result of the Division's continuing efforts to monitor vessel compliance with the WPCA in all waters of the State. Both defendants entered guilty pleas before the Honorable Theodore J. Labrecque, P.J.S.C. and in 2001 they were each sentenced to pay a \$5,000 fine into the CWEF. Moore's Cruise Line was also ordered



to pay \$7,500 in restitution to the NY/NJ Baykeeper for its Oyster replenishment program in the NY/NJ Harbor.

In **State v. Param Petroleum and Raj Badesha**, the Division of Criminal Justice obtained a guilty plea from both defendants to 3<sup>rd</sup> degree water pollution. This case involved an unlawful discharge by the defendants into the local sewer system. The Honorable Charles Delehey, P.J.S.C., sentenced the corporation to pay a fine of \$10,000 to the CWEF and \$5,000 restitution to DEP's Spill Fund. Judge Delehey sentenced Badesha to pay a fine of \$5,000 to the CWEF and \$5,000 restitution to the DEP's Spill Fund.

In **State v. James T. McCann**, the Division of Criminal Justice obtained a three count superseding indictment against McCann, charging him with 3<sup>rd</sup> degree water pollution and with other crimes. The indictment alleges that he released toxic pollutants into the Camden County Utilities Authority sewer treatment works. This matter was venued in Camden County Superior Court.

In **State v. Alan B. Clarke**, the Morris County Prosecutor's Office charged Alan B. Clark with dumping waste heating oil on the ground while abandoning a residential UST in Wharton, NJ. Clarke was indicted in 2000 for causing the release of a toxic pollutant and unlawful discharge of a pollutant. He pled guilty to 3<sup>rd</sup> degree unlawful discharge of a pollutant before the Honorable N. Peter Conforti, J.S.C. and was sentenced to one year of probation as well as payment of a \$5,000 fine to the CWEF.

In **State v. Sphinx Electroplating**, the Morris County Prosecutor's Office charged the company in 2000 with release of toxic pollutants and with water pollution. This case arose out of the Department's inspections conducted between 1994 and 1998 which revealed that this now defunct company had discharged excessive levels of cyanide. The Honorable B. Theodore Bozonelis, J.S.C., sentenced the company to pay a \$10,000 fine to the CWEF as a result of its plea of guilty to 3<sup>rd</sup> degree water pollution.

In **State v. Costa Pool Company**, the Morris County Prosecutor's Office charged the company with 3<sup>rd</sup> degree water pollution. The company was admitted into Pre-Trial Intervention (PTI) and ordered by the Honorable N. Peter Conforti, J.S.C., to make a \$5,000 donation to the CWEF.

In **State v. Michael W. Miller**, the Morris County Prosecutor's Office charged Miller with 3<sup>rd</sup> degree water pollution and 2<sup>nd</sup> degree release/abandonment of hazardous waste/toxic pollutants. On May 26, 1999, Michael W. Miller buried debris on his property in Long Hill Twp., NJ and dumped an old demolished shed in the Passaic River that runs behind his house. He did this in anticipation of selling his property. He was admitted into PTI by the Honorable B. Theodore Bozonelis, J.S.C., for a period of 18 months and ordered to pay \$1,928 restitution to the new homeowner, make a \$2,000 donation to the Passaic River Coalition to perform a river cleanup and make a \$10,000 donation to the CWEF.

In **State v. Liberty Bell Painting**, the Morris County Prosecutor's Office charged the company with one count of 3<sup>rd</sup> degree water pollution. On April 25, 2001, employees of Liberty Bell Painting Co. of Mine Hill, NJ, dumped waste paint solvents into a wetlands area next to the Gateway Apartment Complex in

Randolph, NJ, where they were painting. This was the second day in a row that they dumped the waste. The company was admitted into PTI by the Honorable B. Theodore Bozonelis, J.S.C., and ordered to make a \$5,000 donation to the CWEF.

In **State v. Rafael Munguia**, the Morris County Prosecutor's Office filed an Accusation charging defendant with 4<sup>th</sup> degree water pollution. On July 24, 2001, during the investigation of an accidental fire at 152 River Road, Montville Twp., NJ, an illegal discharge pipe was discovered from the home's septic tank into a wetlands area. The house had a high volume of septic waste since it was an over-occupied illegal rooming house. The owner of the home admitted to installing the pipe. Defendant pled guilty before the Honorable John J. Harper, J.S.C. He is scheduled to be sentenced in January.

