

New Jersey Department of Environmental Protection

Fiscal Year 2005
HIGHLIGHTS



Compliance & Enforcement



Richard J. Codey, Acting Governor
Bradley M. Campbell, Commissioner
Wolfgang Skacel, Assistant Commissioner Compliance & Enforcement



“I am proud to offer you our first attempt at producing a fiscal year report that highlights the tremendous and varied compliance and enforcement related accomplishments across the Department. In putting together this report, each program was asked to try to limit itself to five cases that it felt best exemplified the compliance or enforcement work it accomplishes, day in and day out. We also fought to improve this project by going beyond the organizational structure known as Compliance & Enforcement to include the great work done across the whole Department that is considered compliance or enforcement related. This was a big challenge and as far as we know a first ever consolidation of such information in New Jersey. We think this helps foster inclusiveness, teamwork and holistic approaches internally and provides the broadest possible perspective to the public about our successes, challenges and the tremendous effort required to enforce our environmental laws. By providing specific cases, we are connecting the dots between enforcement and the environment.”



“The concept of creating this report is a direct result of Compliance & Enforcement’s new strategic plan that was developed in fiscal year 2005. We are looking to build a work environment that attracts, develops and retains the many dedicated, motivated and talented employees that comprise the Department’s Compliance & Enforcement programs. Publishing this report moves us closer to that goal by acknowledging the terrific compliance and enforcement work that is accomplished, day in and day out here at the Department.”

Wolfgang Skacel
Asst. Commissioner, Compliance & Enforcement

Fiscal Year 2005 Compliance & Enforcement Highlights

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Acknowledgement:

Compliance and Enforcement would like to thank the individuals and programs that contributed information and photographs to make this a comprehensive report. The level of cooperation and professionalism throughout the process was exceptional. A note of special thanks goes to Amy Telford for her countless hours and patience in creating this document.

STRATEGIC PLAN

C&E is dedicated to ensuring that New Jersey's environment is clean, safe, enjoyable, preserved and enhanced for future generations. Our vision is to build a nationally recognized organization that empowers our trained and dedicated professionals to ensure New Jersey's businesses, communities and individuals are models of environmental stewardship and compliance. To accomplish this vision we are actively working to improve the efficiency and effectiveness of our operations with particular emphasis on innovation and striking the proper balance between education, assistance, and enforcement. We are also expanding our ability to take a holistic approach that is not limited to concerns of a single program. This joint operations approach ensures that behavior that ignores compliance or shifts problems from one area to another will not be tolerated. To do so requires us to gauge the value of our actions and begin the challenge of linking this to environmental results.

The following values will be demonstrated through our business operations:

- **Integrity**

C&E is committed to performing all of its duties in a manner exemplifying the highest standards of professional, moral and ethical behavior.

- **Environmental Dedication**

C&E is dedicated in its efforts to preserve, protect, and sustain the environment of New Jersey for the residents of the state and future generations.

- **Responsiveness and Effectiveness**

C&E will strive to be responsive to the issues influencing our environment and to the needs of the constituents we serve. All of our actions will focus on improving the effectiveness of our program through self-evaluation and a commitment to achieve excellence in our daily operations.

- **Clarity of Communication and Accountability**

C&E will continually strive to improve our relationship with all of our stakeholders by expanding our outreach to the various constituents. We will accomplish this by providing clear purpose and goals, and sharing the results of our program's performance.

- **Continuous Improvement and Innovation**

C&E will work towards continuous improvement of the operations within our program and will seek and encourage the use of innovative methods to achieve excellence in the pursuit of our environmental goals.

- **Fair and Just**

C&E will perform its duties in a manner that is equitable, fair and just to all of the constituents we serve.

OVERVIEW

Compliance and Enforcement (C&E) go hand in hand; compliance with the environmental laws is the goal, but enforcement is a vital part of encouraging governments, companies and others who are regulated to meet their environmental obligations. Within the New Jersey Department of Environmental Protection (Department) C&E is comprised primarily of media specific program areas each headed by managers who report to the Assistant Commissioner. The following programs are managed directly within C&E:

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Administrative and Fiscal Support	33

C&E also has a role in ensuring consistency in all departmental enforcement activities (inspections, compliance evaluations, etc.) as the Department is committed to handling all C&E related issues in a manner that maximizes predictability and standardization of actions and policies. Programs outside C&E that conduct enforcement activities include:

Dam Safety	
Fish and Wildlife	34
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- Toxic Catastrophe Prevention Act (TCPA) Program	
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Site Remediation & Waste Management Program	45

Compliance Assistance

Compliance assistance attempts to ensure the regulated community understands its obligations by providing clear and consistent descriptions of regulatory requirements. Compliance assistance can also help the regulated community find cost-effective ways to comply and to go “beyond compliance” in improving their environmental performance through the use of pollution prevention and other innovative technologies. Compliance assistance by the Department is offered:

1. When a new permit is issued so that the permittee understands all of the permit requirements.
2. When a new business starts and requests help “to get started off on the right foot”.
3. When a facility becomes regulated due to a rule change or change in business operations.
4. When a pattern of non-compliance shows a common misunderstanding in the regulated community.

Throughout this document activities highlighted by the programs that are considered to be compliance assistance are depicted by this symbol:



Presentation of Data

The data presented in this report represents a new accounting of C&E related activities. Our goal is to communicate outputs from all programs in three very general but standardized categories that are easily understood and have common sense definitions.

Data Definitions:

Investigations are compliance evaluations or applicability determinations at known or unknown sites that are characterized by their unplanned nature. The most common example is a response to a citizen complaint. These activities may result from calls to the Department’s hotline, field observations, executive referrals or special projects. Most often investigations are conducted as single-day, single-inspector and single-program site visits but may be conducted entirely through telephone interviews. Investigations do not always consider the entire site, especially for known regulated sites.

Site Inspections are compliance evaluations conducted through site visits. The most common example is the physical inspection of a facility ensuring compliance with rules, permits or approvals from the department. Most often these planned inspections are single-day, single-inspector efforts, but may involve more than one inspector and may take more than one day. Each inspection typically evaluates the entire site for a single program's regulations, but may include multiple programs or only focus on part of the site or specific regulations.

Enforcement Actions are the documents issued to violators that spell out the details of one or more alleged violations, any steps needed to correct them, any penalties, and the schedules for compliance and/or penalty payment. Enforcement Actions may be informal notices (such as Notices of Violation) or formal documents recognized by the courts (such as Administrative Orders). This category also counts negotiated agreements (such as Settlement Agreements or Administrative Consent Orders) that resolve non-compliance and penalty concerns while avoiding the cost of litigation. Enforcement actions may address multiple violations of varied regulations over time but are typically limited to a single program's concerns from a single compliance evaluation at a single site.

Data Differences

Data in this report may differ from previous publications for any given program because of the effort to set new Department-wide standard definitions for broad categories of information. The summaries in this report are only of the few broad data categories that were most easily standardized. Comparisons between programs should not be drawn to consider relative performance since other types of activities not reported here might have been a part of any one program's

compliance assurance efforts. Despite standardized categories, some differences in data across programs may result from the data system in use.

Data Quality

A majority of programs in this report make use of the New Jersey Environmental Management System (NJEMS) to record their compliance and enforcement data. For those using NJEMS for these purposes, a systematic data quality assessment and assurance process was begun during fiscal year 2005. At the time of publication, we were still working on several known data deficiencies that tend to deflate the totals and might accumulate to 5-10% error. Data quality is an ongoing high priority as we continue to increase the use and communication of such data.

Getting More Data

The following data report categories are available using the Department's Data Miner tools at <http://www.state.nj.us/dep/opra/online.html>:

Air Quality Permitting and Reporting	Open Public Records Act (OPRA)
Ambient Water Quality	Pesticide Control Program
Certified Laboratories	Radiologic Technologists
Community Access	Safe Drinking Water
Compliance & Enforcement*	Site Remediation
DEP General Environmental Reports	Water Allocation
Incidents/Complaints*	What's New
NJPDES Permitting Program	Environmental Permitting Dashboard

*For these two report categories, which provide access to the details of the data summarized in this report, you can find information for the following programs:

Air	Site Remediation**
DPCC	Solid Waste
Hazardous Waste	TCPA
Land Use	Water Supply
Pesticides	Water Quality**
Community Right to Know	

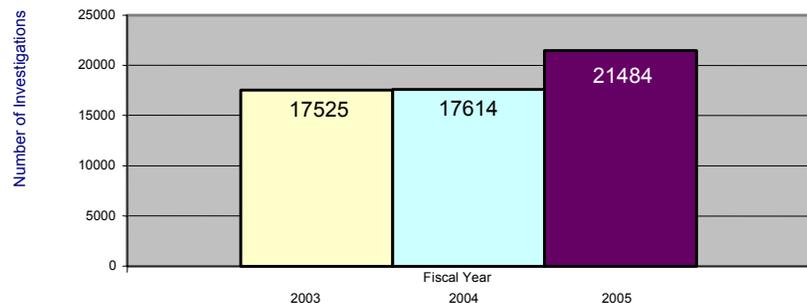
**Site inspections for Underground Storage Tank facilities are reported under the Water Quality program. Investigations (Incidents/Complaints) and Enforcement Actions for UST facilities may be reported under either Water Quality or Site Remediation programs.

During fiscal year 2006 we anticipate the publication of summaries within Data Miner matching the standard categories. We further hope to expand the list of terms or categories that are standardized upon common sense definitions and that have meaning for our citizens, businesses and other stakeholders.

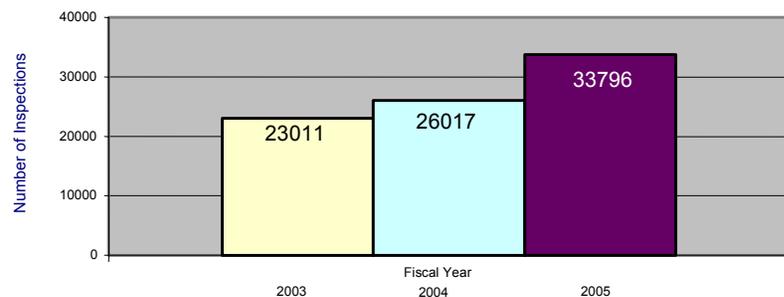


Summary of Investigations, Site Inspections, and Enforcement Actions - Fiscal Years 2003 to 2005

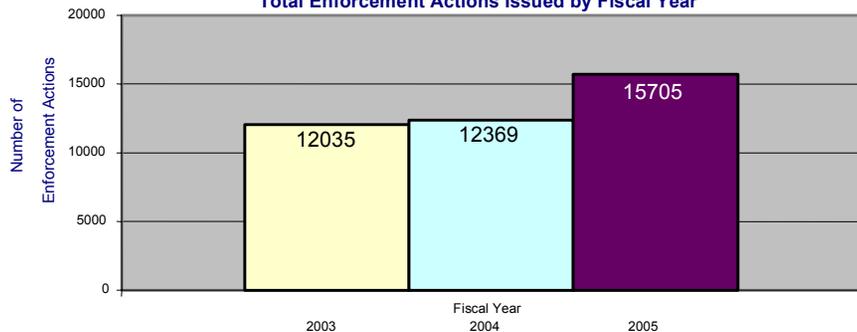
Number of Investigations Completed by Fiscal Year



Site Inspections Completed by Fiscal Year



Total Enforcement Actions Issued by Fiscal Year



The following programs are included in the totals for each chart:

- Air C&E
- Hazardous Waste C&E
- Solid Waste C&E
- Coastal & Land Use C&E
- Water Supply
- Water Quality
- Pesticide Control
- Underground Storage Tanks (UST)
- Community Right to Know (CRTK)
- Discharge Prevention, Containment and Countermeasures (DPCC)
- Toxic Catastrophe Protection Act (TCPA)
- Radiation Protection
- Site Remediation Program
- County Environmental Health Act (CEHA) Program

ENFORCEMENT & COMPLIANCE SERVICES HIGHLIGHTS

The Bureau of Enforcement and Compliance Services (BECS) performs a variety of functions that are integrated directly with the day to day operations and outputs of the C&E programs. Functions include managing responses to Open Public Records Act (OPRA) requests, supporting and advancing the use of data and technology, producing outreach materials, web page development, issuing enforcement actions and processing collections. While carrying out these functions, the bureau has an overriding responsibility to encourage innovation and seek improvements in order to advance strategic planning. BECS has a total staff of 14.

