

2009 ANNUAL REPORT

OF THE

CLEAN WATER ENFORCEMENT ACT

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

Calendar Year 2009



New Jersey Department of Environmental Protection

**2009 ANNUAL REPORT
OF THE
CLEAN WATER ENFORCEMENT ACT**

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

**Chris Christie
GOVERNOR**

**Bob Martin
COMMISSIONER**

Report Compiled By:

**STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
WATER COMPLIANCE AND ENFORCEMENT**

**Mail Code 401-04B
P.O. BOX 420
TRENTON, NEW JERSEY 08625-0420
(609) 984-5855**

PRINTED ON RECYCLED PAPER

ACKNOWLEDGEMENTS

The New Jersey Department of Environmental Protection would like to thank various individuals and agencies listed below for their contributions to the *2009 Annual Report of the Clean Water Enforcement Act*.

The New Jersey Department of Environmental Protection's Water Compliance and Enforcement Element, under the direction of Wolfgang Skacel, Assistant Commissioner, Compliance and Enforcement, oversaw the preparation of this report.

NJ Department of Environmental Protection - Compliance and Enforcement

Wolfgang Skacel, Assistant Commissioner
James K. Hamilton, Administrator, Water Compliance and Enforcement
John Olko, Water Compliance and Enforcement, Office of the Administrator
Charles Maack, Water Compliance and Enforcement, Central Field Office
James Genovese, Water Compliance and Enforcement, Central Field Office
Jeff Hoffman, Water Compliance and Enforcement, Central Field Office
Lynne Johnson, Water Compliance and Enforcement, Central Field Office
Richard Paull, Water Compliance and Enforcement, Northern Field Office
Stefan Sedlak, Water Compliance and Enforcement, Northern Field Office
Donald Hirsch, Water Compliance and Enforcement, Northern Field Office
Isabel Boho, Water Compliance and Enforcement, Northern Field Office
Joan Rogauskas, Water Compliance and Enforcement, Northern Field Office
Janet Budesca-Carroll, Water Compliance and Enforcement, Northern Field Office
Edward Post, Water Compliance and Enforcement, Southern Field Office
Michael Pagano, Water Compliance and Enforcement, Southern Field Office
Mary Simpson, Water Compliance and Enforcement, Southern Field Office
Eleanor LoSasso, Water Compliance and Enforcement, Southern Field Office

NJ Department of Environmental Protection – Water Resource Management

John Plonski, Assistant Commissioner
Jeff Reading, Assistant Director, Division of Water Quality
Mary Jo Aiello, Bureau of Pretreatment and Residuals
James Murphy, Bureau of Pretreatment and Residuals
Valentin Kouame, Bureau of Pretreatment and Residuals
Julio Collazo, Bureau of Permit Management
Barry Chalofsky, Bureau of Nonpoint Pollution Control
Pilar Patterson, Bureau of Surface Water Permitting

NJ Department of Environmental Protection - Environmental Regulation

Nancy Wittenberg, Assistant Commissioner

NJ Department of Environmental Protection – Water Monitoring and Standards

Leslie McGeorge, Administrator, Water Monitoring and Standards
Sandra Cohen, Water Monitoring and Standards
Debra Hammond, Water Monitoring and Standards

NJ Department of Environmental Protection - Management and Budget

Dave Barth, Budget and Finance Director
Michael Vrancik, Manager, Fiscal Operations
Peter Daly, Controller, Fiscal Operations

NJ Department of Law and Public Safety

Edward Bonanno, Division of Criminal Justice, Environmental Crimes Unit

Delegated Local Agencies

Bayshore Regional S.A.	Bergen County U.A.
Camden County M.U.A.	Cumberland County U.A.
Ewing-Lawrence S. A.	Gloucester County U.A.
Hanover S.A.	
Joint Meeting of Essex and Union Counties	Linden-Roselle S.A.
Middlesex County U.A.	Morris Township
Mount Holly M.U.A.	North Bergen M.U.A.
Northwest Bergen County U.A.	
Ocean County U.A.	Pequannock, Lincoln Park
Passaic Valley Sewerage Commissioners	Rahway Valley S.A.
Rockaway Valley Regional S.A.	Somerset-Raritan Valley S.A.
Stony Brook Regional S.A.	
Wayne Township	

Special thanks to John Olko, Office of the Administrator, Water Compliance and Enforcement and Rich Paull, Water Compliance and Enforcement, Northern Field Office for their support and assistance.