In summary, the Attorney General, through the Division of Criminal Justice, and county prosecutors filed 9 WPCA criminal actions in 2001<sup>2</sup>, involving 8 third degree charges and 2 fourth degree charges, and secured 14 final dispositions for criminal violations of the WPCA. (Eight of the dispositions involve cases filed before January of 2001.) The Division and counties' activities in 2001 demonstrate the State's continuing commitment to criminal enforcement under the WPCA.

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2 Of this total, there were 2 complaints, 5 counts in 4 indictments and 3 accusations.

## VI. FISCAL

### A. CWEA FUND SCHEDULE AND COST STATEMENT

The CWEA establishes the CWEF and provides that all monies from penalties, fines and recoveries of costs collected by the Department shall be deposited into the CWEF. The CWEA further provides, pursuant to N.J.S.A. 58:10A-14.4, that unless otherwise specifically provided by law, monies in the CWEF shall be utilized exclusively by the Department for enforcement and implementation of the WPCA. However, beginning in July 1995 (fiscal year 1996) the Department was placed on budget. Accordingly, a General Fund appropriation is provided for the program. In turn, all fine and penalty revenues are deposited in the General Fund.

The CWEA, in accordance with N.J.S.A. 58:10A-14.2a(21), requires the Department to include in this report the specific purposes for which penalty monies collected have been expended, displayed in line format by type of expenditure, and the position numbers and titles funded in whole or in part from the penalty monies. Accordingly, the CWEA Fund Schedule (Table VI-1) presents the monies deposited into the CWEF and the Program Cost Statement (Table VI-2) presents the specific purposes for which the monies in the CWEF were expended in 2001, based upon cost accounting data.

#### *The CWEF Schedule*

A total of \$802,222 in penalty receipts was deposited in the second half of FY2001 and \$501,826 in penalty receipts was deposited during the first half of fiscal year 2002.

**TABLE VI – 1**  
**CLEAN WATER ENFORCEMENT FUND SCHEDULE**  
**For the period from January 1, 2001 through December 31, 2001**

	January – June 2001	July – December 2001
Total Penalties Recorded	\$802,222	\$501,826

#### *The CWEA Program Cost Statement*

The WPCA Program Cost Statement (Table VI-2) represents disbursements from the CWEF in accordance with N.J.S.A. 58:10A-14.4, for the costs associated with the implementation and enforcement of the WPCA. In calendar year 2001, the Fund disbursed \$602,322 to the Division of Law for the costs of litigating civil and administrative enforcement cases and other legal services; \$81,527 to the Office of Administrative Law for costs associated with adjudicating WPCA enforcement cases; and \$37,817 to the Office of Information Technology for the operation and maintenance of the NJPDES data system. The CWEF disbursed \$865,227 for expenses incurred by the Department (see Table VI-2 for additional details).

**TABLE VI-2  
CLEAN WATER ENFORCEMENT COST STATEMENT  
For the period from January 1, 2001 through December 31, 2001**

	FY2001 January - June	FY2002 July – December
Division of Law (Dept. of Law & Public Safety)	\$404,179	\$198,143
Office of Administrative Law	81,527	-0-
Office of Information Technology	37,816	-0-
Department of Environmental Protection		
- Salaries	323,856	304,159
- Materials and Supplies	11,143	7,705
- Services Other than Personal	60,274	50,315
- Maintenance and Fixed Charges	71,752	21,469
- Equipment	6,765	7,789
DEP Subtotal	473,790	391,437
Total Disbursements	\$997,312	\$589,580

*Fiscal*

The steady decline in the amount of penalties assessed by the Department for WPCA violations is a reflection of increased compliance in the permitted community. The Department believes that this trend will continue in the foreseeable future.

