

State of New Jersey
Department of Environmental Protection
Division of Water Supply
Bureau of Safe Drinking Water

Report to the Governor
Status on the Implementation of
New Jersey's Capacity Development Program

September 2005

Richard J. Codey
Acting Governor

Bradley M. Campbell
Commissioner



State of New Jersey

Department of Environmental Protection
PO Box 402
Trenton, NJ 08625-0402

Bradley M. Campbell
Commissioner
Tel. # (609) 292-2885
Fax # (609) 292-7695

Richard J. Codey
Acting Governor

September, 2005

Dear Reader:

I am pleased to issue this report entitled "Status Report on the Implementation of New Jersey's Capacity Development Program" prepared by the New Jersey Department of Environmental Protection (NJDEP). The report provides an overview of the efficacy and progress of the NJDEP's Capacity Development Program towards improving the technical, managerial, and financial capacity of public water systems in the State. Furthermore, the report demonstrates that public water systems of New Jersey are now at a significantly higher level of compliance with the Federal and State Safe Drinking Water Act Regulations than at the time of the Program's inception in October 1999.

The information in this report describes the NJDEP's continuing efforts, whether through technical assistance or enforcement actions, to promote compliance and improve drinking water quality in New Jersey. If you have any questions concerning this report or would like additional information on the State's Safe Drinking Water Program, please contact the Division of Water Supply, Bureau of Safe Drinking Water at 609-292-5550.

At the NJDEP, we are delivering on our commitment to ensure that New Jersey's public water systems provide a safe and plentiful supply of drinking water to the residents of our State.

Sincerely,

A handwritten signature in black ink, appearing to read "B. M. Campbell".

Bradley M. Campbell
Commissioner

Table of Contents

<u>SECTION I</u>	Page
PROGRAM GOALS	4
INTRODUCTION	4
BACKGROUND – REGULATORY REQUIREMENTS	5
<u>SECTION II</u>	
IMPLEMENTATION – DESCRIPTION OF ACTIVITIES	6
<u>SECTION III</u>	
EVALUATION – PROGRESS OF PROGRAM	13
SUMMARY	19
APPENDIX A – GLOSSARY OF TERMS	21
APPENDIX B - SUMMARY STATUS – Strategy Lists of 2001 & 2004	23

SECTION I

Capacity Development Program Goals

The goals of the Capacity Development Program (the Program) are as follows:

- reduce or eliminate the number of existing public water systems in significant non-compliance with the Federal and State Safe Drinking Water Act Regulations;
- ensure that public water systems have adequate technical, managerial, and financial capacity to achieve and maintain compliance with the Federal and State Safe Drinking Water Act Regulations;
- prevent the formation and operation of any new water system (community and non-transient, non-community water systems) that may be non-viable; and
- provide public water systems with accurate, timely, and appropriate information in a straightforward manner to promote their compliance with the Federal and State Safe Drinking Water Act Regulations.

Introduction

In accordance with Section 1420(c)(3) of the Federal Safe Drinking Water Act Amendments of 1996, States must submit a report to the Governor on the efficacy of the State's Capacity Development Strategy and progress made towards improving the technical, managerial and financial capacity of public water systems. Under the Act, the report is due two years after the State first adopts its Strategy (September 2000) and every three years thereafter. The report must also be made available to the public.

The New Jersey Department of Environmental Protection (NJDEP) submitted its initial report to the Governor on September 27, 2002. This September 2005 Report is the NJDEP's second submission to the Governor regarding an evaluation of the efficacy of the State's Capacity Development Strategy. Please note that any support document referenced in this report is available upon request by contacting the NJDEP's Division of Water Supply, Bureau of Safe Drinking Water at 609-292-5550.

This report evaluates the extent to which the Program has been formulated and implemented consistent with the specific requirements and overall objectives of the Safe Drinking Water Act. This report also evaluates how the NJDEP is integrating the Capacity Development Program together with other Safe Drinking Water Act initiatives and drinking water programs. These initiatives include the participation of the County Environmental Health Act Agencies, the NJDEP's Enforcement Program's "Zero Tolerance Policy" and the Drinking Water State Revolving Fund – Small Water System Technical Assistance Program.

Background

The 1996 Amendments to the Federal Safe Drinking Water Act created a focus on enhancing and ensuring the technical, managerial, and financial capacity of public water systems to comply with the National Primary Drinking Water Regulations.

In accordance with Section 1420(a) of the Federal Safe Drinking Water Act, each state shall have the legal authority to ensure that new community water systems and new non-transient, non-community water systems demonstrate adequate technical, managerial, and financial capacity. In New Jersey, Assembly Bill No. 2615 was signed into law on August 2, 1999 (P.L.1999 Chapter 176). This legislation amended the New Jersey Safe Drinking Water Act (N.J.S.A. 58:12A) to give New Jersey explicit legal authority to require new community and new non-transient, non-community water systems to demonstrate capacity. Consequently, the regulations at N.J.A.C. 7:10-13 were adopted to establish the requirements regarding adequate technical, managerial, and financial capacity. The effective date of the regulations is the date of publication in the New Jersey Register (August 21, 2000). Commissioner Bradley M. Campbell readopted the regulations without changes related to these requirements on November 4, 2004. Prior to the effective date of these regulations, the NJDEP adopted an interim policy, effective October 1, 1999, to implement capacity requirements for new water systems. The regulations of N.J.A.C. 7:10-13 can be viewed at www.state.nj.us/dep/watersupply.

In accordance with Section 1420(c) of the Federal Safe Drinking Water Act, each state is required to develop and implement a strategy to assist existing systems in acquiring and maintaining capacity. The United States Environmental Protection Agency (USEPA) approved New Jersey's Capacity Development Strategy on September 28, 2000. Since its approval, New Jersey has been implementing its capacity development strategy. This strategy can be viewed at www.state.nj.us/dep/watersupply/capdevprog.htm.

The Drinking Water State Revolving Fund (DWSRF) serves as the primary source of funding for implementing the NJDEP's capacity development strategy. The NJDEP is allowed to set aside up to 10% of each capitalization grant for State program management activities, which includes funding the Capacity Development Program. In addition, the NJDEP is allowed to set aside 2% of each capitalization grant for small water system technical assistance and 15% of each capitalization grant for activities to assist development and/or implementation of source water protection, well head protection, and capacity development. Although the DWSRF provides the NJDEP with financial support to establish and implement capacity development programs, the USEPA can withhold funds for not meeting required deadlines.