TABLE OF CONTENTS

EXECUTIVE SUMMARY	7
I. INTRODUCTION	11
II. PERMITTING	
A. DIVISION OF WATER QUALITY	12
B. NEW DEVELOPMENTS	18
III. ENFORCEMENT	
A. INTRODUCTION	22
B. INSPECTIONS	22
C. VIOLATIONS AND ENFORCEMENT ACTIONS	23
D. PENALTIES ASSESSED AND COLLECTED	27
IV. DELEGATED LOCAL AGENCIES	
A. INTRODUCTION	29
B. PERMITS	30
C. INSPECTIONS AND SAMPLINGS	31
D. VIOLATIONS	32
E. DLA ENFORCEMENT ACTIONS AND PENALTIES	35
F. LIST OF DELEGATED LOCAL AGENCIES (DLAs)	39
V. CRIMINAL ACTIONS	40
VI. FISCAL	
A. CWEA FUND SCHEDULE AND COST STATEMENT	42
VII. WATER QUALITY ASSESSMENT	44

LIST OF TABLES

TABLE II-1	REGULATED FACILITIES 2007-2009 _____	13
TABLE II-2	REGULATED DISCHARGES BY TYPE 2006-2009 _____	13
TABLE II-3	GENERAL PERMITS _____	14
TABLE II-4	PERMIT ACTIONS TAKEN BY THE DIVISION OF WATER QUALITY 2006-2009 _____	17
TABLE II-5	COMPARISON OF PERMIT ACTIONS 2006-2009 _____	18
TABLE IV-1	DLA PERMIT ACTIVITY SUMMARY 2009 _____	30
TABLE IV-2	DLA SUMMARY OF ALL PERMIT VIOLATIONS CY 2009 _____	32
TABLE IV-3	LIST OF IU'S THAT MET THE SNC CRITERIA _____	37
TABLE IV-4	SUMMARY OF DLA RESPONSES IN CWEA ANNUAL REPORTS _____	38
TABLE VI-1	CLEAN WATER ENFORCEMENT FUND SCHEDULE CY 2009 _____	42
TABLE VI-2	CLEAN WATER ENFORCEMENT COST STATEMENT CY2009 _____	43

LIST OF CHARTS

CHART III-1	SERIOUS VIOLATIONS 2005-2009_____	26
CHART III-2	PENALTIES COLLECTED 2005- 2009_____	28
CHART IV-1	NUMBER OF PERMITTEES REGULATED BY DLAs 1991-2009_____	31
CHART IV-2	EFFLUENT VIOLATIONS (DLA) 1991-2009_____	33
CHART IV-3	SIGNIFICANT NON-COMPLIERS AS REPORTED BY DLAs 1991-2009_____	34
CHART IV-4	PENALTY MONEY ASSESSED BY DLAs 1991-2009_____	36

LIST OF APPENDICES

APPENDIX III-A	NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION - SIGNIFICANT NONCOMPLIERS_____	45-50
----------------	---	-------

EXECUTIVE SUMMARY

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

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

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

Permitting

The Department's Division of Water Quality (DWQ) issues Discharge to Surface Water (DSW), Discharge to Groundwater (DGW), Stormwater discharges (DST), and Land Application of Residuals permits to regulate "discharges" of pollutants to the surface and ground waters of the State. The DWQ also issues Significant Indirect User ("SIU") permits that regulate the discharge of industrial wastewater into sewage treatment plants. The DWQ, at times, issues permits for "discharge types" rather than facilities, therefore a facility with more than one discharge type may have more than one permit. The number of permitted discharges regulated by the DWQ has been growing steadily over the past several years, mainly due to increased efforts to address backlogged applications in the ground water permits program and the permitting of previously exempt and/or unidentified facilities now requiring a stormwater discharge permit. The DWQ continues to issue permits to new facilities, while other facilities' permits are being terminated or not renewed. Most permit actions are for new general permit authorizations.

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

permits.

The Department's DWQ regulated 640 facilities that discharged to the surface waters of the State in 2009, as compared to the 660 facilities regulated in 2008. The Department also regulates facilities discharging to ground water and to POTWs, discharging stormwater only, or that handle, distribute or land apply residuals. These additional types of facilities that the Department also regulates are listed in this report as "Other". In 2009, the DWQ regulated 5,268 of these other facilities (either separately or combined with a DSW), as compared to the 5,057 regulated in 2008, an increase of 4 percent. The DWQ regulated a total of 5,649 facilities in 2009, compared with 5,451 facilities in 2008, an increase of 4 percent.