## **VII. WATER QUALITY ASSESSMENT**

### **A. Introduction**

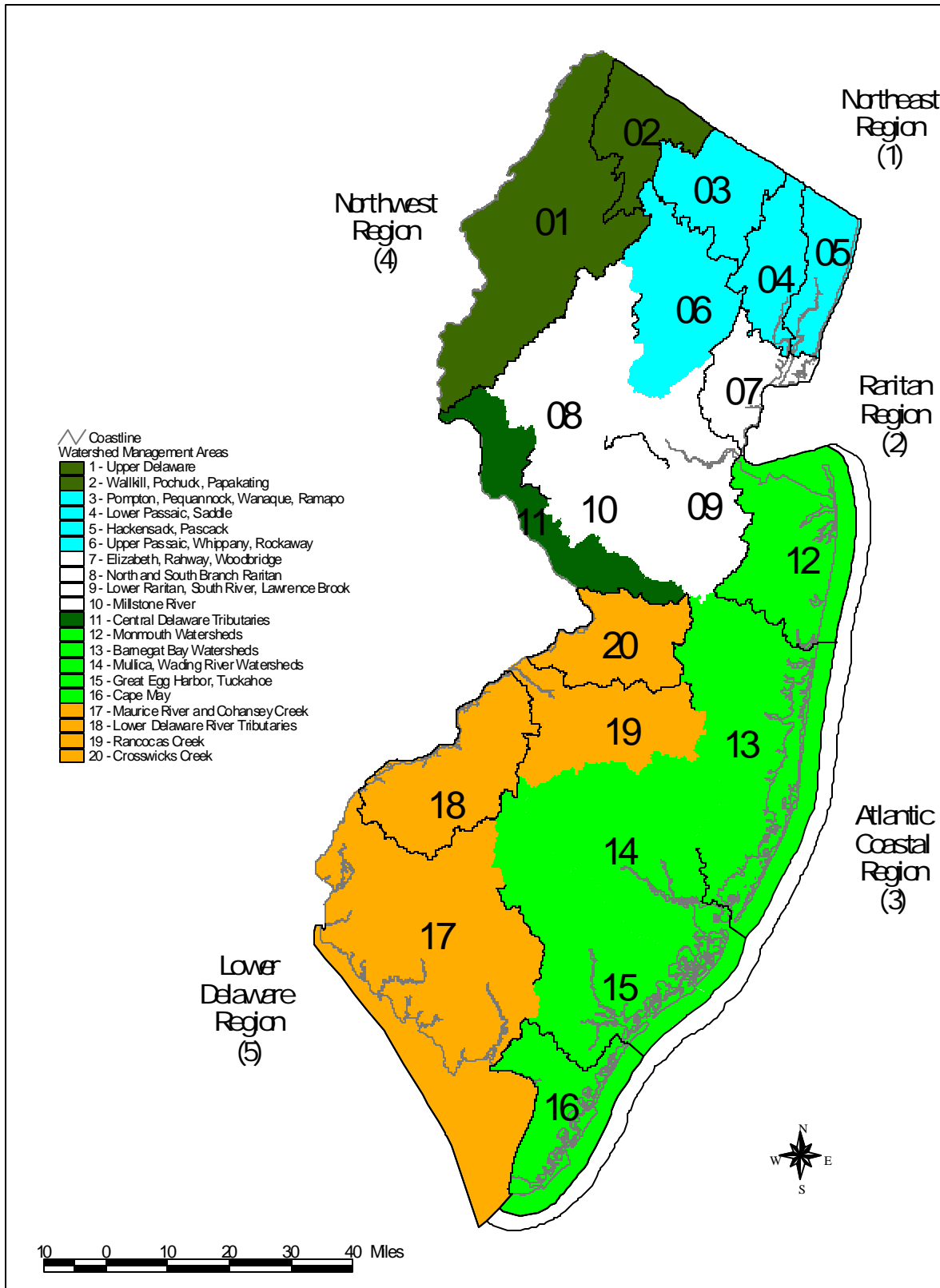
The Water Quality Assessment section of the CWEA Report provides an overview of water quality including an evaluation of the effect of point sources on water quality. Direct evaluation of the effects of point source compliance on water quality is challenging because of the difficulty in measuring the effects of permit violations on ambient water quality. Because permit compliance rates remain very high and permit violations are often of very short duration, instream monitoring that corresponds spatially and temporally to permit violations is not feasible. However, results indicate that improving effluent quality has had a positive impact on water quality.