States failing to comply with any provision of Section 1420 of the Federal Safe Drinking Water Act were subject to lose up to 10% of the DWSRF monies in fiscal year 2001, 15% in fiscal year 2002, and 20% in each fiscal year thereafter. The failure to issue the Capacity Development Program Report to the Governor by September 30, 2005, as required by Section 1420(c)(3) of the Federal Safe Drinking Water Act, will result in a 20% withholding from the State's DWSRF allotment.

To date, the USEPA has not withheld any DWSRF monies and has routinely approved NJDEP's annual workplans and budgets regarding the intended use of funding. Also, the USEPA has formally established, as part of the grant award process, that the NJDEP continues to implement a fully functional New Systems Capacity Program and Capacity Development Strategy as demonstrated and set forth in various reporting requirements, such as the Intended Use Plan and ongoing implementation reports.

SECTION II

Implementation – Description of Activities

This section will review the activities conducted to date in implementing the Capacity Development Program.

- a. Section 1420(b)(1) of the Federal Safe Drinking Water Act requires that the NJDEP periodically (every 3 years) submit to the USEPA a report of community water systems and non-transient, non-community water systems with a history of significant non-compliance (SNC). The first report was due by August 6, 1997. The following is a summary of this ongoing effort:
 - July 30, 1997, the NJDEP submitted the first report containing 55 community water systems and 92 non-community water systems for a total of 147 systems with a history of significant non-compliance.
 - August 1, 2000, the NJDEP submitted the second report containing 43 community and 67 non-community water systems for a total of 110 systems with a history of significant non-compliance.
 - July 30, 2003, the NJDEP submitted the third report containing 7 community and 21 non-community water systems for a total of 28 systems with a history of significant non-compliance.
- b. Section 1420(a) of the Federal Safe Drinking Water Act requires the NJDEP to obtain the legal authority to ensure that all new water systems demonstrate adequate capacity.

On August 2, 1999, the New Jersey Safe Drinking Water Act was amended at N.J.S.A. 58:12A-4c(5)(b) to give the NJDEP explicit authority to require new systems to demonstrate adequate technical, managerial, and financial capacity.

On September 20, 1999, the NJDEP submitted a plan to the USEPA for ensuring that new community and new non-transient, non-community water systems demonstrate adequate capacity. As part of the plan, New Jersey promulgated rules that were adopted on July 31, 2000 requiring technical, managerial, and financial capacity for new systems. These rules (N.J.A.C. 7:10-13) were published in the New Jersey Register on August 21, 2000. The operative date of the rule was the date of publication in the state register.

- c. Section 1420(c) of the Federal Safe Drinking Water Act requires that the NJDEP establish a capacity development strategy for all existing public water systems by October 2000.

On August 3, 2000, the NJDEP submitted to the USEPA the State's Capacity Development Strategy. The Strategy was approved by the USEPA on September 28, 2000.

- d. Section 1420(b)(2) of the Federal Safe Drinking Water Act requires the NJDEP to submit a report to the USEPA by August 6, 2001 that details the success of enforcement mechanisms and initial capacity development efforts in helping public water systems improve their technical, managerial, and financial capacity.

On August 2, 2001 the NJDEP submitted to the USEPA a report entitled "The Success of Enforcement Mechanisms and Initial Capacity Development Efforts in Helping Water Systems Having a History of Significant Non-Compliance". This report satisfied the requirements of Section 1420(b)(2) of the Federal Safe Drinking Water Act.

- e. In accordance with the approved Capacity Development Strategy, the NJDEP prepares periodic Strategy Lists that identify those public water systems requiring capacity development. The criteria used to identify and prioritize public water systems includes the following: population served, type of public water system, significant non-compliance status, maximum contaminant level violations, monitoring and reporting violations, formal enforcement actions, and inspection deficiencies. Using the aforementioned criteria, systems were ranked as low, medium, or high. Systems ranked "high" are recognized as not having adequate capacity and consequently, require capacity development.

- December 2001 – NJDEP prepared the first Strategy List entitled "Report on Strategy List of Public Water Systems" using data from the 18 month period of January 2000 through June 2001. The Strategy List identified 15 community water systems and 19 non-community water systems for a total of 34 systems requiring capacity development. Refer to Appendix B for a summary status of systems appearing on the 2001 Strategy List.
- February 2004 – NJDEP prepared the second Strategy List entitled "Report on Strategy List of Public Water Systems" using data from the 18 month period of January 2002 through June 2003. This Strategy List identified 6 community water systems and 11 non-community water systems for a total of 17 systems requiring capacity development. Refer to Appendix B for a summary status of systems appearing on the 2004 Strategy List.

- f. In accordance with the approved Capacity Development Strategy, the NJDEP performs capacity evaluations and provides technical assistance to promote the capacity of water systems ranked "high" on the Strategy List.

The water systems ranked "high" on the Strategy Lists receive a comprehensive capacity evaluation. Upon completion of their evaluation, each public water system receives a written report stating the findings and appropriate actions and/or recommendations necessary to achieve and maintain compliance. The appropriate technical assistance is provided to each public water system throughout the process of capacity development. In addition, the availability of low interest loans and/or grant monies are identified as resources to promote their compliance.

On March 5, 2004, the NJDEP executed a contract and "Notice to Proceed" with the New Jersey Water Association (a non-profit organization) to support the capacity evaluation and technical assistance processes for water systems ranked "high" on the Strategy List. This contract streamlined the capacity development process for existing systems by having the capacity evaluation performed and technical assistance provided by the same entity. In addition, this approach has helped to overcome resistance by some water systems to a State regulatory agency offering assistance. The NJDEP continues to provide coordination and assistance to both the New Jersey Water Association and to the water system, as needed.

The maximum obligation of this contract is \$100,000. To date, the NJDEP has authorized payment in the amount of approximately \$4,600 for services already rendered (other claims pending) and anticipates that New Jersey Water Association will assist approximately 15 additional water systems by March 2006, at which time the contract terminates (unless extended in duration). Another component of the contract involves the provision of providing engineering services (free of charge to the water system) for small water systems (serving less than 3,300 persons). The maximum obligation of this portion of the contract is \$200,000. This portion of the contract is under renewal as claims for engineering services have exhausted the maximum obligation.