Since the Department issues permits for "discharge types" rather than facilities, a facility with more than one discharge type may have more than one permit. As of December 31, 2009, the Department permitted 6,320 discharge types for 5,649 facilities.

In 2009, the Department took 1316 formal permit actions, reflecting a 17.5 percent decrease in permit actions from 2008.

The Department issued 188 new permits and received no hearing requests on these actions. The Department also issued 888 permit renewals and received 6 hearing requests on these actions. The Department renewed permits for 23 DSW major facilities in 2009. Over the past few years, DWQ has focused its permitting resources on renewing major DSW permits.

For the Stormwater Permitting Program in 2009, 702 general permit renewal authorizations were issued, 6 Master General Permits were renewed, 3 Master General Permit modifications were issued, 119 new general permit authorizations were issued, 33 were modified, and 82 general permit authorizations were terminated. In addition, 4 new individual permits were issued, 33 were renewed, 6 were terminated, and 9 individual permit modifications were completed.

Enforcement

Inspections

The Department is required to inspect permitted facilities and municipal treatment works at least annually. Additional inspections are required when the permittee is identified as a significant noncomplier (SNC). The inspection requirement applies to all facilities except those that discharge only stormwater or non-contact cooling water and to those facilities which a DLA is required to inspect.

In 2009, the Department conducted 2860 facility inspections.

Violations

In 2009, the Department assessed penalties against 135 facilities for 955 violations of the WPCA. In comparison, in 1992 the Department assessed penalties against 300 facilities for 2,483 violations.

Serious Violations

In 2009, the Department identified and issued formal and informal enforcement actions for 271 serious effluent violations. Serious violations have decreased from a reported high figure of 847 in 1992. This decrease from seventeen years ago is a very positive trend indicating the regulated community, as a whole, is paying close attention to monitoring their discharges and taking the appropriate corrective action to prevent their facilities from having serious violations.

Significant Non-Compliers (SNC)

In 2009, the Department issued formal enforcement actions to 22 permittees identified as SNCs. Appendix III-A of this report identifies each SNC and sets forth information concerning each SNC's violations.

Enforcement Actions

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

Informal Enforcement Actions:

In 2009, the Department initiated 432 informal enforcement actions (NOVs) for Surface Water (SW), Ground Water (GW), and Significant Indirect Users (SIU) violations. This includes NOV's issued for Stormwater violations.

Formal Enforcement Actions:

In 2009, the Department initiated 135 formal enforcement actions. These are the documents in which the Department assesses penalties, typically against a permittee committing a serious violation or violations which causes it to become an SNC.

Penalties Assessed and Collected

In 2009, the Department assessed a total of \$3.4 million in civil and civil administrative penalties within 135 distinct enforcement actions.

In 2009, the Department collected \$2.01 million in penalties.

Delegated Local Agencies (DLA)

A DLA is a political subdivision of the State, or an agency or instrumentality thereof, which owns or operates a municipal treatment works and implements a Department approved industrial pretreatment program. The 22 DLAs have issued permits to control the discharges from a total of 842 facilities discharging to their sewage treatment plants.

The CWEA requires DLAs to annually inspect each permitted facility discharging into their sewage treatment plant. For Categorical/Significant/Major (CSM) permittees, the CWEA requires the DLA to annually conduct a representative sampling of the permittees' effluent. For Other Regulated (OR) permittees, the DLA is required to perform sampling only once every three years. The DLAs inspected and sampled 786 of the 842 permittees at least once during the calendar year.

The DLAs reported 616 permit violations by permitted facilities in 2009, compared with 680 violations in 2008. The DLAs reported a total of 25 indirect users who qualified as SNCs under the State definition during 2009. The analysis in the 2008 report indicated that 30 indirect users met the SNC definition. Therefore, there was a decrease of 5, or a 16.7 percent decrease in the number of facilities in significant noncompliance. The DLAs reported as a whole that by the end of calendar year 2009, 10 (40.0 percent) of the 25 indirect users in significant noncompliance had achieved compliance. During 2009, the DLAs issued 217 enforcement actions as a result of inspections and/or sampling activities.

In calendar year 2009, 15 of the DLAs assessed a total of \$951,038 in penalties for 233 violations while collecting \$883,331. In 2008, 13 DLAs assessed \$672,963 in penalties for 298 violations while collecting \$503,876.