New Jersey's twenty (20) watershed management areas (WMAs) are shown on Figure VII-1.

### **B. 2000 Water Quality Inventory Report**

Each year, the Department assesses the status of rivers, streams, lakes and coastal waters through extensive water quality monitoring networks. These results are then compiled and assessed biannually into a formal Water Quality Inventory Report (also called the 305b report from Section 305b of the CWA) which is submitted to the EPA. The most recent Inventory Report was the 2000 Water Quality Inventory Report, much of which was summarized, in the 2000 Annual Report of the CWEA (October 2001). Surface water quality was characterized by comparing 1995 to 1997 data collected from 79 stations sampled in the ASMN to applicable Surface Water Quality Standards (SWQS) criteria. The ASMN was redesigned beginning in October 1997. Sufficient data for comparison to SWQS will be available from the redesigned ASMN for the 2002 Water Quality Inventory Report. Trends between 1986 and 1995 were assessed by the United States Geological Survey under contract to the Department (USGS, 1999).

**Figure II-1 New Jersey Watershed Management Areas and Regions**



**Status and Trends in Water Quality:** The overall results for water quality from the 2000 Report indicate that all or most monitored locations are meeting applicable criteria for dissolved oxygen(DO), unionized ammonia, and nitrate. In addition, trends were largely stable or toward improving water quality. Exceedences of pH criteria occurred primarily in streams near the Pinelands, and additional site-specific pH studies will be conducted. Exceedences of the total phosphorus criteria occur at many locations; approximately half of monitored stations had improving trends. Trends for nitrate indicated gradually increasing levels occurring; these trends will be evaluated in detail in each Watershed Management Area. Efforts are underway to manage nitrate to protect drinking water supplies in the Passaic Basin.

Of 1,259 DO measurements collected at 76 stations in the ASMN between 1995 and 1997, 98.8percent of samples met applicable SWQS criteria. The average DO for all monitoring stations was 9.8 parts per million. Thus, 173 of 176 monitored stream miles (98.3percent) met applicable DO criteria.

Of 1,265 total phosphorus (TP) measurements collected between 1995 and 1997 in the ASMN, applicable SWQS criteria for TP were met at 29 of 79 stations, representing 67 assessed stream miles and 858 (68percent of samples) met applicable SWQS criteria.

Of 1,183 unionized ammonia measurements collected at 76 stations in the ASMN between 1995 and 1997, only 1 exceedance of applicable SWQS criteria was found. Thus, 100percent of 176 monitored stream miles met unionized ammonia criteria.

Of 1,216 pH measurements collected between 1995 and 1997 in the ASMN, 1,013 (83.3percent of samples) met applicable SWQS. Based on these data, pH criteria were met at 54 of 76 stations (71.1percent) representing 114 of 176 monitored stream miles (65percent). It is important to note that naturally low pH occurred in some streams outside the Pinelands area, reducing overall compliance with pH criteria.

Of 1,254 nitrate samples collected between 1995 and 1997 in the ASMN, 1,252 (99.8percent) met applicable SWQS criteria, and only 1 exceeded the Drinking Water Maximum Contaminant Level of 10 ppm. However, nitrate in surface water was identified as an emerging issue. Rising trends (i.e., declining water quality) were found at 24 locations and 9 of 81 stations (11percent of stations) had maximum nitrate concentrations over 5 ppm. This concentration was chosen to evaluate nitrate in streams because drinking water purveyors are required to monitor quarterly if finished drinking water exceeds 5 ppm (half of the 10 ppm Maximum Contaminant Level).

Table VII-1: Water Quality Status Summary (1995-1997) in 176 Stream Miles Assessed

Parameter	SWQS Fully Met	SWQS Fully Met but Threatened (1)	SWQS Partially Met	SWQS Not Met
Dissolved Oxygen	173	0	3	0
Total Phosphorus	67	0	25	84
Unionized Ammonia	176	0	0	0
pH	114	0	34	28
Nitrate	176	0	0	0

1. Assessed waterbodies were evaluated for trends that would indicate that SWQS would not be met within 2 years per EPA's definition of threatened. Many water quality trends were improving. Where adverse water quality trends were found, none were strong enough to indicate that SWQS would not be met within 2 years.