Outreach and Special Projects



During the last year BECS provided critical support to two major enforcement sweeps (diesel truck idling and recycling) including coordination, internet/intranet channels, outreach and customized data management for planning, execution and immediate follow-up. Other outreach support includes a record year in the issuance of Enforcement Advisories, 19 total in fiscal year 2005. Annual coordination and publication of the document you are currently reading will continue to be a BECS responsibility. C&E's public internet and internal DEPnet content is managed in BECS, and this year saw the addition of a county portal, expansion of DEPnet content and the release of a "Water Watch" tool for staff doing oversight of drinking water data.

OPRA

OPRA oversight is a central function of BECS, who managed the response to 6,590 requests in the year. The number of requests is growing at a 29 percent annual rate, and BECS expects to represent C&E in joint efforts to make the process more efficient, including OPRA Tracking System and web page enhancements as well as expanding the content and format of available information.



Technology



BECS continues to support C&E's data and technology efforts. BECS has handled 120 requests for data corrections, document template and requirement library updates, de-bugging/troubleshooting and system enhancement designs. Additionally, since December 2004, the Bureau has handled 30 requests for new or modified Business Objects reports, including the successful release of the Enforcement Blotter recognized by the Commissioner as a model for communicating and highlighting enforcement diligence.

Other technology developments this year include the piloting of tools to enable remote web access to critical systems, including wireless access via tablet PC's in the field. Furthering C&Es

flexibility and capabilities as a dispersed and highly mobile group, this year BECS has established network rights to ensure all C&E computers can be shared. BECS has also spearheaded the automatic sign-up to remote email access for all C&E staff and crafted a customized training course for managers and their support staff. One of BECS goals is to establish C&E as the lead organization for maximizing this under-used and powerful productivity tool.

Enforcement Case Management

BECS provides case management and document production for the three bureaus covering five programs that deal with Radiation (Radiological Health - License & Registration, Machine Source and Technologist Certification; Environmental Radiation; and Nuclear Engineering). The Bureau issued 526 formal documents in fiscal year 2005.

Collections



In fiscal year 2005, BECS made referrals to Treasury for overdue payments in the amount of \$142,450. Collections as a result of records managed by BECS totaled \$124,435. Procedural changes were made within the year that have centralized some tracking functions related to collections. This frees field staff to do other work while providing them with better information.

AIR ENFORCEMENT PROGRAM HIGHLIGHTS

This program ensures compliance with the Air Pollution Control Act and with issued permits through compliance assistance, inspections, complaint investigations, stack emission testing oversight, sample collection, and evidence gathering. Air C&E has a total staff of 67, of which 44 are inspectors.

Refinery Emissions Reduction Initiative

Air C&E implemented a global refinery initiative this year resulting in settlements with two facilities, Valero Refining of NJ (Paulsboro) and Conoco Phillips Oil Company (Bayway Linden). These two settlements included major air pollution control projects as well as the settlement of air violations at each facility. The air pollutants addressed by the settlements can cause serious respiratory problems and exacerbate cases of childhood asthma. A summary of the major emission reductions are as follows:



- Cover and control of the API water separators at both facilities thus reducing 200 to 500 tons of volatile organic compounds (VOC) and hazardous air pollutants from being emitted annually.
- Installation of pollution controls at the Bayway Refinery to reduce 1,300 tons of nitrogen oxides (NOx) annually. Early implementation of enhanced benzene waste reduction & monitoring resulting in an additional 6 tons of benzene removed at Valero by April 2005
- Reduction of boilers/heater emissions fired by refinery gas for a reduction of 1,000 tons of sulfur dioxide (SO₂) at both Valero and Bayway.
- Installation of new refinery gas handling system that will reduce thousands of tons of SO₂ and fine particulate matter (PM) annually at the Bayway refinery.

<i>Emission Reduction</i>	<i>VOC</i>	<i>SO₂</i>	<i>NOx</i>	<i>Benzene</i>	<i>PM</i>
Tons Per Year	200-500	2000	1300	6	1000

Electrification of Truck Stop

Also part of the refinery emissions reduction initiative was a settlement with the Coastal Eagle Point Oil refinery. Supplemental Funds from this settlement funded the construction of the Idle Air technology at a truck stop in Paulsboro, New Jersey. The truck stop is one of the largest on the East Coast. The Idle Air technology allows truck drivers to turn off their diesel engine and connect to the system to receive air



conditioning or heating along with various other services such as telephone, cable or online movies. The facility began operations late in 2004 and, although the facility has not been used to its full capacity, tracking software at the facility provided the following data:

<i>Category</i>	<i>Benefit</i>
Emission Reduction	6 tons of NOx 2 tons of PM 2 tons of VOC 3 tons of Carbon Monoxide
Net Diesel Saved	39,000 gallons from reduction of idling engines
Operational Savings	\$69,000 from the non use of engine components and maintenance savings

Iron Pipe facility to control Mercury Emissions

The first iron pipe manufacturing facility in North America has agreed to install mercury emission controls four years earlier than required by the recently adopted mercury rules in New Jersey. Atlantic States Cast Iron Pipe Company agreed to install the \$9.3 million emissions control technology as part of an emission reduction agreement and settlement of past violations at the facility. The installation of an activated carbon injection system and baghouse will reduce mercury emissions by 160 pounds annually as well as reducing carbon monoxide emissions by 60 percent from the present levels. Indirect emission reductions will also be achieved by reducing natural gas consumption by ten percent, thus reducing NOx, CO2, and emissions of other metals (arsenic, cadmium, chromium, lead and nickel) generated by the production of electricity. Operation of the emission controls is expected to begin in January 2006.



Diesel Anti-Idling Enforcement Sweep

The Governor's office and the Department have made reductions of emissions from diesel engines a priority. As part of that initiative, Air C&E began a statewide anti-idling enforcement sweep in August 2004, which is currently ongoing. The initial target for the enforcement sweep was diesel-powered commercial trucks and buses. Nearly 5,000 vehicles were observed at approximately 1,300 sites, resulting in the issuance of more than 130 violations. In addition, as part of the County Environmental Health Act (CEHA)



activities, 1,700 vehicles at nearly 500 sites were observed, resulting in 30 idling violations issued by county agencies. The occurrence of idling vehicles has greatly diminished since the start of the idling sweeps, resulting in a decline in emissions from diesel vehicles. The continuing enforcement sweep for both Air C&E and CEHA agencies will expand to include diesel-powered school buses.

Summary of Air Enforcement Activities



OFFICE OF LOCAL ENVIRONMENTAL MANAGEMENT HIGHLIGHTS

The **Office of Local Environmental Management** (OLEM) oversees the administration of the CEHA program, the State of New Jersey Noise Control Act, and Greenstart, the Department's voluntary compliance assistance program. OLEM has a total staff of five that oversees the C&E work conducted by county health department inspectors.

Full County Participation in CEHA

In October 2004, the Commissioner certified the Mercer County Office of Environmental Health pursuant to CEHA. This certification represents a significant milestone since now all 21 counties in New Jersey participate in CEHA.

CEHA Activities

The county agencies focus on five core program areas of water, air, noise, solid waste and hazardous materials emergency response. In fiscal year 2005, the 21 CEHA agencies collectively conducted more than 17,000 routine inspections, 14,700 complaint investigations, and 2,000 hazardous material emergency response actions and collected more than 16,000 water samples on behalf of the Department.

In 2005, the State legislature provided an additional \$1 million to support the CEHA program and a total of \$4,364,770 was allocated among the 21 CEHA agencies. A portion of these funds is now tied to enforcement performance, and the counties must demonstrate through quarterly enforcement reports that they are undertaking enforcement actions whenever appropriate. The focus of the CEHA program continues to be on improving performance in terms of work quality and consistency with enforcement protocols.

CEHAN Web Portal

In 2005, a Web site called the County Environmental Health Act Network (CEHAN) was developed to serve as one-stop shopping for CEHA agency personnel to obtain CEHA-related documents, program inspection forms, policy memos, checklists, Standard Operating Procedures and training modules. Placing all these documents, training modules and related links into the portal enables CEHA agency personnel to obtain information more efficiently.

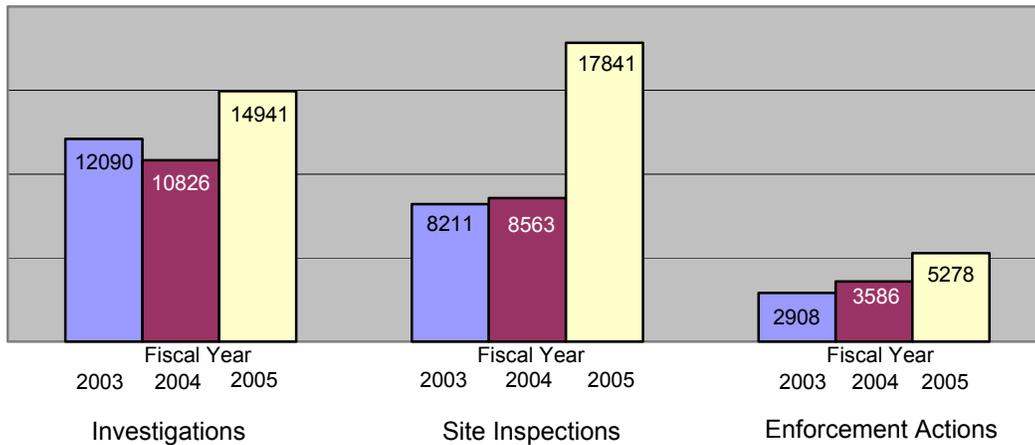
Sector-Based Compliance Assistance Initiatives

OLEM has been identifying sector-based compliance assistance projects for delegation to CEHA agencies to assist those small businesses and municipalities that need help in meeting their environmental compliance obligations. OLEM's initial project centered on compliance issues at municipal Department of Public Works (DPW) facilities, and a multi-media inspection check sheet was developed. At the completion of the project, a total of 437 DPW on-site inspections were conducted. Where necessary, recommended action plans were issued to municipalities to implement pollution prevention measures, with follow up inspections conducted by the counties or the DEP. With the DPW initiative as a model of success, OLEM applied for and received a \$50,000



grant from the EPA to conduct 122 marina compliance assistance inspections and provide workshops to marina operators to help them understand their environmental obligations. This project concluded in 2004, and was very well received by the marina business sector. In 2004 and 2005, OLEM initiated a pilot project with Monmouth County Health Department to address chemical management practices and pesticides use throughout public school laboratories and buildings. This project will now be expanded to include other interested CEHA agencies in 2005 and 2006. All of these projects exemplify the successful partnership between DEP and CEHA agencies, and demonstrate that sector-based compliance assistance is an important component of a comprehensive regulatory program.

Summary of CEHA Enforcement Activities



HAZARDOUS WASTE ENFORCEMENT PROGRAM HIGHLIGHTS

The **Bureau of Hazardous Waste C&E** ensures that hazardous waste is properly identified and collected, transported, treated and disposed of in an environmentally sound manner. The Department has been delegated authority by the EPA to administer the RCRA (Resource Conservation Recovery Act) program in New Jersey. This Bureau also provides transportation oversight, in coordination with the State Police that includes roadside operations and hazardous waste transporter terminal audits. Hazardous Waste C&E has a total staff of 28, of which 19 are inspectors.