Criminal

In 2009, the Division of Criminal Justice conducted a total of sixteen (16) WPCA investigations. The Division also reviewed over one hundred thirty (130) Department actions (NOVs, Orders, Penalty Assessments, etc.) for potential criminality. Division Detectives responded to eighteen (18) water pollution emergency response incidents, out of a total of thirty-four (34) emergency response incidents. The Division filed three (3) criminal actions (indictments or accusations) for violations of the requirements of the WPCA. (The Division filed a total of fourteen (14) actions in environmental cases.) Two (2) prosecutions were for third degree violations of the WPCA. One (1) was for a fourth degree negligent violation of the WPCA. DCJ also initiated two (2) prosecutions for fraudulent activity relating to the Underground Storage Tank program. One involved a second degree racketeering charge and third degree theft charges and the other involved a fourth degree falsification of records charge. Three (3) of the actions have been resolved through guilty pleas.

Fiscal

A total of \$4,022,326.12 in penalty receipts was deposited in calendar year 2008.

In calendar year 2008, the Clean Water Enforcement Fund disbursed \$31,177.00 to the Division of Law for the costs of litigating civil and administrative enforcement cases and other legal services; \$90,174.02 to the Office of Administrative Law for costs associated with adjudicating WPCA enforcement cases. The CWF disbursed \$831,948.80 for expenses incurred by the Department.

Water Quality Assessment

The Department routinely assesses the water quality of New Jersey's rivers, streams, lakes, and coastal waters by evaluating data collected through its [extensive water quality monitoring networks](#) and by other entities that collect and submit high quality monitoring data and related information. Water quality assessment results are presented in the biennial [New Jersey Integrated Water Quality Monitoring and Assessment Report](#) (Integrated Report), which combines the reporting requirements of federal Clean Water Act Sections 305(b) and 303(d), and is submitted to the U.S. Environmental Protection Agency (USEPA) for approval. The Integrated Report explains the extent to which waters of the State are achieving surface water quality standards and attaining corresponding designated uses, and identifies waters that exceed water quality criteria and require development of total

maximum daily loads (TMDLs).

The federal Clean Water Act requires that the Integrated Report be submitted to USEPA for approval by April 1st of even-numbered years. In January of odd-numbered years, the Department solicits the submission of high quality ambient water quality data collected during the prior five years, to supplement Department-generated data. The Department evaluates all the data received for conformance with its data requirements and then assesses the data in accordance with the methods established in the Department's [Integrated Water Quality Monitoring and Assessment Methods \(Methods Document\)](#). The Integrated Report is published on the Department's Web site at <http://www.state.nj.us/dep/wms/bwqsa/assessment.htm>.

I. INTRODUCTION

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

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

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

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

In 1990, the Legislature enacted substantial amendments to the WPCA, commonly known as the Clean Water Enforcement Act (CWEA), P.L. 1990, c.28. The CWEA added strength to the enforcement of New Jersey's water pollution control program by including the imposition of mandatory minimum penalties for certain violations of the WPCA. The CWEA also requires the Department to prepare a report and submit it to the Governor and the Legislature regarding the implementation and enforcement actions which the Department and delegated local agencies (DLAs) have taken during the preceding calendar year. The statute also specifies the items that the report must contain. In accordance with the CWEA, specifically N.J.S.A. 58:10A-14.1-14.2, this report provides information about Permitting, Enforcement Actions, DLAs, Criminal Actions, Fiscal, and Water Quality Assessment.

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

The Enforcement chapter provides information related to inspections, violations, enforcement actions and penalties.

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

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

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

The Water Quality Assessment chapter provides an overall assessment of surface water quality in New Jersey as reported in the *2004 New Jersey Integrated Water Quality Monitoring and Assessment Report*.

II. PERMITTING

The CWEA requires the Department to report the total number of facilities permitted pursuant to the WPCA, the number of new permits, renewals and modifications issued by the Department and permit actions contested in the preceding calendar year. This information is presented below.

A. DIVISION OF WATER QUALITY

The Department issues Discharge to Surface Water (DSW), Stormwater, Discharge to Groundwater (DGW), and Land Application of Residuals permits to regulate "discharges" of pollutants to the surface and ground waters of the State. DSW permits include Industrial permits issued to facilities discharging various types of wastewater (such as process water, cooling water, decontaminated groundwater, and commingled stormwater) to surface waters and Municipal permits issued to publicly owned treatment works ("POTWs") and privately owned treatment plants discharging primarily sanitary wastewater. Stormwater permits are required for stormwater discharges associated with industrial activity, as well as municipalities, counties, certain public complexes, and highway agencies. Significant Indirect User ("SIU") permits regulate the discharge of industrial wastewater into sewage treatment plants. Facilities that discharge pollutants directly or indirectly to the ground waters of the State are issued DGW permits.