### C. Evaluation of Point Source Contribution to Water Quality

A qualitative assessment of causes and sources of impairment is provided in the 2000 Water Quality Inventory Report. As additional assessments are completed, future assessments will become more rigorous and more quantitative.

### D. Ground Water Quality and Management

The Department and the USGS cooperatively redesigned the AGWMN that relies on shallow wells installed at or near the water table. This network is intended to function as an early warning system for shallow aquifers that are often used as potable supplies, particularly for domestic wells. In addition, these shallow aquifers are often a source of recharge to streams and wetlands and may influence surface water quality. When fully implemented, this network will consist of 150 wells distributed based on water region and land use. Monitoring results will be summarized in subsequent CWEA reports.

### E. Surface Water Quality Monitoring

Monitoring data are used to establish baseline conditions, determine water quality trends, identify water pollution solutions or further clarify water quality problems. The Department's primary surface water quality monitoring unit is the Office of Water Monitoring Management. The redesigned SMN has been operating since the autumn of 1997. This redesigned network focuses on water quality status and trends to support the development of indicators, identify pollution sources and assess relative pollution impacts in each of the Department's 20 watershed management areas. In addition, a project is being conducted to continue to evaluate and improve the monitoring network design and to develop a data analysis guidance manual.

In addition to the ASMN described above, monitoring has been conducted to evaluate waterbodies listed for metals and nutrients on the Impaired Waterbodies List (303d). These studies are under review and will be described in the 2002 Integrated Report. Results are being evaluated and will be used, as appropriate, to propose delisting, recommend additional monitoring, or total maximum daily



load (TMDL) development.

## F. References and Sources of Additional Information

Additional information regarding water quality in New Jersey may be obtained by visiting the Division of Science, Research and Technology and the Water Assessment Team websites and the Division of Watershed Management websites. Web addresses are:

[www.state.nj.us/dep/dsr](http://www.state.nj.us/dep/dsr)

[www.state.nj.us/dep/watershedmgt](http://www.state.nj.us/dep/watershedmgt)

Ayers, M. A., J.G. Kennen and P.E. Stackelberg. Water Quality in the Long Island-New Jersey Coastal Drainages, 1996-98. US Geological Survey Circular 1201. West Trenton, New Jersey.  
<http://www.nj.usgs.gov/nawqa/linj.html>

NJ Department of Environmental Protection. 2000 New Jersey Water Quality Inventory Report (November, 2000 Draft). Trenton, New Jersey. [www.state.nj.us/dep/dsr/watershed/waterteam.htm](http://www.state.nj.us/dep/dsr/watershed/waterteam.htm)

NJ Department of Environmental Protection. June, 1998. *Environmental Indicators Technical Report*. Division of Science, Research and Technology. 235 pp.

NJDEP. 1999a. *Ambient Monitoring Network. Watershed Management Areas 1, 2, and 11. Upper Delaware Region. 1998 Benthic Macroinvertebrate Data*. NJ Department of Environmental Protection, Bureau of Freshwater and Biological Monitoring, Trenton, NJ 08625.

US Environmental Protection Agency. September, 1997. *Guidelines for Preparation of the Comprehensive State Water Quality Assessments (305(b) Reports) and Electronic Updates*. EPA-841-B-97-002A.

**APPENDIX III-A**

**NJ DEPARTMENT OF ENVIRONMENTAL PROTECTION  
SIGNIFICANT NONCOMPLIERS**

Per N.J.S.A. 58:10A-14.2b(1)

**1. Bayshore Regional Sewerage Authority**

*NJPDES No. NJ0024708*

*Block 251, Lot 3, 100 Oak Street*

*Union Beach Borough, Monmouth County*

*Description and date of violations:*

The Department issued a NJPDES Permit to discharge to the Monmouth County Bayshore Outfall Authority to Bayshore Regional Sewerage Authority (Bayshore) on June 28, 1996. DMRs for the monitoring periods of January 1998, February 1998 and June 1998, April 1999 through June 1999, August 1999 and December 1999, indicated violations for pH at outfall number 001. Also, the DMR for the monitoring period of January 2000 indicated a violation for Total Suspended Solids.