New England Motor Freight

On October 26, 2004, Hazardous Waste C&E issued an Administrative Order and Notice of Civil Administrative Penalty Assessment (AONOCAPA) to New England Motor Freight, Incorporated (NEMF) for shipping hazardous waste from its terminals at South Plainfield and Elizabeth to its terminal in Pennsauken. Violations included failure to determine if the waste was hazardous, failure to have EPA identification numbers, failure to prepare manifests, failure to obtain hazardous waste transporter registration and failure of the NEMF Pennsauken facility to obtain a hazardous waste Treatment Storage and Disposal Facility permit. A settlement for \$73,500 was reached in December 2004, establishing a precedent for companies with multiple locations to ensure that they meet all hazardous waste rules when generating, handling and transporting hazardous wastes.



Curtiss-Wright Corporation

Curtiss-Wright was issued a Notice of Civil Administrative Penalty Assessment (NOCAPA) for shipping more than 33,000 gallons of contaminated oil as nonhazardous waste without a manifest to a facility not authorized to handle the waste. Violations were issued for failure to determine if waste was hazardous, failure to prepare a manifest, failure to designate an authorized facility on the manifest, and failure to determine if the waste was restricted from land disposal. A Settlement Agreement was signed on February 9, 2005, wherein Curtiss Wright agreed to pay a penalty of \$109,991 and an initial \$100,000 in Natural Resource Damages¹ for causing groundwater contamination. The facility also agreed to ship the groundwater waste to an authorized disposal facility every 90 days via hazardous waste manifests.

¹ **Natural Resource Damages:** the dollar value of the restoration that is necessary to restore the injured resource and to compensate the citizens of the State for the injury to natural resources as a result of a discharge. The Department prefers that the person responsible for conducting the remediation will complete a Departmentally approved restoration plan in lieu of a cash payment.

Summary of Hazardous Waste Enforcement Activities



SOLID WASTE ENFORCEMENT PROGRAM HIGHLIGHTS

The **Bureau of Solid Waste C&E** ensures that solid waste is collected, transported and disposed of in an environmentally acceptable manner and in a competitive marketplace through compliance assistance, complaint investigations, and inspections. Solid Waste C&E has a total staff of 28, of which 19 are inspectors.

Hudson County Recycling Sweep



The Bureaus of Solid and Hazardous Waste C&E in partnership with the Hudson County Improvement Authority, Hudson County Regional Health Commission and local municipal recycling coordinators conducted inspections as part of a recycling enforcement initiative in Hudson County from June 6 to June 17, 2005. Facilities inspected included colleges, schools and educational service providers, hotels and motels, multi-family housing units, law firms, fitness facilities, motion picture theaters, sports and recreation clubs, bowling centers, photocopying and duplicating service providers, nonresidential building operators, insurance brokers, banks, department stores, bus and taxi companies, and convenience stores. The overall compliance rate was 78 percent.

<i>Hudson Sweep</i>	<i>Inspectors</i>	<i>Facilities Inspected</i>	<i>Notices Of Violation(NOVs) Issued</i>	<i>Compliance Rate</i>
DEP	27	865	208	76%
County/Local	13	369	65	82%

Magic Disposal

As a result of a joint effort by Solid Waste C&E and the Atlantic County Health Department, the Magic Disposal solid waste transfer station was ordered by the New Jersey Superior Court on June 7, 2005, to close and remove all waste from the site. Magic Disposal had been cited for numerous operational violations as well as operating with an expired and revoked permit. Magic Disposal was also ordered to pay Atlantic County a \$250,000 penalty.

Eastern Organic Resources

Eastern Organic Resources is a Class C recycling facility approved to receive leaves, grass, brush and food wastes and process this material into compost and a topsoil blend. From February 2004 through September 24, 2004, the Burlington County Health Department received and responded to

approximately 390 odor complaints, with 76 complaints verified. The odors were predominantly coming from processing food waste generated by grocery stores, markets and restaurants throughout the State. A number of solid waste violations have also been cited at the facility including acceptance of material outside of authorized hours, acceptance of unapproved materials and failing to turn windrows on a schedule in accordance with their approval. In May 2005, the Department entered into an Administrative Consent Order (ACO) with Eastern Organic Resources, which settled the numerous air and solid waste violations for odor and operational problems. The facility was ordered to make improvements to the site and pay a \$230,000 penalty to Burlington County and a \$24,000 penalty to the Department.



Camden Asphalt & Concrete

On July 13, 2005, the Superior Court of New Jersey’s Appellate Division ruled that Albert Pangia Jr., who is president of Camden Asphalt, is liable as well as his company for the penalty and cleanup of his former recycling facility. This case helped establish a precedent that the Department has the right to cite corporate officers in non-publicly traded companies for violations by their company.

Hovsons, Inc. (also known as H. Hovnanian Industries)



The Bureau of Solid Waste C&E, after more than 24 months of negotiations, entered into a joint 5 –year ACO with Hovsons, Inc. and the Department of Community Affairs (DCA) on May 11, 2005. The development of the ACO stemmed from numerous complaints from the residents of the Berkeley Township retirement community known as Holiday City. The nature of the complaints included cracked foundations, uneven floors, and the appearance of sinkholes throughout the community. An investigation led to the discovery of buried construction-related debris from 20 years earlier as the cause of the numerous ground

subsidence and structural failures in violation of the Solid Waste Management Act. DCA assisted in the investigation and provided support for the ACO negotiations.

The ACO provides for the restoration of damaged homes; deed notices where debris cannot be removed; compensation for diminished home value; temporary relocation during construction; issuance of repair warranties; and continued investigation into new complaints. In addition to the remediation and



reconstruction costs, Hovsons, Inc. was assessed a penalty of \$100,000 and required to provide \$1 million in financial assurances to document sufficient financial security for its obligations under the ACO.

US Home Corp.

The Princeton Collection Development, located in Plainsboro Township, consists of 420 single-family homes constructed in the early 1980s by US Home Corp.



In November 2002, the Plainsboro Township conducted an on-site investigation into reports of ground depressions located in the area of Serina Drive and Parker Road South. That investigation revealed the existence of buried debris, including tree stumps, logs, branches, and concrete.

In August 2003, in response to a citizen complaint, Solid Waste C&E initiated an investigation at the development that revealed that three “common areas” of the

development had become unstable due to buried materials, including tree stumps, logs, branches, and construction debris. The Department issued an NOV to US Home Corp. in December 2004 for the improper landfilling of materials at the development.

In response to the NOV, US Home Corp. agreed to enter into an ACO with the Department to remediate the three common areas located within the development by regrading and landscaping to restore the land to its original condition as it existed prior to the occurrence of ground subsidence. In addition, US Home Corp. was required to pay a penalty of \$20,000.



As of June 2005, US Home Corp. had substantially completed the remediation project. All buried debris had been excavated and removed from the development. Currently, the remediated areas are being regraded to restore them to their original grade and are being reseeded with grass.

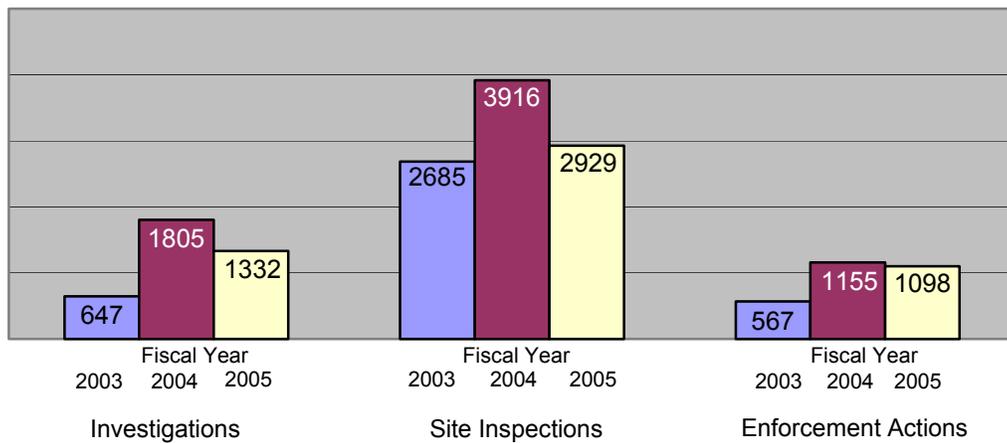
Coffman Tree Service Recycling Facility

Coffman Tree Service was a Class B wood recycler operating in Old Bridge, New Jersey that began violating its General Recycling Facility Approval shortly after receiving it in 2001. Despite numerous violations and hundreds of thousands of dollars being assessed in penalties, the owner of the company stockpiled over 100,000 cubic yards of tree parts at the location, resulting in 3 major fires over the years. In late 2004, Solid Waste C&E and the local Fire Marshall provided compelling testimony seeking a Superior Court order to shut down the operation and allow for a third party remediation. The property was eventually purchased by Peterscape Tree Service, who is

remediating the site at its own expense through a Judicial Consent Order, saving the state of New Jersey millions of dollars in remediation costs. The remediation is approximately 25 percent complete at this time.



Summary of Solid Waste Enforcement Activities



PESTICIDE CONTROL PROGRAM ENFORCEMENT HIGHLIGHTS

The Pesticide Control Program (PCP) made up of the **Bureau of Pesticide Compliance** and the **Bureau of Pesticide Operations** ensures compliance with federal and state laws and regulations regarding the use, sale, transport, disposal, manufacture, and storage of pesticides in the state of New Jersey. It also enforces the Worker Protection Standard, which involves the protection of 40,000 agricultural workers on New Jersey farms and nurseries. It also promotes pollution prevention and pesticide use reduction initiatives through training and outreach activities involving alternative pest control strategies such as Integrated Pest Management (IPM). PCP has a total staff of 35, of which 14 are inspectors.

Asian Longhorn Beetle



This invasive species is causing problems at almost epidemic proportions. The PCP is cooperating with the United States Department of Agriculture and its contractor to expeditiously treat the known infestations. In May and June 2005, the USDA conducted a project to treat approximately 500 trees per day in Middlesex and Union counties for a total of approximately 20,200 trees. PCP inspectors were onsite to oversee some of the tree/soil injection applications of the pesticide imidacloprid being used to treat the Asian Longhorned beetle.

The Department's Forest Service is managing a forest restoration program, which began in October 2005 with the planting of 556 trees in Carteret, 307 trees in Rahway, 391 trees in Linden and 173 trees in Woodbridge. A total of 1,427 trees will be planted. In New Jersey, the beetle was first detected in 2002 in Jersey City and the infested trees were removed. The eradication and restoration efforts in Jersey City have proved successful with no new outbreaks identified to date.

Food Monitoring & Evaluation Project

The Pesticide Control Program operates the New Jersey Food Monitoring & Evaluation Project, which was initiated in 2000 and continued through 2005. The project is designed to identify and catalog pesticide residues on fresh produce being grown and sold in New Jersey. The sampling scope has evolved over the six years of the project to include 22 different commodities typically grown in New Jersey. Of the 328 samples collected and analyzed, 82 percent of which were grown in New Jersey, a total of 28 samples (8.5 percent) were identified as non-compliant and only 1 percent exceeded a regulatory standard or guideline. The rest of the non-compliant samples were very low levels and identified as a possible misuse of a current pesticide.



Training



For the past 11 years, the PCP has been conducting a no-cost, public outreach/training course to acquaint the pesticide regulated community – businesses, applicators and operators – with the Federal and State rules and regulations enforced by the PCP. This course qualifies as a “Basic Training Course” as well as a prerequisite for Core Certification and /or Initial Operator Licensing. To date, 2,500 people have been trained. Additional training courses in the PCP include IPM in schools, which emphasizes the safe use of low impact pesticides as well as alternatives to pesticides. Faculty and other school personnel are trained on such issues as EPA and State regulations, notification requirements and examples of legal and illegal pesticides typically used.