Facilities that distribute, handle or land apply residuals are issued a Land Application of Residuals permit.

Section One - Number of Facilities Permitted:

The Department's DWQ regulated 640 facilities that discharge to the surface waters of the State in 2009, as compared to the 660 facilities regulated in 2008. The Department also regulates facilities discharging to ground water and to POTWs, discharging stormwater only, or that handle, distribute or land apply residuals. These types of facilities are listed under "Other" in Table II-1. Some

facilities have both a DSW discharge and another type of discharge. In 2009, the DWQ regulated 5,268 of these other facilities (either separately or combined with a DSW), as compared to the 5,057 regulated in 2008, an increase of 4 percent. The DWQ regulated a total of 5,649 facilities in 2009, compared with 5,451 facilities in 2008, an increase of 4 percent.

TABLE II-1 REGULATED FACILITIES 2007-2009

FACILITIES REGULATED (including stormwater)	2007	2008	2009	% Growth 2007-2009
Discharge to Surface Water only	414	394	381	-3.3
DSW/Other combined	268	266	259	-3
Other only	4695	4791	5009	5
TOTAL	5377	5451	5649	4

The Department issue's permits for "discharge types" rather than facilities, therefore a facility with more than one discharge type may have more than one permit. As of December 31, 2009, the Department permitted 6,320 discharge types for 5,649 facilities. Table II-2 below provides information regarding the number of discharge types permitted by the Department between 2006 and 2009.

TABLE II – 2 REGULATED DISCHARGES BY TYPE 2006-2009

ACTIVITY TYPE	2006	2007	2008	2009
INDUSTRIAL DSW	466	463	449	408
MUNICIPAL DSW	313	304	306	300
SIU	80	81	87	90
GROUNDWATER	1179	1238	1395	1372
RESIDUALS	71	72	71	75
STORMWATER	3873	3840	3791	4075
TOTAL	5982	5998	6099	6320

The number of permitted discharges regulated by the DWQ has been growing steadily over the past several years. The Department continues to issue permits to new facilities, while other facilities' permits are being terminated or not renewed. Most permit actions are for new general

permit authorizations. In 2009, the permitted facility universe increased by 221.

Section Two – Types of Permits and Permit Actions:

The Department issues several different types of NJPDES permits. Permits are limited to a maximum term of five years. The Department requires submission of renewal applications 180 days prior to expiration of the permit for individual NJPDES permits or expiration of a NJPDES general permit authorization. However, certain general NJPDES permits do not require submission of formal renewal applications. The Department has classified its NJPDES permit actions based upon the technical complexity of the permit application and the potential environmental or health effects of the discharge, and reports the following permit categories in the Permit Activity Report in accordance with P.L. 1991, c.423:

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

**TABLE II – 3
GENERAL PERMITS**

NJPDES No.	Category	Name of General Permit	Discharge Type	Year Issued
NJ0142581	ABR	Wastewater Beneficial Reuse	DSW	2006
NJ0070203	CG	Non-contact Cooling Water	DSW	2006
NJ0102709	B4B	Groundwater Petroleum Product Clean-up	DSW	2008
NJ0128589	B6	Swimming Pool Discharges	DSW	1998
NJ0134511	B7	Construction Dewatering	DSW	2005
NJ0132993	BG	Hydrostatic Test Water	DSW	2005
NJ0105023	CSO	Combined Sewer Overflow	DSW	2004
NJ0155438	BGR	General Remediation Clean-up	DSW	2005
NJ0105767	EG	Land Application Food Processing Residuals	RES	2003
NJ0132519	ZG	Residuals Transfer Facilities	RES	2004
NJ0132501	4G	Residuals – Reed Beds	RES	2008
NJ0108308	I1	Stormwater Basins/SLF	DGW	2007
NJ0108642	I2	Potable WTP Basins/Drying Beds	DGW	2003
NJ0130281	T1	Sanitary Subsurface Disposal	DGW	2008
NJ0142051	LSI	Lined Surface Impoundment	DGW	2009
NJ0168416	K2	Dental Facilities Onsite Wastewater Treatment Systems	DGW	2008
NJ0088315	5G2	Basic Industrial Stormwater	DST	2007
NJ0088323	5G3	5G3 –Construction Activity Stormwater	DST	2007
NJ0108456	CPM	Concrete Products Manufacturing	DST	2003
NJ0107671	SM	Scrap Metal Processing/Auto Recycling	DST	2005
NJ0132721	R4	Hot Mix Asphalt Producers	DST	2009
NJ0134791	R5	Newark Airport Complex	DST	2005
NJ0138622	R7	Wood Recyclers	DST	2008
NJ0138631	R8	Concentrated Animal Feeding Operations	DST	2008
NJ0141852	R9	Tier A Municipal Stormwater	DST	2009
NJ0141861	R10	Tier B Municipal Stormwater	DST	2009