*Follow-up and action:*

On October 5, 2001, the Department and Bayshore executed an SA/P in the amount of \$41,000.

***Total Number of Violations: 9***

**2. Carteret Packaging, Inc.**

*NJPDES No. NJ0108901*

*Block 49.2, Lot 415, 1200 Milik Street*

*Carteret Borough, Middlesex County*

This permittee is contesting the designation of a significant noncomplier.

*Description and date of violations:*

The Department issued a NJPDES Permit to discharge to an unnamed tributary of the Woodbridge Creek to Carteret Packaging, Inc. (CPI) on July 31, 1995. DMRs for the monitoring periods of August 1995 through December 1997 indicated violations for Chemical Oxygen Demand. These DMRs also indicated that CPI had submitted inaccurate information to the Department and that CPI did not monitor for Chlorine Produced Oxidants, pH, Total Suspended Solids, Chemical Oxygen Demand and Petroleum Hydrocarbons at outfall number 001.

*Follow-up and action:*

On March 16, 2001, the Department issued a NOCAPA in the amount of \$272,639. By letter dated April 5, 2001, CPI requested an Adjudicatory Hearing on the NOCAPA.

***Total Number of Violations: 50***

**3. Cedar Square Limited**

NJPDES No. NJ0062944  
Block 560, Lot 1.01, Routes 9 and 50  
Upper Township, Cape May County

*Description and date of violations:*

The Department issued a NJPDES Permit to discharge to groundwater to Cedar Square Limited (Cedar Square) on November 1, 1992. DMRs for the monitoring periods of April 2001 to July 2001 indicated violations for Total Nitrogen.

*Follow-up and action:*

On October 15, 2001, the Department and Cedar Square executed an ACO/P in the amount of \$16,000 requiring Cedar Square to install a new wastewater treatment plant.

***Total Number of Violations: 4***

**4. Conectiv Power Delivery**

NJPDES No. NJ0005363  
Block 301, Lots 12, 13, & 373  
Pennsville Township, Salem County

This permittee is contesting the designation of a significant noncomplier.

*Description and date of violations:*

The Department issued a NJPDES Permit to discharge to the Delaware River to Conectiv Power Delivery, formerly Atlantic Electric Company, (Conectiv) on August 1, 1986. DMRs for the monitoring periods of March 1996 through May 2000 indicated that Conectiv failed sample outfall numbers 005A and 006A. Additionally, the DMR for the monitoring period of June 2000 indicated violations for Total Suspended Solids and Petroleum Hydrocarbons at outfall numbers 005A and 006A.

*Follow-up and action:*

The Department issued an AO/NCAPA in the amount of \$477,488.00. On June 29, 2001, Conectiv submitted a hearing request on the AO/NCAPA.

***Total Number of Violations: 146***

**5. Ferro Corporation**

NJPDES No. NJ0005045

Block 6, Lots 1, 2, 4.02

Route 130 South

Logan Township, Gloucester County

*Description and date of violations:*

The Department issued a NJPDES Permit to discharge to the Delaware River to Ferro Corporation, formerly Solutia Incorporated, (Ferro) on June 1, 1999. DMRs for the monitoring periods of December 1999 and February 2000 indicated violations for five-day Biochemical Oxygen Demand. Also, the DMR for the monitoring period of February 2000 indicated a violation for Toluene.

*Follow-up and action:*

On January 12, 2001, the Department and Ferro executed an SA/P in the amount of \$30,000.

***Total Number of Violations: 3***

**6. Frutarom-Meer, Incorporated**

NJPDES No. NJ0061468

Block 467, Lot 3A, 9500-2 Railroad Avenue

North Bergen Township, Hudson County

*Description and date of violations:*

The Department issued a NJPDES Permit to discharge to Bellman's Creek to Frutarom-Meer, Incorporated (Frutarom) on June 11, 1999. The DMR for the monitoring period of July 2000 indicated violations for Chemical Oxygen Demand and Petroleum Hydrocarbons and the DMR for the monitoring period of August 2000 indicated violations for Petroleum Hydrocarbons. Also, the DMR for the monitoring period of March 2001 indicated that Frutarom failed to monitor for pH, Total Suspended Solids, Temperature, Chemical Oxygen Demand, and Petroleum Hydrocarbons.