Chlorination of Bathing Beaches

The goal of chlorinating is to provide acceptable water quality for swimming, through algae and other nuisance aquatic organism control. Unlike chlorinating a swimming pool, it is not possible to disinfect the water at a bathing beach using common products because of the large amount of organic matter present. Incomplete chlorinating results in the generation of carcinogenic trihalomethanes.

However, there are two products registered for use in chlorinating bathing beaches but are only permitted for use on those meeting specific site criteria and under tightly controlled conditions. Seven sites were permitted through the Bureau of Pesticide Operations’ Aquatic Pesticide Permits Unit from 1996 to 2003. However in fiscal year 2005, through the dedication and work of the Unit in collaboration with the Bureau of Pesticide Compliance, five additional sites were permitted. By regulating these sites, we have been able to provide the citizens of New Jersey a safer and healthier recreational opportunity while limiting the possibility of adverse effects on the surrounding environment.



Aerial Herbicide Spraying in Cape May

The Army Corps of Engineers is coordinating a beach replenishment and habitat restoration project in Cape May Point State Park and the adjacent Meadows Reserve owned by the Nature Conservancy. The project plan included aerial and ground spraying with the herbicide "glyphosate" to clear out the invasive phragmites weed in order to re-establish desirable native plant species. In September 2004, the use of this herbicide and the proposed aerial spraying in particular generated much public interest with environmental organizations and nearby residents opposed to the use of this herbicide. On September 2, 2004, the Department received a request to hold a formal hearing on the issue of the herbicide spraying. Concerns included the potential for drift onto residents in this windy coastal area and also affects to the migrating monarch butterflies that come through the area. The Army Corps had public meetings on this project before commencing.

Newspaper reports had the state and federal fish and wildlife agencies, Cape May Point State Park, the Nature Conservancy, and Cape May Point Environmental Commission supporting the spraying, while Cape May City, West Cape May, various organizations including the Environmental Federation, and some academics involved in monarch butterfly research were opposed.

While no legal provision allowed a formal hearing with the Department on this issue, PCP inspectors performed an onsite observation the day of initial planned aerial spraying. The initial spraying was postponed due to wind conditions, and subsequently the aerial pesticide applicator under contract withdrew from the project. While preferring that no pesticides be used, those that were opposed to the aerial spraying were satisfied that the aerial component was cancelled.

Conditional Pesticide Ordinance

In June 2005, Commissioner Campbell withdrew the Department's approval for a conditional ordinance adopted by Mercer County that regulated the notification of residents prior to spraying for adult mosquito control. The ordinance had been conditionally approved in May 2004 and allowed Mercer County to mandate that its mosquito control personnel notify residents 24 hours in advance of all routine adult mosquito control. Interest in this ordinance had been generated due to an allegation by a resident that he had been sprayed directly with a pesticide for mosquito control while in Veteran's Park in Mercer County. Mosquito control professionals and the Department's Office of Mosquito Control Coordination were concerned that a mandatory wait of 24 hours before spraying would allow identified problem mosquito populations to disperse, making control less effective and more costly.

The conditional approval was based in part on the Department studying the effect of such an ordinance on the goal of effective mosquito control. This study was conducted during the 2004 mosquito season, and it concluded that the 24-hour notification period between identifying a mosquito population and when pesticide use may commence allowed dispersal of mosquito populations to areas of human population.

Agricultural Sweeps

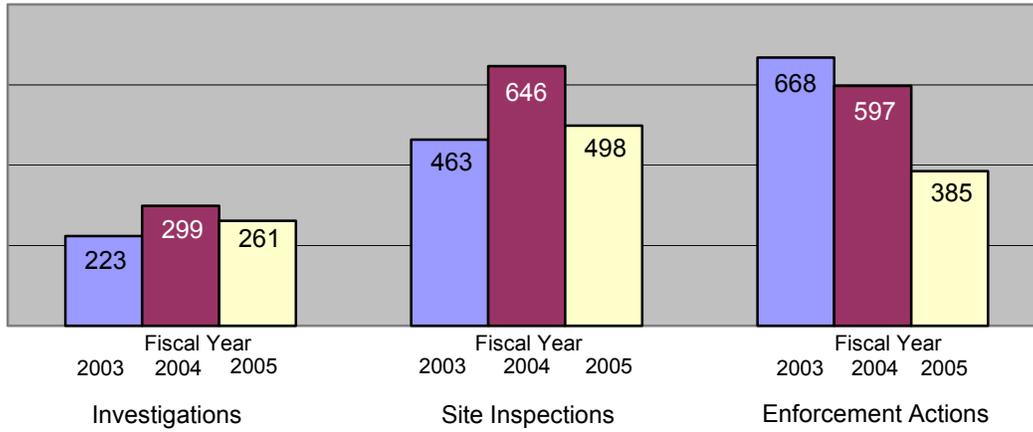
The Bureau of Pesticide Compliance conducts approximately 150 farm inspections annually during the prime agricultural season for compliance with pesticide regulations. During the past four years concentrated inspections or sweeps have been conducted in the Southern (two separate sweeps of vegetable and blueberry growers), Central (general agriculture), and Northern (nurseries and greenhouses) areas of the state. Federal EPA inspectors joined the Department's inspectors as observers.

Each facility was checked for compliance with the requirements of adequate training and protective equipment for workers, and areas of chemical storage were examined. The inspections also included a review of records regarding the time and location of pesticide applications and if possible an interview with the agricultural workers to assess pesticide exposure when applicable. Where necessary, the inspectors provided on-site bilingual safety instruction to assist farm owners with compliance.

NOVs were issued if violations were found at the site. For repetitive violations including failure to train workers and post essential pesticide information, inspectors issued Notices of Prosecution, (NOPs) which may imply a fine to the alleged violator. Decisions on penalties are made on a case per case basis, and follow-up inspections are conducted to ensure corrective action is taken.



Summary of Pesticide Enforcement Activities



COASTAL & LAND USE PROGRAM ENFORCEMENT HIGHLIGHTS

The **Coastal & Land Use Enforcement (CLUE)** Program is responsible for ensuring compliance with the State's land use laws, which regulate various activities in environmentally sensitive areas such as wetlands, floodplains and waterfront and coastal areas. Inspectors investigate complaints and notifications of unauthorized activities, such as clearing or filling land or building structures within regulated areas, and also conduct inspections to ensure compliance with permits issued by the Stream Encroachment Program, Freshwater Wetlands Program and Coastal Program within the Department's Land Use Regulation Program. CLUE has a total staff of 43, of which 25 are inspectors.

Land Use Wetland Restoration

Morris County



When a Morris County municipality decided it wanted to construct a new soccer field on a large wooded property it owned, it had the wetlands delineated and received a Letter of Interpretation (LOI) from the Department. The LOI made the town aware of the presence and location of the wetlands at the site.

An oversight was made by the soccer park design engineer in failing to transcribe a 2-acre wetland from the LOI site plan to the final design plan for the soccer fields. As a result, a large stormwater detention basin was designed and located in the wetland area. When the construction contractor followed the plan's specifications and began clearing the land within the wetland area, a nearby resident contacted the Department concerning a possible violation. When a CLUE inspector arrived, approximately 0.75 of an acre had already been cleared with extensive soil disturbance; however, the rapid response did prevent the remaining 1.25 acres from being destroyed.

The contractor and Town officials were immediately advised to cease working in the wetland and were issued an NOV. A restoration proposal was submitted in early June 2004, and after revisions, the final approval was implemented in September 2004.

Restoration consisted of removal of a small amount of soil, regrading with hand tools and replanting of the wetland transition area with 34 tree saplings and 333 shrubs. The stormwater detention basin was relocated to an area of non-wetlands immediately to the west of the wetland.



A.R DeMarco Enterprises

Anthony DeMarco started buying land around Chatsworth in the 1940s and built cranberry bogs the traditional way, by obliterating native wetlands before planting cranberry vines. This was before the New Jersey Freshwater Wetlands Protection Act was enacted to protect and regulate such areas from this kind of activity. The New Jersey Conservation Foundation (NJCF) purchased the DeMarco property in late 2003 and inherited one of the largest freshwater wetland violations in New Jersey. DeMarco settled with the department and paid a \$400,000 penalty before closing the property sale with the NJCF. DeMarco and his family agreed to give the NJCF a further \$400,000 discount on the purchase price already reduced by half the property's potential market value. That dropped the final figure to \$11.6 million for the 9,400 acres now known as the Franklin Parker Preserve.

Initial bids to correct the violations were between \$700,000 to \$800,000. The NJCF elected to rely on having their own staff and volunteers do the work themselves, thus allowing the NJCF to complete the required excavation and ongoing restoration work at a fraction of the cost. The prior perimeter storm water diversion / drainage ditch that was part of the violation was filled up to pre-existing grade and micro-topography has formed in these areas.

Cranberry farmers downstream of the site were very concerned about their reservoirs being impacted by the freshwater wetland restoration effort. However, the restoration area has held all storm water. Site inspections by Department staff indicate a dramatic rebound of hydrological conditions in the restoration area, thereby appeasing the downstream farmer's concerns. The ongoing restoration effort has been a success.



Photo 1 - A June 2005 photograph of the microtopography growing within the interior of the Demarco site restoration area. This area is now part of the 9,400 acre Franklin Parker Preserve.



Photo 2- A June 2005 photograph of the recently planted 3,800 white cedar trees located behind the deer fence on the Demarco site.

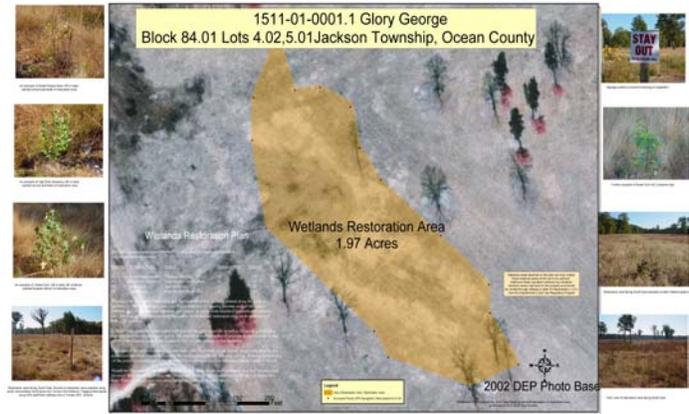
Ranchlands Site

The Department issued an NOV to John Campbell (also known as Ranchlands Incorporated), the responsible entity for a violation that involved the clearing of 86,232 square feet or 1.97 acres of forested freshwater wetlands. After issuance of the NOV, John Campbell was declared bankrupt and resolution of the enforcement matter was delayed. Under the supervision of Department

representatives, the freshwater wetland area in question was delineated and an acceptable mitigation plan was prepared to create wetlands from uplands in another area of the site. A lawsuit was then filed between associated parties resulting in a further delay of the matter.