Note: A recurring deficiency of the State Safe Drinking Water Act Regulations noted through working with smaller sized community water systems (< 10,000 population served), reviews of Standard Compliance Inspection, and comments received during workshops, was the lack of system-specific Operations Plans. To address this deficiency, the NJDEP developed an Operations Plan template for water systems to use as a model for their preparation of an Operations Plan. The template was made available on the NJDEP's Water Supply web page in January 2005, disseminated during ongoing continuing education workshops for licensed operators/water system owners, and utilized by the New Jersey Water Association as part of their technical assistance efforts.

- g. In accordance with the approved Capacity Development Strategy, the NJDEP provides public water systems with accurate, timely, and appropriate information to promote their compliance with the Safe Drinking Water Act Regulations.

In calendar year 1999, the NJDEP initiated a notable technical assistance effort to help public water systems comply with Federal and State Safe Drinking Water Act Regulations by preparing system specific monitoring schedules.

The following is a summary of this effort:

- Calendar years 1999, 2000, and 2001 - monitoring schedules were completed each year for approximately 600 community water systems.
- Calendar year 2002 - monitoring schedules were extended to include, for the first time, non-transient, non-community water systems (approximately 900 additional systems). Eighty percent (80%) of approximately 1500 total monitoring schedules were completed.
- Calendar year 2003 - ninety percent (90%) of approximately 1500 total monitoring schedules were completed.
- Calendar years 2004 and 2005 - one hundred percent (100%) of approximately 1500 total monitoring schedules were completed for community and non-transient, non-community water systems.

Note: Since implementation of the program activity for issuing system specific monitoring schedules, the NJDEP has received many written and verbal notes of appreciation from various community and non-transient, non-community water systems. Water systems recognized that this effort assisted them in complying with the monitoring and reporting requirements of the Federal and State Safe Drinking Water Act Regulations, and avoiding violations. The NJDEP views this activity of establishing system specific monitoring requirements as an essential task in promoting the compliance of public water systems.

In January 2003, the NJDEP initiated another notable technical assistance effort to promote compliance with the nitrate requirements of 40 CFR 141.23 (increased monitoring, and/or public notifications due to elevated concentrations of nitrate in the water supply). All incoming nitrate results for non-community water systems are reviewed by designated staff who in turn issue appropriate guidance to the water system in a timely manner. Written correspondence regarding maximum contaminant level violations, which include public notification requirements and increased monitoring requirements, and reduced monitoring requirements, are now issued on a regular basis to non-community water systems and to their contract laboratory. This effort has resulted in a marked decline in nitrate monitoring and reporting violations, and an increase in timely public notifications.

- h. In accordance with the approved Capacity Development Strategy, the NJDEP conducts presentations on the goals and processes of the Capacity Development Program.

The goals and process of the Capacity Development Program are thoroughly covered as part of continuing education seminars offered through Rutgers University and the New Jersey Water Association. Rutgers University has provided an annual two-day workshop each year to licensed operators and water system owners/managers since calendar year 2000.

In addition, similar presentations are periodically provided at courses sponsored by the New Jersey Water Association. The Capacity Development Program has also sponsored several workshops with county health agencies to review the requirements of the Capacity Development Program as they apply to new non-transient water systems. The continuing education seminars and workshops will continue to be provided.

- i. In accordance with the approved Capacity Development Strategy, the NJDEP prepared a baseline report to be used for measuring improvements in public water system capacity over time.

The report entitled "Report on Baseline Assessment of Public Water Systems for Calendar Year 1998" was prepared by the NJDEP in July 2001. Calendar year 1998 was selected to represent the baseline of systems since this timeframe preceded capacity development efforts.

- j. In accordance with the approved Capacity Development Strategy, the NJDEP prepared periodic assessment reports to be used as benchmarks for comparison and measuring improvements in public water system capacity.

- September 2002 – NJDEP prepared the report entitled "Report on Assessment of Public Water Systems for Calendar Year 2001". Calendar year 2001 was selected because it represented a full compliance year for comparison with the 1998 Baseline Report referenced above that was addressed in the first report to the Governor due September 30, 2002.
- August 2005 – NJDEP prepared the report entitled "Report on Assessment of Public Water Systems for Calendar Year 2004". Calendar year 2004 was selected because it represented a full compliance year for comparison with the 1998 Baseline Report and the Assessment Report for 2001. A comparison of all three reports is addressed as part of Section III of this report.

- k. The NJDEP's "Zero Tolerance Policy" is another initiative that supports the goals of the Capacity Development Program and has been effective in helping to reduce the number of public water systems in violation.

In January 1999 an enforcement initiative referred to as the "Zero Tolerance Policy" was implemented for safe drinking water monitoring and reporting violations. Under this policy, community water systems with any confirmed monitoring and reporting violations are issued formal enforcement actions with administrative penalties. This initiative has been effective in establishing a commitment from community water systems in meeting the requirements of the Safe Drinking Water Act Regulations.

On July 1, 2000 the "Zero Tolerance Policy" was expanded to include public non-community water systems in an effort to improve their level of compliance. The County Environmental Health Act (CEHA) agencies implement this enforcement effort at the county level and take mandatory enforcement actions and penalty assessments against any non-community water system with confirmed monitoring and reporting violations occurring after July 1, 2000.

The "Zero Tolerance Policy" has affirmed to public water systems their responsibility to comply with the Federal and State Safe Drinking Water Act Regulations. In addition, it establishes that their failure to comply with the regulations results in mandatory enforcement actions and penalties by CEHA agencies and the NJDEP. With the adoption of the "Zero Tolerance Policy", public water systems recognize the benefit of entering into a cooperative relationship with the NJDEP to improve their capacity and avoid formal enforcement actions and/or penalties.

- I. Three other NJDEP initiatives that support the goals of the Capacity Development Program are Violation Evaluation, Small Water System Technical Assistance Program, and the Operator Certification Program.