NJ0141879	R11	Public Complex Stormwater	DST	2009
NJ0141887	R12	Highway Agency Stormwater	DST	20049
NJ0141950	R13	R13 -Mining and Quarrying Activity Stormwater General Permit	DST	2005

Surface Water Permits:

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

Stormwater Permits:

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

The Construction Activity General Permit (NJ0088323) is for construction activities disturbing 1 acre or more, all of which are considered industrial activities. Historically the local Soil Conservation Districts have administered this permit for the Department. However, their administration of this permit has been minimized by the creation of the electronic permitting service now available via the Department's NJOnline web portal. Applicant's may now apply for coverage under the Construction Activity General Permit online. In addition, the Department is now accepting hard copy applications directly from prospective permittees. Although the electronic service has reduced the administrative involvement of the local 15 Soil Conservation Districts, projects are still required to adhere to existing Soil Erosion and Sediment Control Plan guidelines. Since October 1, 2009 the Department has issued 55 construction activity general permit authorizations.

Ground Water Permits: These are individual new permits and renewals issued to facilities for wastewater that is discharged directly or indirectly to the ground water of the State. The DWQ issues NJPDES permits for discharges to ground water (including onsite wastewater systems) for facilities that discharge 2000 gallons per day or more or any industrial discharge to ground water.

Significant Indirect Users: These are individual permits and renewals issued for wastewater discharges to publicly owned treatment works. There are 19 Delegated Local Agencies (DLAs) with the authority to issue SIU permits for significant discharges occurring within their respective service areas. The Department is responsible for permitting SIU discharges for the remainder of the State.

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

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

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

Section Three - Permit Actions: Table II-4 summarizes formal permit actions by the categories described above. For the purposes of this presentation, "Request for Authorizations" are included as new or renewals, as appropriate, under the applicable discharge type. Since the Construction General Permit (NJ0088323) is administered by the local Soil Conservation Districts, those permit actions are not summarized here. In each permit category, the number of new permits, renewal permits, permit modifications, and terminations (revocations) are listed.

In 2009, the Department took 1,316 formal permit actions, reflecting a 17.5 percent decrease in permit actions from 2008. Approximately 14 percent of the final permit actions were new facilities, 68 percent of the actions were permit renewals, 8 percent were for permit modifications, and 10 percent were for permit terminations. New permits and permit renewals may be controversial, particularly when the Department imposes new requirements or more stringent effluent limitations, and have historically been contested. In 2009, the Department received 6 requests for adjudicatory hearings, compared to 9 requests received in 2008. This is a request rate of .5 percent as a percent of permit actions. The Department recommends meeting with the applicant prior to issuing a draft permit to ensure that the data submitted in the application is current and to obtain any additional information that might be useful. This has resulted in better permits and a reduced number of requests for adjudicatory hearings.

The Department issued DSW permit renewals to 23 major facilities in 2009. Over the past few years, DWQ has focused its permitting resources on renewing major DSW permits. The Department also issued 188 new permits and received no hearing requests on these actions. The Department issued 888 permit renewals and received 6 hearing requests on these actions. The relatively low number of hearing requests can be attributed to the increased use of general permits and to providing predrafts to permittees. The general permits contain certain conditions and effluent limitations that are the same for similar types of discharges. Once a general permit is issued, applicants may request authorization to discharge under the final general permit. In such cases, applicants are aware of the permit conditions and effluent limitations before they apply for the permit. In the case of regular permits, the DWQ has increased the practice of providing a predraft of a permit to permittees prior to the formal public notice period. This provides the permittee with an opportunity to correct factual information used in the permit development before issuance of the formal draft permit. Understanding the permit conditions prior to applying for a general permit and providing an opportunity to correct factual information for regular permits greatly improves acceptance of the permit by the permittee and thereby diminishes the filing of hearing requests.