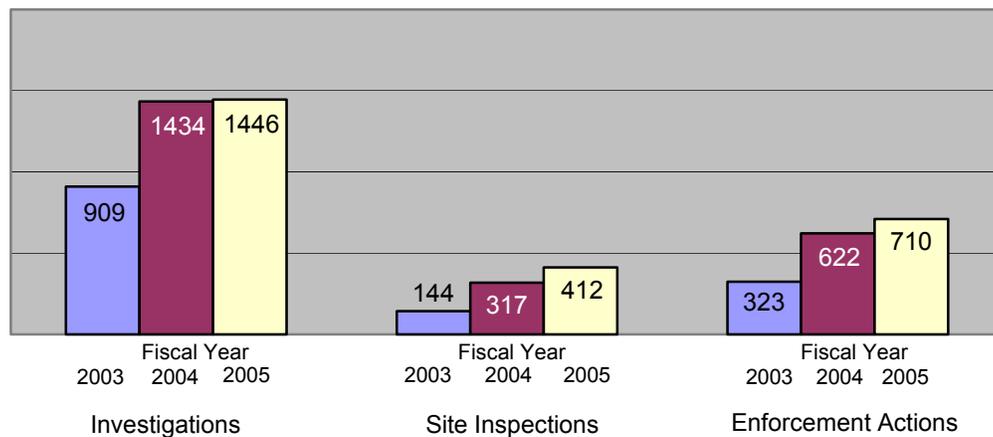
The attorney for the present property owner, George Glory, wrote to the Department requesting an extension of the mitigation plan. In response to the request, Department representatives conducted a compliance evaluation of the site and verified that no wetland mitigation work associated with the NOV had been performed. However, hydrological conditions were found to have returned to the disturbed wetland area and therefore the wetland mitigation plan was voided. It was the opinion of the Department representatives who inspected the site that restoration of the impacted wetland area could be accomplished through the planting of additional wetlands species.

Mr. Glory executed a Department approved conservation restriction for the restoration site that was included on the deed and recorded in the office of the Ocean County Clerk.



In September 2004, Department staff, using Global Positioning Satellite equipment and the Geographic Information System, staked the extent of the wetland restoration area, and the site was planted in accordance with the restoration plan. Mr. Glory is required to monitor the wetland restoration area for three growing seasons.

Summary of Coastal & Land Use Enforcement Activities



WATER ENFORCEMENT PROGRAM HIGHLIGHTS

Water C&E is responsible for ensuring compliance with the State's water programs through compliance assistance, investigating complaints and conducting inspections. A particular focus is placed on inspections of wastewater dischargers and community drinking water supply facilities. The program issues enforcement documents, both formal and informal, for the Water Allocation Program, the Water Supply and Wastewater Licensing Act, and against State certified laboratories that fail to comply with the laboratory certification program requirements. The program also monitors compliance with all permits issued under the New Jersey Pollutant Discharge Elimination System for surface water, ground water and indirect discharges to Publicly Owned Treatment Works. Water C&E has a total staff of 99, of which 73 are inspectors.

Sanitary Sewer Overflow Points

Water Compliance & Enforcement negotiated two Administrative Consent Orders (ACOs), which will result in the elimination of historic sanitary sewer overflow points (SSOs) in northern New Jersey. SSOs are releases of untreated sewage into the environment from sewage collection systems. SSOs are usually caused by deterioration of pipes resulting in infiltration of groundwater, inflow of surface water from unauthorized connections and inadequate flow capacity.

Bergen County Utilities Authority

An Amended ACO was executed with the Bergen County Utilities Authority (BCUA) on March 28, 2005, requiring BCUA to eliminate a long-standing SSO located in Englewood City, by January 1, 2010. The SSO will be eliminated by BCUA constructing a parallel wastewater interceptor line from Englewood City to the BCUA wastewater treatment facility in Little Ferry Borough, a distance of approximately 4.5 miles, at a price of approximately \$50 million. This action will ultimately result in significant improvements in water quality in Overpeck Creek and the Hackensack River.

West Milford Township Municipal Utilities Authority

A second ACO was executed with the West Milford Township Municipal Utilities Authority (MUA) on April 8, 2005, requiring the MUA to fully eliminate a partially treated SSO by June 15, 2009, and to relocate the



outfall of its Awosting Sewage Treatment Plant from a tributary to the main stem of the Wanaque River by April 30, 2008. These actions will result in significant improvements in water quality in a portion of the Wanaque River, which is located in the Division of Fish & Wildlife's Wanaque Wildlife Management Area and heavily utilized for recreation.

Middlesex County Utilities Authority ACO

On March 2, 2003 one of Middlesex County Utilities Authority's (MCUA) main sewage lines broke and resulted in the discharge of 570 million gallons of sewage into a tributary of the Raritan River. This spill caused the extended closure of over 26,000 acres of shellfish beds in the Raritan Bay, Sandy Hook Bay, the Navesink River and the Shrewsbury River. The Department negotiated an ACO with the MCUA, effective July 8, 2004, in which the MCUA is required to pay the State \$100,000 and install an additional force main to prevent future sewage spills from its wastewater collection system.



Under the terms of the ACO, MCUA will install a second 60-inch force main to facilitate inspection and repair of its existing 60-inch main that crosses the Raritan River. MCUA will begin construction of the main, which will cost over \$60 million, by March 1, 2006. The project will be completed by March 1, 2008.

Boro Auto

The coordinated enforcement efforts of the Water C&E and the Site Remediation and Waste Management (SRWM) Program have recently culminated in state funding for the clean up of the highly contaminated Boro Auto site. This site has been in violation of various pollution regulations and has failed to comply with permits and enforcement actions that have been issued. Water C&E began a joint operations enforcement approach after becoming aware that the SRWM Program also had significant outstanding issues with Boro Auto. The SRWM Program had negotiated an ACO with Boro Auto in 1997, which required many of the same best management practices (BMPs) required by the NJPDES Scrap Metal Recyclers and Automobile Dismantles General Stormwater Permit (NJPDES Permit).

Water C&E issued an Administrative Order with an administrative penalty of \$15,000 in January 2001, which Boro Auto contested by claiming that conflicting requirements were being imposed. Due to the thorough coordination within the Department since 1997, Boro Auto was not able to make its case. A Construction and Compliance ACO was issued in June 2003 that required the same BMPs Boro Auto failed to implement under both the SRWM Program's ACO and the NJPDES Permit. This ACO gave strict reporting requirements and deadlines for construction. Boro Auto failed to meet any deadlines and failed to even report its progress, resulting in stipulated penalties being assessed pursuant to the ACO.

Water C&E and SRWM program case managers set November 1, 2004, as the final deadline in the ACO for Boro Auto to perform its agreed upon facility upgrades. With the full support of the Commissioner and both assistant commissioners, Boro Auto was brought to Superior Court of Middlesex County in December 2004 after failing to meet the November deadline. The Department requested full control of the site from the Court so it could perform a publicly funded remedial action after Boro Auto demonstrated its inability to remediate the site. The Court agreed with the Department and allowed the responsible party remedial action to be moved into a publicly funded remedial action conducted by the Department.

Waterway Enforcement Team

The Waterway Enforcement Team (WET) is comprised of water, land use and solid waste enforcement staff, which conduct targeted surveillance of selected waterways in an effort to determine compliance with water pollution, land use, and solid waste laws and regulations. The WET may also identify air pollution and hazardous waste violations. The WET works in partnership with concerned citizens, local baykeepers and riverkeepers, and environmental groups.

Village of Ridgewood



While conducting routine surveillance of the Ho-Ho-Kus Brook, in the village of Ridgewood, in August 2004, WET investigators were approached by the Director of Parks and Recreation and asked if the Department was on-site because of the fish kill that occurred in the Ho-Ho-Kus Brook a few days earlier. The Department sampled the discharge from the overflow pipe from Graydon Pool and found total residual chlorine levels to be greater than permitted. A sample of the brook itself revealed no detectable levels of chlorine. A field NOV was issued to the Village of Ridgewood for the discharge, and a settlement

agreement was reached in January 2005 with an assessed penalty of \$7,500.

Borst Landscape and Design Inc.

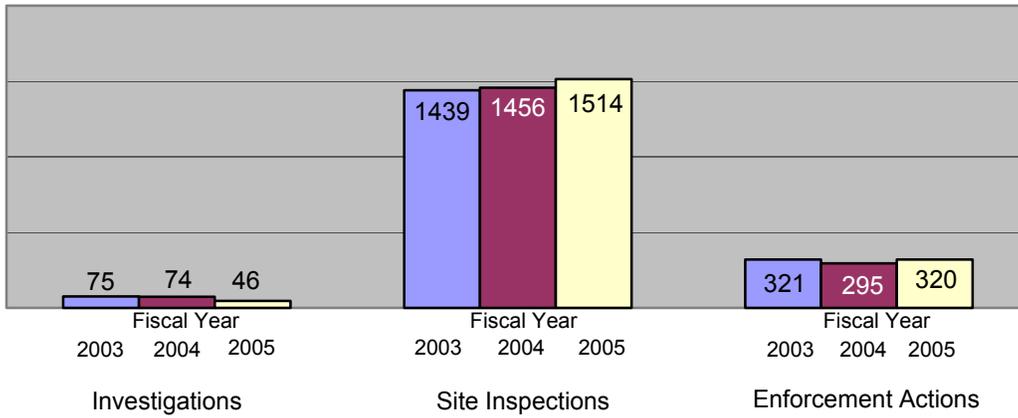
A field NOV was issued in March 2005 to Borst Landscape and Design Inc. for an unauthorized discharge of Damoil (an insecticide oil containing petroleum) and wastewater containing detergent from vehicle washing to a tributary of Ho-Ho-Kus Brook, Ho-Ho-Kus Brook itself, and White's Pond, which is a trout stocked waterway.

United Paterson Enterprises, Inc.

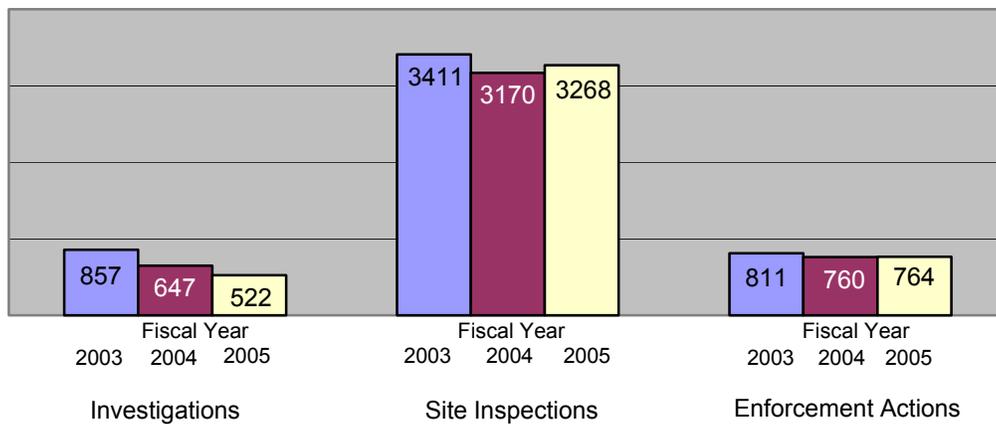
A field NOV was issued in February 2005 to United Paterson Enterprises, Inc. for discharging stormwater containing a petroleum sheen to the Passaic River. The discharge bypassed the on-site oil/water separator and went directly into the river.



Summary of Water Supply Enforcement Activities



Summary of Water Quality Enforcement Activities



UNDERGROUND STORAGE TANK ENFORCEMENT PROGRAM HIGHLIGHTS

Numerous past releases from regulated Underground Storage Tanks (USTs) have resulted in soil, ground water and air contamination in every county in New Jersey. Given that one gallon of gasoline can contaminate approximately 750,000 gallons of water, prevention of ground water contamination with the potential to affect drinking water supplies and surface water quality is of particular concern. The goals for the UST inspection program are: reduce the number of releases/discharges from UST systems; hasten the response to and resolution of possible releases/discharges from UST systems; ensure that proper construction and operation of UST systems and that financial assurance is maintained. The program, with the assistance of the county health



departments, will conduct compliance inspections every 3 years at each of the 8,000 facilities statewide that contain regulated USTs.

In the past year, the UST Enforcement Program has hired, equipped and trained 10 Department inspectors to conduct compliance inspections. A checklist was created to provide consistency in the inspection process. Cooperative Agreements were signed with seven county partners to conduct UST inspections in accordance with Department standards and inspectors from each of the counties were trained and equipped to complete the inspections.