Violation Evaluation

- In January 2000, the NJDEP implemented a process to timely and individually evaluate monitoring and reporting violations generated by the automated compliance determination system. Monitoring and reporting violations are routinely evaluated through the combined efforts of the drinking water program, the enforcement program, and the delegated CEHA agencies.

The process involves a comprehensive review of system inventory and data verification for all public water systems to ascertain the accuracy and status of violations. In some instances, violations are deleted due to data error. Data error can result from systems that have undergone a classification change that altered their monitoring requirements, or have become inactive due to going out of business or connecting to another public water system. Through this effort, a more accurate inventory is being maintained and water system owners are being advised of the violation(s) in a more timely manner so that corrective measures can be taken by willing owners. This effort has yielded significant reductions in the number of public water systems listed as being in significant non-compliance as evidenced in Section III of this Report.

In June 2004, the NJDEP initiated the conversion of its automated compliance determination system to the Federal Safe Drinking Water Information System (SDWIS) software program. The SDWIS program was adopted by the USEPA for data management and violation reporting regarding public water systems in most states. The SDWIS program tracks sample results in greater detail and enables a more timely response to water quality issues (such as exceeded maximum contaminant levels and/or elevated contaminant concentrations).

The SDWIS program makes data available in real-time, rather than waiting on weekly updates, as required by the previous data management system. Maximum contaminant level violations are generated nightly and compliance reports for monitoring and reporting violations will be prepared quarterly (with the exception of total coliform monitoring for community water systems, which is generated monthly). Once a compliance report is run, candidate violations (whether maximum contaminant level or monitoring and reporting) are generated. The candidate violations must then be verified and authenticated. The SDWIS program, once fully operational, will greatly improve the NJDEP's violation response time and is expected to further reduce the number of systems with a history of significant non-compliance.

Technical Assistance - Contracted Services

- The 1996 Federal Safe Drinking Water Act Amendments provided the NJDEP with Drinking Water State Revolving Fund monies for small public water system technical assistance. The NJDEP recognizes that small water systems (serving less than 3,300 people) make up a large portion of systems in significant non-compliance. This category of public water systems typically does not have the resources and, more importantly, the expertise of larger systems to comply with the Federal and State Safe Drinking Water Act Regulations.

In July 2000, the NJDEP awarded a small water system technical assistance contract to the New Jersey Water Association. This contract includes training sessions to help small water systems understand Safe Drinking Water Act Regulations, and one-on-one onsite technical assistance for systems with compliance issues. Technical assistance is prioritized to those systems that are in significant non-compliance status or have persistent monitoring and reporting violations.

Operator Certification Program

- Effective October 2, 2000, the NJDEP adopted regulations, specifically N.J.A.C. 7:10A which established the rules governing the eligibility, examining, and licensing of persons as operators of Industrial Wastewater Treatment Systems, Public Wastewater Treatment Systems, Public Water Treatment Systems, Public Water Distribution Systems, and Public Non-Community Surface Water Systems. These regulations extended, as of October 1, 2003, licensed operator requirements to public community water systems which serve 100 or fewer dwellings and which do not use treatment, and to non-transient, non-community water systems that do not use surface water. Implementation of the Operator Certification regulations/program has established that public water systems must be under an appropriate licensed operator who is competent to ensure the operation and maintenance, and overall effectiveness of the water system.

SECTION III

Evaluation – Efficacy of the Capacity Development Program:

This section will review the progress in meeting the objectives of the Capacity Development Program. At this time, some compliance determination functions of the newly adopted federal SDWIS data management system are under development. Consequently, statewide monitoring and reporting compliance determinations for several parameters are incomplete for calendar year 2004. The findings of this Section, specifically Section III (b)(3), will be amended to reflect additional compliance determinations performed following a fully functional data management system. This update will be reflected in the August 2006 annual report for the Program.

a. Progress in Reviewing the Capacity of New Water Systems

Community Water Systems

To date, the NJDEP has added 32 new community water systems to its inventory of public water systems since the effective dates of the interim policy (October 1, 1999) and the subsequent new regulations at N.J.A.C. 7:10-13 (August 21, 2000).

Two (2) systems received a capacity evaluation under the Interim Policy and five (5) systems received an evaluation under the Regulations. The remaining twenty-five (25) systems did not meet the definition of a "new system", meaning that the water systems were not newly constructed or did not require an expansion of their infrastructure to become a community water system and consequently did not require a technical, managerial, and financial review.

Most new community water systems were a reclassification of an existing water system or the identification of a previously unregulated water system in existence prior to the effective date (August 21, 2000) of the Regulations. To date, no new community water system proposals have been denied approval based on technical, managerial, or financial capacity requirements. In addition, all new community water systems that were approved under the Capacity Development Program are presently in good standing and have not appeared as being in significant non-compliance nor demonstrated any other pattern of non-compliance based upon available information.

Non-Transient, Non-Community Water Systems

To date, the NJDEP has added 186 new non-transient, non-community water systems to its inventory of public water systems since the effective dates of the interim policy (October 1, 1999) and the subsequent regulations at N.J.A.C. 7:10-13 (August 21, 2000).

Thirty-seven (37) systems received a capacity evaluation under the Interim Policy and the regulations. The remaining 149 systems did not meet the definition of a "new system", meaning that the water systems were not newly constructed or did not require an expansion of their infrastructure to become a non-transient, non-community water system and consequently did not require a technical, managerial, and financial review.

Most new non-transient, non-community water systems were a reclassification of an existing water system or the identification of a previously unregulated water system in existence prior to the effective date of the regulations. To date, no new non-transient, non-community water system proposals have been denied approval based on technical, managerial, or financial capacity requirements. In addition, all new non-transient, non-community water systems that were approved under the Capacity Development Program are presently in good standing and have not appeared as being in significant non-compliance nor demonstrated any other pattern of non-compliance based upon available information.