TABLE II - 4
PERMIT ACTIONS TAKEN BY THE DIVISION OF WATER QUALITY
2006 - 2009

TYPE OF PERMIT ACTION	2006	Contested 2006	2007	Contested 2007	2008	Contested 2008	2009	Contested 2009
Industrial Surface Water								
-New	18	0	25	0	12	0	17	0
-Renewals	26	1	54	1	80	1	43	0
-Modifications	39	0	35	0	30	0	22	0
-Terminations	16	0	33	0	32	0	32	0
Subtotal	99	1	147	1	154	1	114	0
Municipal Surface Water								
-New	47	0	1	0	0	0	0	0
-Renewals	26	9	28	8	30	8	33	6
-Modifications	54	0	35	0	25	0	29	0
-Terminations	5	0	0	0	2	0	5	0
Subtotal	132	9	64	8	57	8	67	6
Significant Indirect User								
-New	3	0	7	0	1	0	17	0
-Renewals	11	0	6	0	15	0	5	0
-Modifications	5	0	6	0	2	0	1	0
-Terminations	1	0	3	0	2	0	4	0
Subtotal	20	0	22	0	20	0	27	0
Ground Water								
-New	28	2	56	0	199	0	33	0
-Renewals	31	0	36	0	694	0	63	0
-Modifications	9	0	13	0	11	0	6	0
-Terminations	12	0	9	0	16	0	7	0
Subtotal	80	2	114	0	920	0	109	0
Land Application of Residuals								
-New	1	0	6	0	3	0	2	0
-Renewals	4	1	3	0	5	0	3	0
-Modifications	3	0	1	0	0	0	0	0
-Terminations	3	0	1	0	2	0	1	0
Subtotal	11	1	11	0	10	0	6	0
Stormwater								
-New	376	0	132	0	77	0	119	0
-Renewals	24	1	2300	0	192	0	741	0
-Modifications	14	0	2	0	21	0	45	0
-Terminations	166	0	158	0	145	0	88	0
Subtotal	580	1	2592	0	435	0	993	6
TOTALS	922	14	2950	9	1596	9	1316	6

For the Stormwater Permitting Program in 2009, 702 general permit renewal authorizations were issued, 6 Master General Permits were renewed, 3 Master General Permit modifications were issued, 119 new general permit authorizations were issued, 33 were modified, and 82 general permit authorizations were terminated. In addition, 4 new individual permits were issued, 33 were

renewed, 6 were terminated, and 9 individual permit modifications were completed.

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

TABLE II - 5 COMPARISON OF PERMIT ACTIONS 2006 - 2009

TYPE OF PERMIT ACTION	2006	2007	2008	2009
New	473	227	292	188
Renewal	122	2427	1016	888
Modifications	124	92	89	103
Terminations (Revocations)	203	204	199	137
TOTAL ACTIONS	922	2950	1596	1316

B. NEW DEVELOPMENTS

Division of Water Quality Reorganization

On March 16, 2009 the Division underwent a consolidation and reorganization. The Watershed Permitting Element was renamed the Water Pollution Management Element (WPME). The former Bureaus of Point Source Permitting - Regions 1 and 2 were consolidated to form a new Bureau of Surface Water Permitting. Also as a result of consolidation the Bureau of Permit Management became the Office of Permit Management and is now part of the WPME. Within the Municipal Finance Construction Element (MFCE), the Bureau of Program Development and Technical Services was eliminated, with the Office of Program Development becoming part of the Bureau of Administration and Management, and the Office of Technical Services reporting to the Assistant Director, MFCE. The administrative review of Treatment Works Approvals was consolidated within the MFCE. The Division Director's position remains vacant.

NJPDES Permit Universe Status

The total universe of NJPDES issued permits as of August 31, 2009 is 5,637 permits. This is up from 5,584 permits as of September 30, 2008, a 0.95% increase. Of these 5,637 permits, 5,199 (92%) are current, while 438 are beyond their renewal date. The Division is continuing its efforts to further reduce the number of facilities operating with such expired but administratively extended permits.

Electronic Submission

Electronic registration and compliance certification was made available to owners of dental facilities generating amalgam waste in late 2008. This constituted the Division's first electronic submission platform to apply for a registration under the NJPDES permitting program. To date,

approximately 1,360 owners have registered and certified electronically.

Electronic submission became available on October 1, 2009 to those who wish to obtain authorization under the Construction Activity Stormwater General Permit. An applicant may apply for and immediately receive authorization electronically. The Division expects approximately 1,500 submissions in FY 2010.

Additionally, the Division plans to start making electronic submission available in 2010 for some permit required reports.