*Follow-up and action:*

On August 22, 2001, the Department and Frutarom executed an SA/P in the amount of \$22,073.

***Total Number of Violations: 8***

**7. Montgomery Township**

Cherry Valley Wastewater Treatment Plant  
NJPDES No. NJ0069523  
Block 31001, Lot 191, 192 Inverness Road  
Montgomery Township, Somerset County

*Description and date of violations:*

The Department issued a NJPDES Permit to discharge to Bedens Brook to Montgomery Township for the Cherry Valley Wastewater Treatment Plant on March 31, 1993. DMRs for the monitoring periods of July 1999 and August 1999 indicated violations for Chronic Toxicity.

*Follow-up and action:*

On March 1, 2001, the Department and Montgomery Township executed an SA/P in the amount of \$6,000.

***Total Number of Violations: 2***

**8. Northland Cranberries, Inc.**

***NJPDES No. 0053911***  
Block 71, Lot 4  
City of Bridgeton, Cumberland County

*Description and date of violations:*

The Department issued a NJPDES SIU Permit to discharge to the Cumberland County Utilities Authority's sewage treatment plant to Northland Cranberries, Inc., formerly Minot Food Packers, (Northland) on April 27, 1996. DMRs for monitoring periods of October 1999 and December 1999, and January 2000, February 2000, April 2000 through June 2000, August 2000 and November 2000, indicated violations for five-day Biochemical Oxygen Demand. Also, DMRs for the monitoring periods of October 1999, January 2000 through May 2000, July 2000, August 2000, October 2000 and November 2000 indicated violations for pH and the DMR for the monitoring period of August 2000 indicated that Northland failed to monitor for Oil and Grease.

*Follow-up and action:*

On November 21, 2000, Northland ceased all operations at its Bridgeton plant. On January 8, 2001, the Department issued an AO/NOCAPA in the amount of \$84,540 to Northland. On January 29, 2002, the Department and Northland executed an SA/P in the amount of \$76,040 in settlement of the penalties assessed in the AO/NOCAPA.

***Total Number of Violations: 24***

**9. Oxford Textile, Incorporated**

NJPDES No. NJ0004901  
Lot 1.01-Block 40, Lot 4-Block 33,  
Lot 1-Block 41, Lot 2-Block 41, Lot 7-Block 42,  
Lot 8-Block 42, and Lot 7-Block 43  
Foundry Street  
Oxford Township, Warren County

This permittee is contesting the designation of a significant noncomplier.

*Description and date of violations:*

The Department issued a NJPDES Permit to discharge to Furnace Brook to Oxford Textile, Incorporated (OTI) on September 5, 1997. DMRs for the monitoring periods of July 1999 through December 1999 and February 2000 and March 2000 indicated violations for Fecal Coliform. Also, the DMR for the monitoring periods of June 2000, September 2000, November 2000, December 2000, and February 2001 indicated violations for Phenols and the DMR for the monitoring periods of December 2000 and January 2001 indicated violations for Chronic Bioassay. In addition, the DMR for the monitoring period of March 2000 indicated a violation for Total Suspended Solids and the DMR for the monitoring period of January 2001 indicated a violation for Phosphorous.

*Follow-up and action:*

On June 13, 2001, the Department issued AO/NOCAPA in the Amount of \$235,000 requiring OTI to discharge pollutants only in conformity with its permit and the New WPCA. By letter dated July 3, 2001, the facility requested an Adjudicatory Hearing on the AO/NOCAPA.

***Total Number of Violations: 17***

**10. Reichhold, Incorporated**

NJPDES No. NJ0063738  
Block 5070, Lot 11, 400 Doremus Avenue  
Newark City, Essex County

*Description and date of violations:*

The Department issued a NJPDES Permit to discharge to Newark Bay to Reichhold, Incorporated ("Reichhold") on June 30, 1988. DMRs for the monitoring periods of May 2000 through November 2000 indicated effluent violations for Toluene and Total Suspended Solids.