Summary of UST Enforcement Activities



ADMINISTRATIVE AND FISCAL SUPPORT PROGRAM HIGHLIGHTS

The Administrative and Fiscal Support Program (AFSP) provides administrative guidance, fiscal support, and computer support to all programs within C&E. Issues addressed by AFSP staff include budget, procurement, database design and all aspects of personnel management, including training, travel and health and safety. The AFSP team remains committed to providing customer service and meeting current and future needs of C&E staff. The AFSP has a total staff of seven.

Training

A total of 122 technical training requests were processed for C&E staff during fiscal year 2005 as follows: 59 in Air C&E, 33 in Hazardous and Solid Waste C&E, 20 in Water C&E, 6 for Outreach and 2 each in the Pesticide Control and Coastal Land Use C&E areas. Meeting technical and all other training issues for the division continues on a daily basis and proves to be challenging as budgetary constraints tighten with each new fiscal year.

New Offices/New Programs

AFSP team members played major roles in all areas involving setting up our two new field offices, the Northern Regional C&E Office and the Chester Field Office, both located in Morris County. Also, they met daily procurement and other needs associated with settling the UST enforcement program in its new home within C&E. AFSP team members continue to support these new ventures on a daily basis.



Recognition Clothing

The AFSP team was able to procure over 250 articles of recognition clothing for C&E inspection staff so that inspectors are easily recognized as Department enforcement personnel in the field. This was done to address heightened security sensitivity at regulated facilities and to show our presence in the community.

Computers & Equipment

As part of the process to continuously improve our effectiveness, the AFSP team replaced outdated, out of warranty computers with new desktop PCs. All inspection staff were equipped with cellular telephones and necessary health and safety equipment. AFSP also procured tablet PCs for a pilot program to enable inspectors to access Department systems from remote locations while in field.

Vehicles

The AFSP team conducted an analysis of the condition of the vehicle fleet utilized by C&E personnel. By replacing high-maintenance, high-mileage cars and trucks used for field inspections and investigations, the AFSP team was able reduce our vehicle maintenance and repair costs by 16 percent.

NJ DIVISION OF FISH AND WILDLIFE BUREAU OF LAW ENFORCEMENT HIGHLIGHTS

The Bureau of Law Enforcement, acting as the enforcement arm of the Division of Fish and Wildlife, is charged with the responsibility to enforce codes and statutes relative to the protection and perpetuation of the wildlife resources of New Jersey including season, size and bag limit restrictions and harvest restrictions. The Conservation Officer (CO) is the Division's most visible field representative through contact with thousands of citizens annually and must be depended upon to communicate the goals, policies and activities of the Department and Division in a clear, concise and positive manner. A CO's radio call for assistance could lead to boarding a commercial fishing vessel in rough seas, pursuing a deer poacher at midnight, making an undercover purchase of an endangered species from an international smuggler, or assisting in the capture of waterfowl injured due to a massive oil spill. Each day brings a new and exciting challenge, as well as the precious opportunity to assist in the conservation of our natural resources. The Bureau of Law Enforcement has a staff of 57, of which 50 are COs.

Illegal Sales of Non-game Species

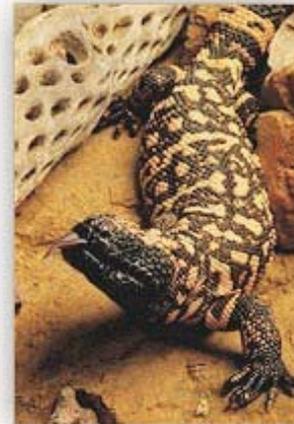
Internet Sales



A joint investigation involving personnel from the Non-Game & Exotics Permit Section and the Bureau of Law Enforcement was undertaken into the Internet sale of snakes. A Warren County resident was charged with offering for sale a regulated non-game species following a successful undercover buy. An inspection of the individuals home uncovered endangered corn snakes and a

complaint was signed for possession of endangered wildlife.

An individual was successfully prosecuted for offering for sale a Gila Monster through the Internet. He was charged with offering for sale a regulated non-game species, offering for sale potentially dangerous species (Gila monster), providing false documents and possessing regulated non-game species without a permit.



Turtle Importation

Northern Region COs investigated the importation of over 1,500 turtles into the State. A complaint was issued for possession of regulated non-game species to an individual who had imported the animals into the state after being advised in writing not to bring the animals in by the Non-Game Permit Section. An inspection of the facility revealed that the turtles were being held in inadequate containers and that improper wastewater disposal procedures were being employed. The individual was given 90 days to remove the animals from the state.

Hatchling Alligators

COs investigated a report of the illegal sale of hatchling alligators in Newark during the Portuguese Festival and made an undercover buy of one hatchling for \$130. Searches of the festival booth, the owner's residence and business produced an additional 5 hatchlings as well as 47 ball pythons possessed and offered for sale without necessary permits. The alligators and all of the ball pythons were seized. Complaints will be signed for the sale and possession of dangerous and non-permitted animals.



Illegal Leghold Traps

A complaint was received in January 2004 that a salt hay farmer in Lawrence Township, Cumberland County, was illegally using leghold traps. The complainant said that the traps were baited with rabbits and feared that wintering eagles may be harmed. An initial search of the area did not reveal any traps. Later that year, the complainant called again and told officers that the traps were set again in the same location. COs searched the area and found several leghold traps bolted to a board that was chained to a concrete block. The traps were baited with rabbits. Several days later, an officer placed a dead hawk in one of the traps and electronic surveillance was established. The suspect tended the traps the very next day and was recorded as he threw the dead hawk into some nearby phragmites. When officers removed the surveillance equipment, the area was searched again and the remains of five additional hawks were found. In January 2005 the suspect and his son confessed during an interview with COs. They took full responsibility for the illegal traps and admitted that they were trying to kill the predators that were eating their rabbits. A subsequent search by nine COs and five federal agents of the area yielded parts of a barn owl, a turkey vulture, and a night heron, as well as parts of other small mammals and birds. A live coyote was seized from the suspects' home. Both federal and state charges are pending a forensic analysis.

Delaware Oil Spill



In November 2004 COs responded to the Athos I oil spill on the Delaware River. By boat and land, COs from the Southern, Central, and Marine regions worked with U.S. Fish and Wildlife employees, representatives from the oil tanker, and others to ascertain the extent of the damage caused by the

spill. Despite booms being set along the mouths of the Delaware River, oil reached far up into the tributaries of the river and affected waterfowl, shorebirds, other animals and vegetation. Private property damage was extensive, and the oil, which still surfaces and becomes exposed along the Delaware River coast, has impacted well over 100 miles of shoreline.



Fishing Vessels

COs and Special Agents from the National Marine Fisheries Service conducted a month long investigation from October to November 2004, involving three commercial fishing vessels (Irene B III, Two Brothers, Capt. Charlie) in Wildwood, New Jersey. The same owner, who is also a federally permitted fish dealer, owns all three commercial fishing vessels. The vessels were permitted for sea scallops under the general category permit, which allows for a daily trip harvest of no more than 400 pounds of shucked sea scallops per day.



During the early stages of the surveillance the fishing vessels were observed offloading more than 400 pounds of sea scallops per day. The owner of the fishing vessels, using his own truck, would then transport the sea scallops to buyers in New Jersey as well as New York. On one occasion officers successfully followed the owner to determine where the sea scallops were being sold.

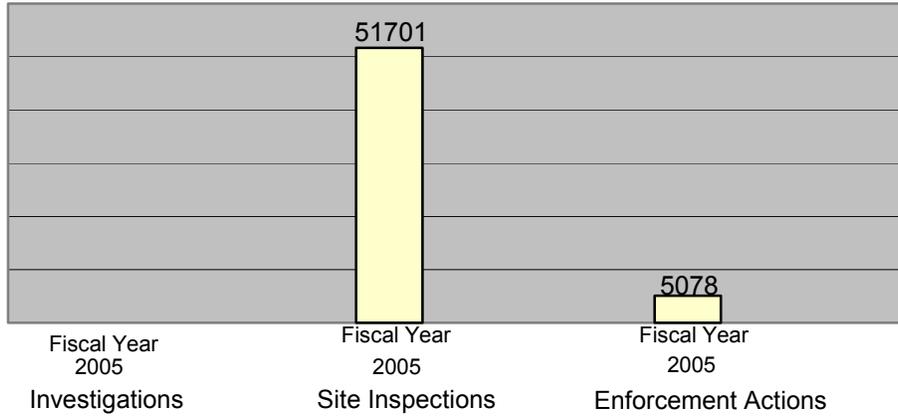
Due to adverse weather conditions the fishing vessels did not fish for a period of nine days. Daily port checks were observed and recorded to document that the fishing vessels never left port. Records were received from the fish dealer who owns the vessels showing dates of purchases, names of vessels purchased

from and amounts landed. On several occasions the records showed that these fishing vessels landed 400 pounds of sea scallops on dates the vessels never left port.

On November 14, 2004, two of the fishing vessels made one trip each and offloaded an undetermined amount of sea scallops. Prior to the sea scallops being transported, Special Agents and COs moved in and made an inspection. There was a total of 2,348.5 pounds of sea scallops that were landed. The owner of the fishing vessels was present and stated that the 2,348.5 pounds of sea scallops represented seven trips divided among the fishing vessels from the previous week. The federal logbooks were obtained from each vessel and no such trips were entered. The captain's personal logbooks and dealer logbooks were tampered with and accurate information could not be obtained at that time. The sea scallops were seized as they arrived at the Fulton Fish Market in New York.

Several federal violations were issued to the fishing vessel captains and owner and fish dealer for landing sea scallops in excess of daily trip limit, falsifying records and interference. These violations resulted in an NOV being issued for a total of \$935,000 in penalties and seven years of vessel and dealer permit suspensions. This is the largest penalty ever assessed on the Atlantic Coast and one of the largest in the country.

Summary of Fish & Wildlife Enforcement Activities



COMMUNITY RIGHT TO KNOW HIGHLIGHTS

The Community Right to Know (CRTK) program collects, processes, and disseminates the chemical inventory, environmental release and materials accounting data required to be reported under the New Jersey Worker and Community Right to Know Act and the federal Emergency Planning and Community Right to Know Act of 1986. The public, emergency planners and first responders use this information to determine the chemical hazards within their community. The CRTK has a total staff of 10, of which 3 are inspectors.

CRTK Survey Bar Codes

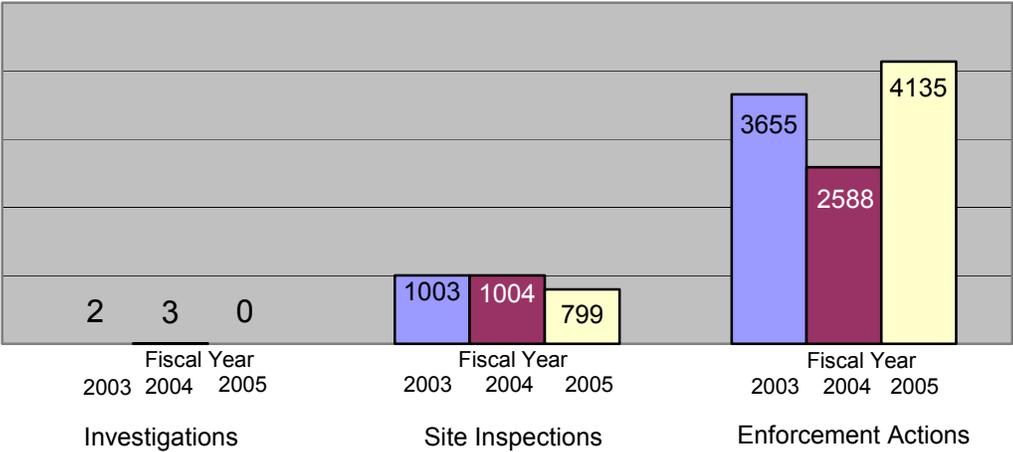
The CRTK program regulates between 30,000 to 35,000 facilities. Each regulated facility is required to provide chemical inventory data to the Department on the CRTK Survey, by March 1 each year. In fiscal year 2005, the CRTK program instituted a new system, whereby bar codes are printed on the CRTK Surveys. The bar codes contain the unique facility identification number and the reporting year. When the bar codes are scanned, the date the CRTK survey is received by the CRTK program is automatically entered into the Facilities and Chemical Inventories Tracking System (FACITS) database. This provides real-time facility status data to program inspectors enabling them to determine the compliance status of the regulated community more efficiently. This coupled with providing CRTK inspectors with laptop computers equipped with the FACITS database has greatly streamlined the enforcement process by providing the inspectors easy access to more information in the field.