The NJDEP initially had intermittent success in implementing the regulations for new non-transient, non-community water system through the County Environmental Health Act (CEHA) agencies. The process of performing capacity evaluations was not well documented by the CEHA agencies. Consequently, NJDEP began a concerted effort to improve the overall implementation of the Capacity Development Program and the approval of new non-transient, non-community water systems. This effort was initiated in August 2001 and required staff of the Capacity Development Program to visit each CEHA agency and provide training on the following: 1) performing technical, managerial, and financial evaluations in accordance with N.J.A.C. 7:10-13, and 2) reviewing the applicability of new water systems. NJDEP's success in implementing the requirements of the Capacity Development Program improved substantially during calendar years 2002 and 2003 and continues to improve as a result of this training initiative. CEHA agency representatives now have familiarity with the regulations and are more effective in performing applicability determinations.

b. Progress in Improving Capacity of Existing Water Systems

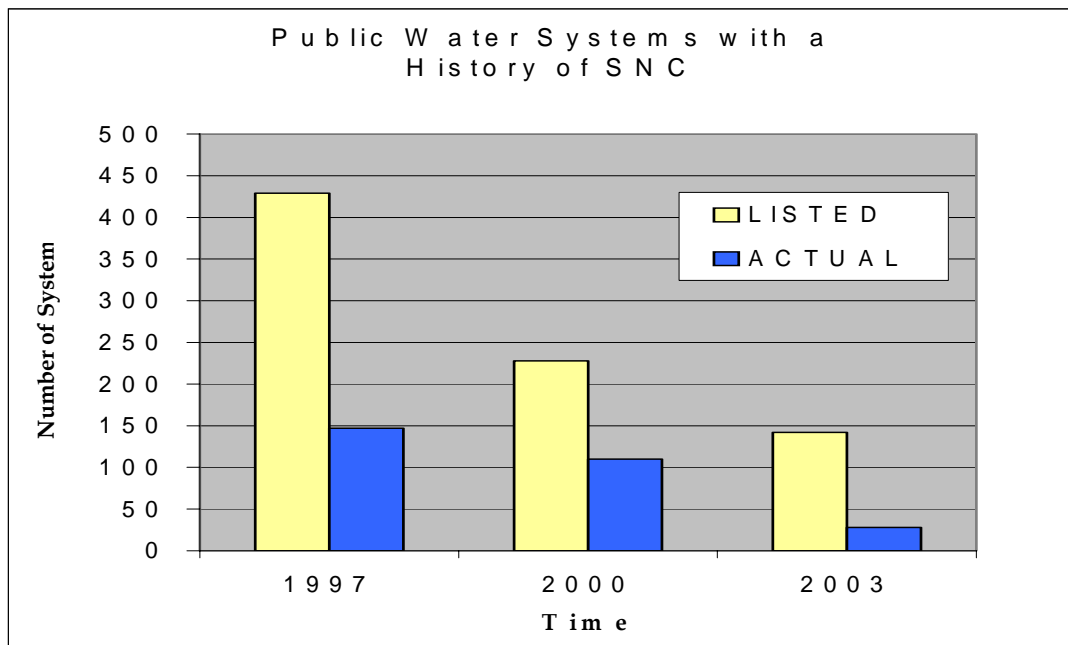
To evaluate and measure improvements with the capacity of existing public water systems the NJDEP compared the findings of the following three Capacity Development Program tasks as detailed in Section II of this Report:

1. History of Significant Non-Compliance Reports (1997, 2000, & 2003),
2. Strategy Lists (2001 & 2003), and
3. Baseline Report (1998) and subsequent Assessment Reports (2001 & 2004).

Comparison of History of Significant Non-Compliance Reports

A noteworthy observation from the comparison of the history of significant non-compliance reports is that there has been a significant reduction in the total number of public water systems with a history of significant non-compliance since the first report of 1997. The number of public water systems recorded for 1997 was 147 compared to 110 in 2000 and 28 in 2003.

The following chart highlights the reduction in the number of public water systems with a history of significant non-compliance between 1997, 2000, and 2003:



Note: The yellow bar depicts the number of systems with potential violations. The blue bar represents the number of systems with confirmed violations.

The number of public water systems with a history of significant non-compliance identified in 2003 represents a relatively small percentage of the total number of community water systems and non-transient non-community water systems in New Jersey. Out of a total of 1,521 systems, 1.9 percent (28 systems) have a confirmed history of SNC for 2003 compared to 7.2 percent in 2000 and 8.9 percent in 1997.

Comparison of Strategy Lists

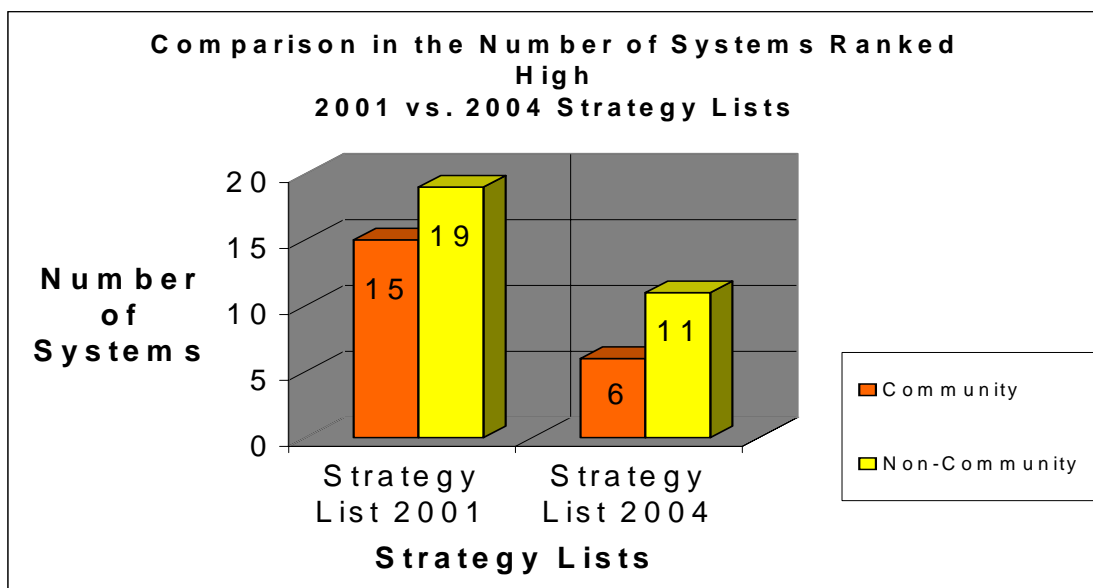
Strategy Lists are developed to identify those public water systems most in need of capacity development and to prioritize the Program's resources for performing capacity evaluations and providing assistance. The first strategy list was compiled in December 2001 from a review of the compliance status during the preceding 18-month timeframe from July 2000 – December 2001. The second strategy list was compiled in February 2004 from a review of the compliance status during the 18-month timeframe of January 2002 – July 2003.