*Follow-up and action:*

On March 2, 2001, and September 20, 2001, the Department and Reichhold executed SA/Ps in the amounts of \$9,000 and \$15,000, respectively.

***Total Number of Violations: 4***

**11. Sybron Chemicals, Inc.**

NJPDES No. NJ0005509

Block 778, Lots 5.01Q,12 and 12Q; Block 779, Lot 8Q; Block 780, Lots 1 and 1Q;  
Block 788, Lot 1; Block 789, Lot 1Q; Block 797, Lot 12Q; and Block 798, Lot 3 Birmingham Road  
Pemberton Township, Burlington County

*Description and date of violations:*

The Department issued a NJPDES Permit to discharge to the North Branch of the Rancocas Creek to Sybron Chemicals, Inc. (Sybron) on September 29, 1987. DMRs for the monitoring periods of March 2000 through December 2000 indicated violations for Total Suspended Solids and five-day Biochemical Oxygen Demand Percent Removal at outfall number 002.

*Follow-up and action:*

On February 6, 2001, the Department issued a NOCAPA in the amount of \$115,750. On January 24, 2002, the Department and Sybron executed an SA/P of \$115,000 in settlement of the penalties assessed in the February 6, 2001, NOCAPA and penalties assessed in a NOCAPA that was issued on May 3, 2000.

Total Number of Violations: 26

**12. Vianini Pipe, Incorporated**

NJPDES No. NJ0032328

Block 52, Lot 39, 81 County Line Road  
Readington Township, Hunterdon County

*Description and date of violations:*

The Department issued a NJPDES Permit to discharge to an unnamed tributary of Chambers Brook to Vianini Pipe, Incorporated (Vianini) on April 13, 1995. DMRs for the monitoring periods of January 2000 through March 2000 indicated violations for Total Suspended Solids.

*Follow-up and action:*

On January 19, 2001, the Department and Vianini executed an SA/P in the amount of \$11,000.

***Total Number of Violations: 3***

**13. Vineland Municipal Electric Utility**

***NJPDES No. NJ0032182***

Block 420, Lot 1, 211 N. West Avenue

City of Vineland, Cumberland County

*Description and date of violations:*

The Department issued a NJPDES Permit to discharge to the Little Robin Branch of the Maurice River to Vineland Municipal Electric Utility (VMEU) on November 1, 1996. DMRs for the monitoring periods of December 1996 and January 1997 indicated violations for Copper and the DMR for the monitoring period of October 2000 indicated a violation for Free Chlorine at outfall number 006A. Also, VMEU failed to monitor outfall number 007A for Total Suspended Solids, Chemical Oxygen Demand, and Petroleum Hydrocarbons for the monitoring period of July 2000.

*Follow-up and action:*

On July 11, 2001, the Department and VMEU executed an SA/P in the amount of \$25,095.

***Total Number of Violations: 6***

**14. Yonkers/Granite JV Construction**

Atlantic City/Brigantine Connector Tunnel Project  
NJPDES No. NJ0133779  
Atlantic City, Atlantic County

*Description and date of violations:*

The Department issued a NJPDES Permit to discharge to the Penrose Canal to Yonkers/Granite JV Construction (Yonkers) on December 20, 1998. DMRs for the monitoring periods of April 2001 through June 2001 indicated violations for Total Copper and Total Zinc for outfall number OF-5 and the DMR for the monitoring period of April 2001 indicated a violation for Total Zinc at outfall number OF-7.

*Follow-up and action:*

On June 4, 2001, Yonkers ceased the discharge to the Penrose Canal. On August 27, 2001, the Department and Yonkers executed an SA/P in the amount of \$26,000.

***Total Number of Violations: 7***



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Last Saved On: 10/11/02 1:29 PM  
Last Saved By: ras  
Total Editing Time: 55 Minutes  
Last Printed On: 02/21/03 10:15 AM  
As of Last Complete Printing  
Number of Pages: 80  
Number of Words: 23,361 (approx.)  
Number of Characters: 133,162 (approx.)