W.R. Grace

Recently the Department instituted enforcement actions against the W.R.Grace facility in Hamilton Township, Mercer County, for submitting falsified records regarding the existence of asbestos at the site. Information provided from the CRTK program, the facility's 1989 Community Right to Know Survey, provided the first historical Department record of the existence of asbestos at the facility.

Summary of CRTK Enforcement Activities



RADIATION PROTECTION HIGHLIGHTS

The Radiation Protection Program (RPP) is the element of the Department responsible for prohibiting and preventing unnecessary radiation exposure to New Jersey residents. RPP has a total staff of 65, of which 24 are inspectors, supervisors, or others directly involved in compliance.

The Bureau of Environmental Radiation (BER) addresses the protection of the public from excessive exposure to radiation, exclusive of x-ray and nuclear powerplant sources. The Bureau consists of four sections.

The Nonionizing Radiation Section is responsible for protecting public exposure to sources of radiofrequency radiation (RF) in the environment through registration of heaters, sealers and industrial ovens that operate within an RF range of 300 kilohertz (kHz) to 100 Gigahertz (GHz).

The Radioactive Material Section (RMS) regulates many radioactive materials within New Jersey in medical, industrial, laboratory, and academic applications. RMS staff are involved in inspections, investigations, licensing actions, and response to radioactive materials incidents.

The Radiological Assessment Section (RAS) provides technical support for radiologically contaminated site cleanups, low level radioactive waste management; radionuclide air emissions, and training for radiological emergency preparedness.

The Radon Section provides information to the public on the health risk of radon in the home, performs radon health risk and various technical studies, and certifies radon testing and mitigation businesses operating in New Jersey.

The Bureau of Nuclear Engineering (BNE) provides radiation protection for individuals in New Jersey from possible releases from nuclear power plants. The Bureau consists of four sections.

The Nuclear Environmental Engineering Section operates and maintains an Environmental Surveillance and Monitoring Program (ESMP). The purpose of the ESMP is to monitor the various pathways by which people and the environment could be exposed to radiation.

The Nuclear Engineering Section performs safety evaluations through participation in Nuclear Regulatory Commission (NRC) inspections and safety reviews at all New Jersey's nuclear power plants.

The Nuclear Emergency Response Section (NEPS) activities include developing and implementing training for all nuclear emergency response participants, planning for and initiating nuclear emergency response during exercises and nuclear emergency events, upkeep of response facilities, and development of procedures. Most importantly, the NEPS maintains highly trained staff drawn from throughout the Department ready to initiate, at a moment's notice, an effective response to a nuclear power plant emergency affecting New Jersey.

The Nuclear Threat Response Section maintains the Continuous Radiological Environmental Surveillance and Telemetry System (CREST), which provides continuous environmental radiation data from the environs of the nuclear reactors in the state. The NTRS is responsible for evaluating and assessing policies, procedures and recommendations from federal and state agencies and applying them to state radiological response plans.

The goal of the Bureau of Radiological Health (BRH) is to improve the quality of life by protecting the public and radiation workers from unnecessary exposure to ionizing radiation from machine sources and reducing medical misdiagnosis caused by faulty x-ray equipment and operator error. The Bureau consists of three sections.

The Machine Source Section administers New Jersey's program to register and inspect all x-ray equipment within the state.

The Technologist Certification Section administers New Jersey's educational and licensure program for radiologic technologists.

The Mammography Section has a contract with the Food and Drug Administration to inspect the mammography facilities in New Jersey.

Possible Life Extension for the Oyster Creek Nuclear Power Plant



The Oyster Creek Site vice president personally filed the application for a license renewal for Oyster Creek on July 22, 2005, at the NRC offices in Rockville, MD. The current operating license for Oyster Creek expires in April 2009. If the application for renewal is approved, the plant's operating license could be extended up to 20 additional years.

Filing the application set in motion an intensive review by both the Department and the NRC. The NRC has handled 35 license renewal applications, approving all of them, but this is the first for a New Jersey nuclear power plant.

The BNE began identifying long-standing issues with Oyster Creek. These issues were shared with AmerGen, the plant's owner, the NRC and with the public through the Department's Web site.

The BNE is participating in the various NRC audits, reviews and inspections that began in September 2005 and will continue well into 2006. The Department participated in the NRC Environmental Scoping process for license renewal, which centered on two aspects, radiological and environmental issues. Radiological issues include effluent monitoring and reporting, along with radiological waste shipping and processing, and plant chemistry. A walking tour of the various monitored (and potentially monitored) release points, hazardous waste collection stations and the radiological chemistry laboratory was provided by members of the AmerGen Plant Chemistry Department.



The environmental issues centered on sampling in the environment, intake and discharge structures, turtle take/capture, dredging activities in the canals and meteorological monitoring. A tour of the intake/discharge structure, Finningers Farm, and a

boat tour of the intake and discharge canal, along with the Forked River and Barnegat Bay, allowed members of the audit team to observe these locations around the plant.

Outreach Initiative With New Jersey Dentists



The BRH contacted all of its nearly 5,000 dental facilities by mail on April 29, 2005, advising them of a new outreach effort aimed at reducing patient radiation exposure from x-rays taken during routine intra-oral dental exams.

The BRH outreach effort has provided over 3,900 dental facilities with post inspection reports on 11,600 machines that detail the patient radiation exposure level measured at each dental x-ray machine. This report categorizes the radiation exposure at each machine into one of four levels: low, average, high or extremely high. Additionally, the radiation exposure of each machine is compared to that of all New Jersey dental facilities using the same speed dental film. Finally, the letter provides guidance on the factors that affect x-ray machine radiation exposure levels and encourages facilities that are found to have high or extremely high levels to take voluntary actions to reduce their radiation exposure levels.

The Bureau met previously with officials from the New Jersey Dental Association, and has written to the New Jersey Dental Hygienist and Dental Assistant Associations who have all responded favorably to this initiative.

Through this initiative, the Bureau hopes to reduce radiation exposures of patients who receive dental x-rays. Similar approaches in medical diagnostic radiography reduced patient radiation exposure 34 to 62 percent.

BRH Recognized for Its Diagnostic X-ray Quality Assurance Program

BRH's Diagnostic X-ray Quality Assurance Program was recognized as being among the top 25 percent of more than 1,000 applications received for this year's Innovations in American Government Award sponsored by the Ash Institute for Democratic Governance and Innovation. The Institute strives to recognize and promote excellence and creativity in the public sector. Through the Institute's annual awards competition, concrete evidence is provided that government can work to improve the quality of life for its citizens and that it deserves greater public trust. Each year, the Innovations in American Government Awards Program offers \$100,000 grants to five creative and effective government initiatives.



Although not selected as a finalist, BRH was recognized for implementing diagnostic x-ray quality assurance regulations that in just three years has helped reduce patient x-ray exposure 34 to 62 percent depending on the medical study being performed. These reductions were realized while simultaneously improving medical x-ray image quality by 22 percent.

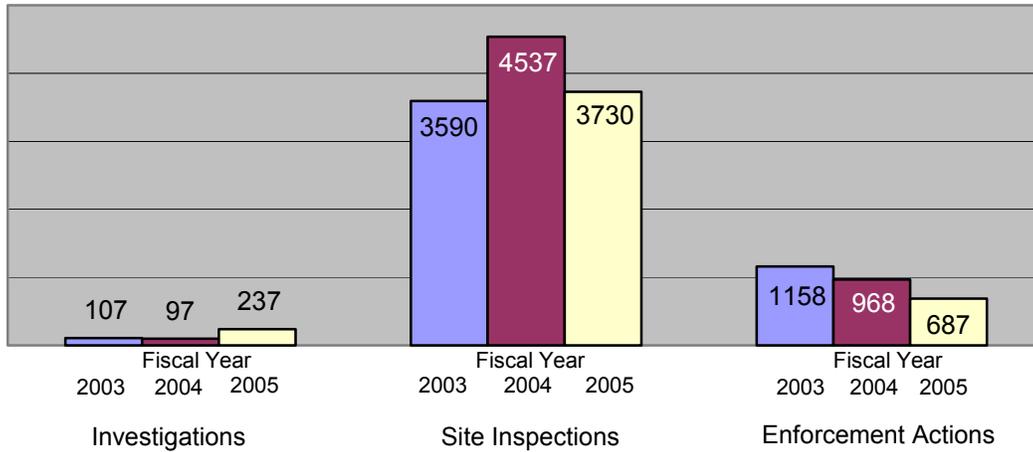
Computed Tomography Dose Standardization Project



BRH met with 24 New Jersey certified medical physicists and physicist assistants in November 2004 in an effort to unify the method to measure and format to report Computed Tomography (CT) patient radiation dose in New Jersey. CT is an extremely beneficial medical diagnostic tool that has steadily increased in use for detecting cancer and other medical abnormalities. However, CT delivers a high radiation dose to the patient (equivalent to approximately 100 chest x-rays). In addition, the numerous methods used by medical physicists to measure and report CT doses make it

difficult to compare patient delivered doses between facilities. By establishing a single acceptable protocol for measuring CT doses, BRH can establish statewide averages of CT doses for three most common medical studies: adult head, adult abdomen and pediatric abdomen CT scans. The Bureau will then report these averages to facilities so that they can compare their CT dose measurements to these averages, investigate any unusually high averages and take corrective actions to lower the patient dose.

Summary of Radiation Protection Enforcement Activities



RELEASE PREVENTION HIGHLIGHTS

The Bureau of Release Prevention provides assistance to New Jersey facilities that are required, under the Spill Compensation and Control Act, to develop Discharge Prevention, Containment and Countermeasures (DPCC) and Discharge Cleanup and Removal (DCR) plans. The Bureau also is home to the Toxic Catastrophe Protection Act (TCPA) program, which assists and supports owners or operators that handle, use, manufacture, store or have the capability of generating an extraordinarily hazardous substance at certain specified quantities. The program verifies that these facilities comply with state and federal accidental release prevention requirements. The DPCC Program has a total staff of 18; the TCPA Program has a total staff of 9.

DPCC PROGRAM

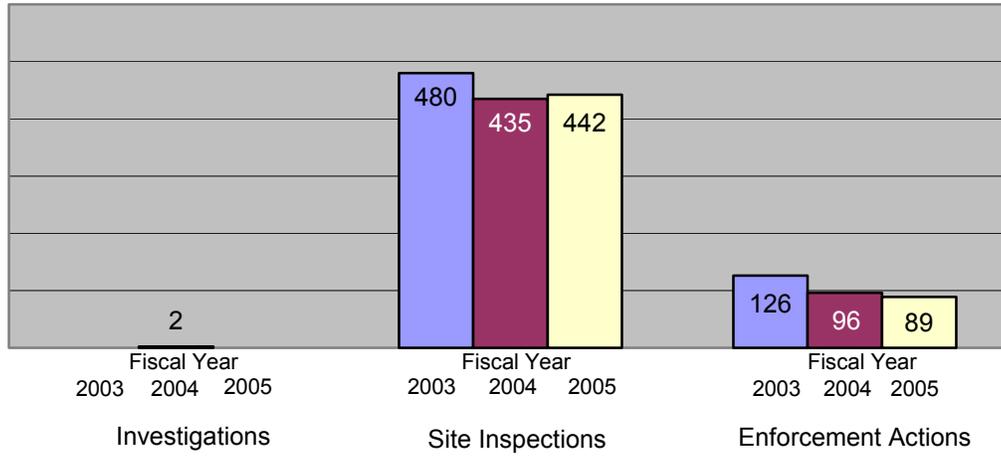
Based on data available in FACITS, the Discharge Prevention program has been inspecting facilities that may be major². So far, these inspections have resulted in the discovery of 15 major facilities that had not prepared and submitted the required DPCC/DCR plans. The program is working with these facilities to determine their compliance options, and they are all expected to be in compliance by the end of 2005.