The status of the water systems is assessed using the following criteria: population served, system type, significant non-compliance status, maximum contaminant level (MCL) violations, monitoring and reporting (M&R) violations, formal enforcement actions, and infrastructure deficiencies. Applying the listed criteria, systems are ranked as low, medium, or high. Systems ranked “high” are recognized as not having adequate capacity and consequently require capacity development.

The 2001 Strategy List indicated that of the 606 public community water systems reviewed, 15 systems were ranked as “high” priority, 53 were ranked as “medium” priority, and 135 were ranked as “low” priority. Of the 3,617 non-community water systems, 19 systems were ranked as “high” priority, 229 were ranked as “medium” priority, and 330 were ranked as “low” priority. The 2004 Strategy List indicated that of the 608 community water systems reviewed, 6 systems were ranked as “high” priority, 39 were ranked as “medium”, and 129 were ranked as “low”. Of the 3,442 non-community water systems reviewed, 11 systems were ranked as “high” priority, 170 were ranked as “medium”, and 272 were ranked as “low”.

The comparison of the 2001 and the 2004 Strategy Lists shows a marked reduction in the number of community water systems (from 15 to 6) and non-community water systems (from 19 to 11) that ranked “high”. It is important to note that the criteria used for preparation of the 2004 Strategy List was modified to be more restrictive specifically, MCL and M&R violations were weighted differently such that a system would be assigned additional points as the number of violations (multiples of 3) increased. Also, four (4) of the six (6) community water systems on the 2004 Strategy List are carryovers from the 2001 Strategy List. Therefore, the number of new systems ranked high on the 2004 Strategy List is even lower.

The following chart illustrates the difference in the number of systems ranked “high” between the Strategy Lists of 2001 and 2004:



Comparison of the Baseline Report to Assessment Reports

OBSERVATION #1 – Reduction of public water systems in SNC

The Baseline Report of 1998 was compared with similarly prepared assessment reports for calendar years 2001 and 2004. This comparison indicates that there has been a significant reduction in the total number of water systems in significant non-compliance (SNC) between calendar years 1998, 2001, and 2004. The number of water systems recorded for 1998 was 77 (26 community water systems and 51 non-community water systems), compared to 39 (4 community water systems and 35 non-community water systems) in 2001, and 66 (2 community water systems and 64 non-community water systems) in 2004.

Note: The number of water systems indicated as being in SNC for 2004 are candidate SNCs established by the NJDEP that have yet to be verified. The number of systems in SNC was established based upon the NJDEP's application of Federal SNC definitions and criteria and does not represent a formal determination by the USEPA. Based upon prior experience candidate SNCs can be reduced by as much as 50 percent following the violation validation process as reflected in the difference between "Listed" and "Actual" SNCs in the chart on page 15 of this report.

A current report reflecting systems in SNC through December 2004 was not available at the time of this writing. Typically, the USEPA provides quarterly SNC reports to the NJDEP but has not been able to do so since April 6, 2004. This delay in obtaining an updated SNC report is attributed to the NJDEP's on-going conversion of its data management system to the new Federal system (SDWIS) which is expected to be fully functional by December 2005.

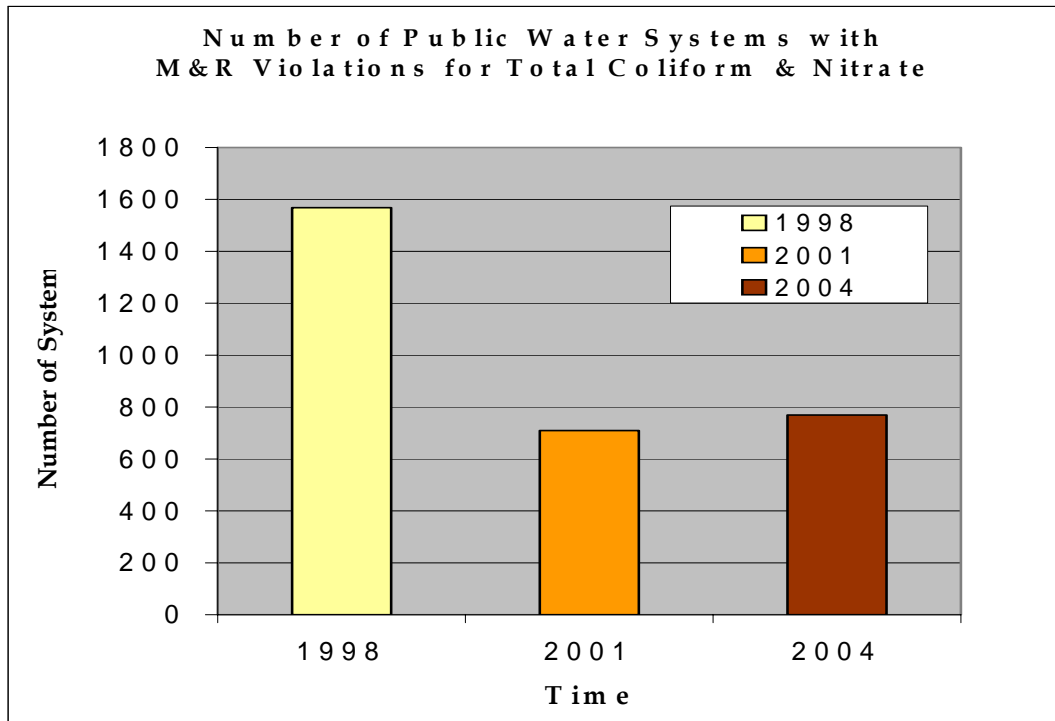
It is also important to note that any systems identified in previous SNC reports are no longer in SNC either due to data error or a return to compliance. Previous systems in SNC were taken from two documents entitled "Significant Non-Compliance Management Report" prepared by the USEPA. The first SNC report is dated October 30, 2003 and the second SNC report is dated April 6, 2004 and covers systems in SNC through March 2004.