The Discharge Prevention program continues to provide compliance assistance and compliance confirmation to its entire regulated community. Program staff performed compliance evaluations at all regulated major facilities. A total of more than 280 site visits were conducted.

Coordination with EPA Region 2 has continued and been expanded during the past year. Staff members from the Discharge Prevention program have participated in seminars held by Region 2 on the Facility Response Plan (FRP) program. In New Jersey, the FRP and Discharge Prevention programs overlap. Efforts are continuing to coordinate actions at these jointly regulated facilities.

² Facilities in New Jersey that have a total combined storage capacity of 200,000 gallons or more of hazardous substances, including petroleum products, or 20,000 gallons or more of hazardous substances other than petroleum products are considered major facilities.

Summary of DPCC Enforcement Activities



Summary of TCPA Enforcement Activities



SITE REMEDIATION & WASTE MANAGEMENT ENFORCEMENT HIGHLIGHTS

The SRWM Program manages remediation activities for the Department through various SRWM bureaus. Remediation activities under the Department's oversight are conducted by responsible parties (RPs) or, absent a responsible party, are publicly funded. RP sites include regulated underground storage tanks, industrial sites governed under the Industrial Site Recovery Act (ISRA) legislation and individual homeowner tank cases, among others. Superfund sites include both publicly funded and RP cases and are jointly managed by the Department and EPA.

Priorities

During the past year the SRWM Program has increased by 80 percent its total number of enforcement actions taken. The dramatic surge is attributable to a new management focus to aggressively pursue remediation of contaminated sites, highlighted by the Department's "Times Up for Clean Up" Initiative and the Raritan River, Delaware River and Rahway River Initiatives. This has resulted in a 10-fold increase in the number of NOV's issued. This focus on NOV's reflects the implementation of standardized enforcement procedures and the assignment of additional enforcement staff in anticipation of the Department's proposed Grace Period Rules. The issuance of Spill Act directives, which are issued when the SRWM Program is prepared to expend public funds to remediate a site, increased by 50 percent. Many of these directives have resulted in parties agreeing to conduct remediation under an ACO, thus representing not only a successful enforcement action but cost avoidance as well.

Petty's Island Terminal, Pennsauken, Camden County, NJ

On August 18, 2005, the Department issued a Spill Act Directive to Citgo Petroleum Corporation, Charter Oil Company, Elf Asphalt and Koch Fuels, Inc. to cease a discharge of oil into the Delaware River. On May 24, 2005, the Department's Bureau of Emergency Response reported a seep of oil in the Delaware River that was emanating from old bulkheads located near the edge of Petty's Island. Booms were installed to contain the oil. The Directive required the respondents to conduct a remedial investigation to determine the source of the seep and to remediate it.



All the respondents, except Koch Fuels, Inc., are currently in oversight documents with the Department to address portions of Petty's Island in which they were owner and/or operators in the past. The parties are cooperating in efforts to address the discharge.

Former General Electric Site & Atlantic Metal Products Site, Springfield, Union County, NJ

On August 18, 2005, the Department issued Spill Act Directives to General Electric Company, Hamilton Electronics Corporation, Atlantic Metal Products, Inc. and the owners of the properties to stop ongoing contamination of the Rahway River and to address the contamination at the sites.

Utilizing funds from the Spill Compensation Fund, the City of Rahway installed a \$7 million water treatment system on the surface water intake its drinking water supply. A notification letter was also issued, stating that the companies are being held as responsible and therefore are required to reimburse the Spill Compensation Fund for the monies spent on the treatment system.

GAF, South Bound Brook, Somerset County, NJ

On July 12, 2005, the Department executed a Settlement Agreement with GAF, as part of GAF's bankruptcy proceedings, for the remediation of the currently abandoned manufacturing facility. The site will be remediated and redeveloped on behalf of GAF by Matzel and Mumford of South Bound Brook Urban Renewal, L.L.C. The redevelopment will include a municipal park and waterfront plaza. The Township has agreed to assume responsibility for the operation and maintenance of the site once the remediation is complete. The cost of the remediation is approximately \$5 million.

Hatco, Woodbridge Township, Middlesex County, NJ



On May 24, 2005, the Department executed an ACO with Weston and ACE Insurance Company for the remediation of the Site on behalf of W.R. Grace as part of W.R. Grace's bankruptcy proceedings.

The ACO, along with a settlement agreement among the parties involved, allowed monies to be released for the remediation of the site by the W.R. Grace Chapter 11 bankruptcy court. These monies would otherwise not be

available for the remediation. The estimated cost of the remediation required by the ACO is \$13.2 million.

Murphy Varnish, Newark, Essex County, NJ

The School Construction Program was initially considering the Murphy Varnish site as a potential location for a new elementary school. However, significant onsite contamination, combined with the high projected remediation costs, caused the site to be eliminated from further consideration. The site was determined to pose an immediate environmental concern due to the poor indoor air quality (contaminant concentrations 525 times acceptable exposure levels).

The Department issued a Spill Act directive and initiated negotiations with the RPs. To address the indoor air quality issues, operations ceased at the facility. During ACO negotiations a developer expressed interest in purchasing the site and executed a Remediation Agreement on May 12, 2005. A Remediation Agreement is similar to an ACO and allows the sale of an industrial establishment subject to ISRA to proceed prior to the completion of remediation. The RA commits the developer, R.T.P., L.L.C., to complete the remediation.



2004
Murphy Varnish Company
McWhorter Street
Photo from Glenn G. Geisheimer

Unexcelled Chemical, Cranbury Township, Middlesex County, NJ

This former munitions manufacturing facility was discovered during a preliminary assessment and site investigation conducted by the property owner, Cranbury Development Corp. Originally, Middlesex County was going to utilize the property for passive recreation purposes. The SRWM Program issued a Spill Act directive to all the RPs, including the U.S. Navy. On February 2, 2005, the property owner and Maxxam Group Inc., the corporate successor to Unexcelled Chemical, executed an ACO committing the parties to conduct the remediation of the site. The SRWM Program has already monitored the removal and disposal of significant amounts of explosive materials from the site at costs exceeding \$2 million.

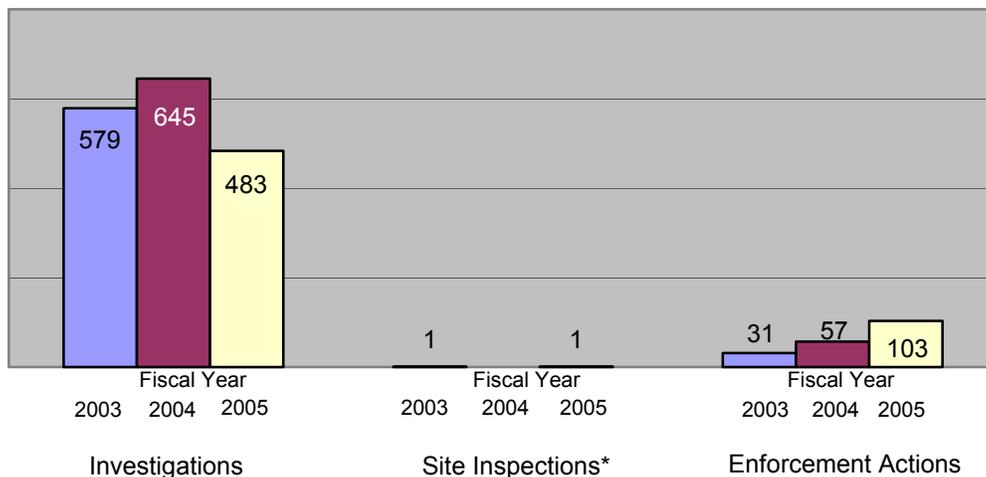
JIS Landfill, South Brunswick Township, Middlesex County, NJ

The SRWM Program has been providing oversight of the remedial investigation phase of cleanup at the JIS Landfill Superfund Site, pursuant to an ACO executed on June 19, 1997. However, the existing ACO with the RPs was only for the investigation of the site. It did not include the remedial action portion of the cleanup. On October 10, 2004, the Department executed a new ACO with nine RPs to implement a remedial action to address contaminated ground water. The estimated \$15 million cost of the cleanup represents cost savings to both EPA and the Department.

Supreme Petroleum Company of New Jersey, Inc., Chesilhurst, Camden County, NJ

Getty Properties Corp. entered into an ACO with the Department on June 10, 2004, agreeing to take over a remediation that was being conducted by the SRWM Program using public funds. This ACO requires that Getty Properties Corp. conduct a remedial action at the site. The ACO also includes payment of \$107,849 for natural resource damages, \$815,863 for past due oversight costs and \$70,000 to resolve a penalty associated with a violation of the Spill Compensation and Control Act. The ACO also requires that Getty Properties Corp. submit and maintain a remediation funding source in the amount of \$500,000.

Summary of SRWM Program Enforcement Activities



*SRWM evaluates compliance via the review of submittals which document remediation activities rather than via site inspections.

GLOBAL HIGHLIGHTS

Grace Period Rules

Pursuant to the Grace Period Law, the Department is required to designate, through rulemaking, certain types of violations of rules contained in 16 environmental statutes as minor or non-minor violations. Under the Grace Period Law, any person responsible for a minor violation is afforded a period of time by the Department to correct the violation. This period of time is known as a grace period. If the minor violation is corrected as required, then the Department will not assess a penalty. In those cases where a violation is not corrected within the grace period, the Department may pursue enforcement action in accordance with its statutory authority including, but not limited to, the assessment of penalties as may be appropriate within the exercise of the Department's traditional, judicially recognized enforcement discretion. The establishment of violations as minor or non-minor was a daunting task that required the review of each and every citation within the rules. Grace Period Rules were proposed for Water, Air, Solid Waste, Hazardous Waste, TCPA, CRTK and Site Remediation.

Data Miner Information

The Department is dedicated to making environmental information readily available while maintaining user confidence in the data.

DEP Data Miner is an online report portal in which you will find a variety of reports that provide up to the minute results. In order to provide flexibility, many of these reports require the user to enter some criteria, which will result in a customized document. C&E has produced and maintained 44 reports classified within four categories:



Inspections Completed -These reports display information about inspections that have been finalized by enforcement programs within C& E. Ten different reports within this category allow the user to search for inspections by program interest ID, county, municipality, enforcement program, site ID and date range. The user can also view general information and all requirements inspected for a specific inspection by running the Inspection Summary Report.

Enforcement Actions Issued -These reports display information on Enforcement Actions that have been issued by enforcement programs and have been received by the facility/responsible party. Ten different reports within this category allow the user to search for Enforcement Actions by program interest ID, county, municipality, enforcement program, site ID and date range.

Violations -These reports display all violations that have been observed by the enforcement programs and are included in Enforcement Actions. Seven different reports within this category allow the user to search for Enforcement Actions by program interest ID, county, municipality, enforcement program, site ID and date range.

Initiatives -Seventeen reports display information on Inspections and Enforcement Actions related to specific enforcement initiatives taken by the Department such as sweeps and the Waterways Enforcement Team inspections.

C&E reports are also located within the Community Access and What's New categories within Data Miner.