OBSERVATION #2 – Reduction of public water systems with monitoring and reporting violations

The comparison of the Baseline Report with the subsequent assessment reports also indicates that there has been significant success in reducing the number of public water systems with monitoring and reporting violations between calendar year 1998 and subsequent assessment years of 2001 and 2004.

The number of public water systems with monitoring and reporting violations in 1998 was 1,568, compared to 710 in 2001, and 770 in 2004. Over the six year span from 1998 to 2004 there was a 50 percent reduction of public water systems with monitoring and reporting violations.

The following chart illustrates the number of public water systems with monitoring and reporting violations recorded for calendar years 1998, 2001, and 2004:

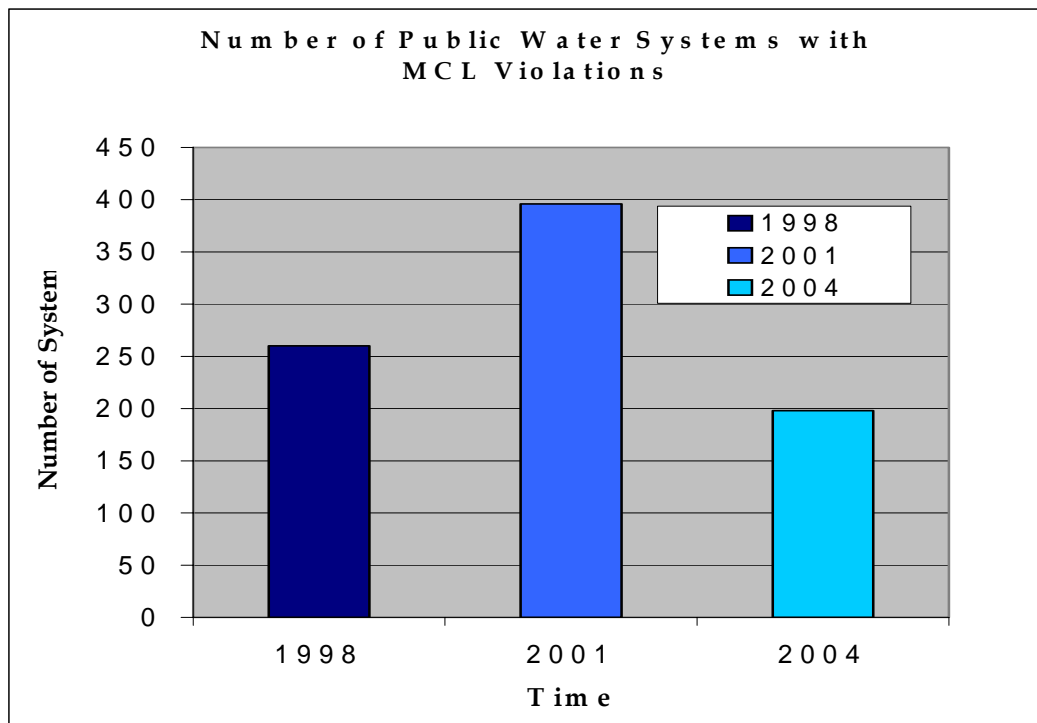


Note: The number of violations depicted for calendar years 1998, 2001, and 2004 represents valid monitoring and reporting violations for Total Coliform and Nitrate only. Other monitoring and reporting compliance data for 2004 was not available at this time due to the NJDEP's ongoing conversion of its data management system to the new federal Safe Drinking Water Information System. Consequently, only violations for Total Coliform, and Nitrate were included in this comparison. The status of monitoring and reporting violations for calendar year 2004 will be amended after obtaining valid monitoring information for the remaining parameter groups, such as inorganics, volatile organic compounds, synthetic organic compounds, and radionuclides. This update and revised comparison against calendar years 1998 and 2001 will be reflected in the next annual report for the Capacity Development Program due August 15, 2006.

OBSERVATION #3 – Improved quality of water supplied by public water systems

In addition, this comparison indicates that there has been an overall improvement in water quality as demonstrated by a comparison of public water systems with maximum contaminant level (MCL) violations. Specifically, the number of public water systems with MCL violations of the Safe Drinking Water Act standards in 1998 was 260, compared to 396 in 2001, compared to 198 in 2004.

The following chart illustrates the number of public water systems with MCL violations recorded for calendar years 1998, 2001, and 2004:



Note: The number of violations depicted for calendar years 1998, 2001, and 2004 represents valid MCL violations for the following parameters: Total Coliform, Nitrate, Inorganics, Volatile Organic Compounds, Synthetic Organic Compounds, and Radionuclides as the NJDEP's newly adopted data management system is fully functional and accurate for this information.

A public water system which incurs a MCL violation can still be in compliance with the regulations as long as the violation is addressed within one year of the violation date, in accordance with New Jersey's Safe Drinking Water Act Regulations, N.J.A.C. 7:10-5.7. Typically a public water system addresses a MCL violation by providing treatment to remove the contaminant. Other approved corrective actions include: connecting to another public water system, replacing the existing source of water with a new source which meets all drinking water standards, or demonstrating with analytical results that their current source of water no longer exceeds the MCL.

SUMMARY

The NJDEP attributes the observed improvement in public water system compliance, as demonstrated in Section III of this Report, in part to the successful implementation of the efforts and mechanisms established under the Capacity Development Program and the coordination of activities under the NJDEP's Enforcement Program, Small Water System Technical Assistance Program, and Operator Certification Program.

The NJDEP's Capacity Development Program is making significant progress in addressing non-compliance and promoting the technical, managerial, and financial capacity of public water systems in the State. The NJDEP anticipates that the collective efforts detailed in this Report will continue to promote compliance with the Federal and State Safe Drinking Water Act Regulations and reduce the number of public water systems with violations.

The significant elements that have brought about a higher level of compliance are:

- Technical Assistance
 - contracted services (New Jersey Water Association)
 - by the NJDEP (Capacity Development & Small Water System Assistance Programs)
- NJDEP's "Zero Tolerance Policy"
- Violation Evaluation
 - improved data management
 - maintenance of an accurate inventory of systems and the status/appropriateness of violations.
- Monitoring Schedules – providing schedules to water systems
- Implementing the activities of the Capacity Development Strategy
- Operator Certification Program (extended to small community water systems and non-transient, non-community water systems)

The NJDEP will continue to strengthen its Capacity Development Program. Some considerations for improving the managerial and financial aspects of the Capacity Development Program are:

1. Provide additional training to system owners/operators on asset management, operating a water system, and other managerial and financial aspects;
2. Establish services with certified public accountants to conduct financial evaluations and develop water system budgets and financial plans; and
3. Establish services with appropriate entities to perform asset evaluations at water systems and develop ongoing asset management plans.

In addition, the Capacity Development Program will undertake a more direct approach to promoting the compliance of transient water systems. In this regard, the Program will sponsor additional workshops specifically targeting the owners/operators of transient water systems. It is anticipated that this training/educational opportunity will help to reduce the higher incidence of monitoring and reporting violations among transient water systems.

APPENDIX A

Glossary of Terms

Capacity Development Terms

Capacity: is the ability to plan for, achieve, and maintain compliance with the Federal and State Safe Drinking Water Act Regulations and the ability to reliably produce and deliver water meeting all applicable drinking water standards. Capacity is measured by evaluating the technical, managerial, and financial capabilities of the water system.

Technical Capacity: refers to the adequacy, operation, and maintenance of a water system's infrastructure (infrastructure includes the source water, treatment, storage and distribution network of the water system). Technical Capacity also refers to the ability of qualified personnel to properly operate and maintain the system.

Managerial Capacity: refers to the expertise required of the personnel who administer the overall water system operations. This type of capacity also refers to the system's demonstration of clear ownership, proper organized staffing, and effective interaction with regulators and customers.

Financial Capacity: refers to the monetary resources available to a public water system to support the cost of operating, maintaining, and improving the water system. This type of capacity also refers to the demonstration of sufficient revenues, credit worthiness and fiscal management controls.

Capacity Development: is the process directed by the NJDEP through which water systems can improve their technical, managerial, and financial capacity to ensure compliance with current and future Safe Drinking Water Act Regulations.

New Water System: includes both community water and non-transient, non-community water systems being newly constructed, as well as systems which do not currently meet the definition of a public water system but expand their infrastructure (new sources of water, additional buildings) to become a community or a non-transient, non-community water system.

System Classification Terms

Public Water System: is a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. A public water system is either a community water system or a non-community water system. Non-community water systems are classified as either a non-transient or transient water systems.

Community Water System: is a public water system that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

Non-Transient, Non-Community Water System: is a public water system that regularly serves at least 25 of the same persons per day more than six months in any given calendar year. Examples are schools, factories, offices, industrial parks, and major shopping centers.

Transient, Non-Community Water System: is a public water systems that serves at least 25 transient persons for at least 60 days in any given calendar year. Examples are restaurants, campgrounds, and hotels.

Nonpublic Water System: is a water system that regularly serves fewer than 15 service connections or 25 individuals.

Significant Non-Compliance: is a term used to define a water system that has violated one or more National Primary Drinking Water Act Regulations over an extended period of more than one monitoring period.

History of Significant Non-Compliance: is a term used to define a system that has been in significant non-compliance status for 3 or more quarters during a 3-year period.

APPENDIX B

CAPACITY DEVELOPMENT PROGRAM

Strategy List 2001 - Summary Status

Community Water Systems

Fifteen (15) community water systems ranked "high" on the 2001 Strategy List. Of these, ten (10) systems required a technical, managerial, and financial (TMF) evaluation, five (5) of which subsequently acquired TMF capacity and achieved full compliance, and five (5) of which have not achieved full compliance and are receiving ongoing assistance. Three (3) systems were returned to compliance as a result of the violation validation process and have since maintained compliance. Two (2) systems underwent a change in ownership; one (1) system acquired TMF capacity and achieved compliance, and one (1) system has not achieved full compliance and is receiving ongoing assistance.

To date, nine (9) of the fifteen (15) community water systems that ranked "high" on the 2001 Strategy List, or 60%, have achieved full compliance with the Safe Drinking Water Act Regulations. The remaining water systems are receiving ongoing assistance to promote their compliance.

Non-Community Water Systems

Nineteen (19) non-community water systems ranked "high" on the 2001 Strategy List. Of these, six (6) systems were deactivated due to connecting to community water systems and discontinuing use of their water supply, or due to a reclassification as a non-public water system and no longer being subject to the Safe Drinking Water Act Regulations. Eight (8) systems were returned to compliance as a result of the violation validation process and have since maintained compliance. Three (3) systems required a full TMF evaluation and subsequently acquired TMF capacity and achieved compliance. The two (2) remaining systems did not participate in the Capacity Development Program. One of the two systems was referred to the Camden County Health Department for enforcement actions and subsequently returned to compliance; the other recalcitrant system was referred to the Northern Bureau of Enforcement for enforcement actions to establish compliance.

To date, twelve (12) of the thirteen (13) active non-community water systems that ranked "high" on the 2001 Strategy List, or 92%, are in full compliance with the Federal and State Safe Drinking Water Act Regulations.

This summary demonstrates that the Capacity Development Program has been an effective tool in assisting public water systems in achieving compliance with the Safe Drinking Water Act Regulations. The Program clearly serves as an additional resource for water systems to utilize to receive the assistance and one-on-one attention not afforded by other NJDEP programs.

APPENDIX B

CAPACITY DEVELOPMENT PROGRAM

Strategy List 2004 - Summary Status

Community Water Systems

Six (6) community water systems ranked "high" on the 2004 Strategy List. Of these, four (4) systems are carryovers (reoccurring) from the 2001 Strategy List, one (1) of which has since acquired TMF capacity and achieved full compliance, and three (3) of which have not achieved full compliance and continue to receive ongoing assistance. Two (2) systems are new to the 2004 Strategy List, one of which is undergoing acquisition under the NJ Small Water System Takeover Act and the other which is under contract to connect to another community water system. TMF evaluations of these two systems are pending based on the status of their takeover/acquisition.

Eleven (11) non-community water systems ranked "high" on the 2004 Strategy List. Of these, one (1) system is expected to connect to a community water system as a result of offsite contamination impacts on their source water quality. Two (2) systems addressed historical violations, returned to compliance, and have since maintained compliance. The remaining eight (8) systems have ongoing TMF evaluations/technical assistance to be provided under contract with New Jersey Water Association.