Amendments to calculating discharge to groundwater fees

The method for determining the environmental value used in the annual fee formula for discharges to groundwater and from landfills was amended in January 2009. These amendments were public noticed on March 17, 2008 (see 40 N.J.R. 1478) and public hearings were held on April 21 and May 8, 2008. Additionally, a table comparing fees under the existing formula and amended formula was published on the Departments Division of Water Quality website. All persons were invited to comment on the proposed amendments during that time. The Department addressed all comments received (see 41 N.J.R. 142) and the amendments were adopted on January 5, 2009.

The amendments were designed to create a fee formula resulting in fees less volatile and less sensitive to slight changes to facility rating characteristics. They were designed more upon the weighted risk of the discharge (e.g., hazardous wastewater vs. sanitary wastewater). As an initial result, some fees increased and some decreased. This is the first time the Department is implementing the revised fee formula and some changes, either up or down, were expected. Thereafter, fees are expected to be more stable from year to year.

Clean Water NJ Campaign

The US Environmental Protection Agency, through the Stormwater Phase II Municipal Permit Program Rules requires all regulated entities in the country, which in New Jersey is every municipality, county, and most state, interstate and federal agencies, to conduct a public education program for all of the citizens of the State. The most efficient and cost-effective way to educate all of the residents of the state is via Public Service Announcements.

The media market in New Jersey is divided between two of the most expensive media markets in the country. It was determined that having 566 municipalities and approximately 100 other entities provide this education effort would be enormously expensive. Therefore, it was decided that in order to maximize the efficiency and economic scale, the Department would conduct most of this program. All of the 666 regulated entities are required to pay annual permit fees under the NJPDES permit. Part of that fee is specifically allocated to fund the \$500,000 Stormwater Education Program known as “Clean Water NJ Campaign” (Campaign). Implementation of the program by the Department reduces the burden on the municipalities and reduces the overall cost of compliance.

To date, the Campaign placed statewide commercials in most of New Jersey’s radio stations, as well as television commercials on WMBC-TV in Newton, WMGM-TV in Atlantic City, WNJU-TV in Linden, and WWOR-TV in New York in 2005 through 2009. Commercials were also run on many statewide cable television networks, Cablevision, Time –Warner and Comcast in 2006

through 2009. The Campaign has produced six radio commercials, two television commercials and one animated television commercial for children for this effort.

The Campaign developed a fifth poster on the problems with litter in addition to the original 4 poster series. Each has corresponding tip cards that depict common everyday activities and the link to stormwater. Banners have also been developed to correspond with the posters to help with outreach at local events statewide such as at the Lakewood Blue Claws, Trenton Thunder, Pequest Hatchery and the Adventure Aquarium.

The Campaign has also collaborated with DEP's Division of Parks and Forestry to display 5 curb signs with the Clean Water NJ posters in the Liberty State Park Terminal.

Hot Asphalt Mix Producers General Permit (NJ013272)

This general permit authorizes stormwater discharges to surface and ground water for facilities engaged in the activity of manufacturing hot mix asphalt defined by SIC 2951 and NAICS 324121.

The Bureau of Nonpoint Pollution Control renewed this permit with the following areas of change:

- SPPP requirements in Part IV, Section B.1; Drainage requirements in Part IV, Section B.2-4; Design criteria for an infiltration basin revised to a 2 year, 24 hour storm. The infiltration basin must drain within 72 hours and be designed in accordance with the Department's BMP Manual. Existing infiltration basins may continue to be used if the permittee can demonstrate that the infiltration basin meets the design criteria (see Part IV, Section D.);
- Addition of a Benchmark for Total Suspended Solids of 100 mg/L (monthly average) for discharges to surface water. Exceeding the benchmark may cause the benchmark to become an effluent limitation (see Part IV, Section C.3.); and
- Addition of Mandatory Best Management Practices that every permittee must implement if applicable.

Lined Surface Impoundment General Permit (NJ0142051)

The Bureau of Nonpoint Pollution Control renewed this permit unchanged.

This general permit authorizes the discharge of wastewater to lined surface impoundments. The Lined Surface Impoundment General Permit was developed to encourage the elimination of ground water discharges from unlined surface impoundments, basins or infiltration/percolation lagoons, and does not require discharge or ground water monitoring.

Potable Water Treatment Plant General Permit (NJ0108642)

The Bureau of Nonpoint Pollution Control renewed this permit unchanged.

This general permit covers potable water treatment plants (WTP) discharging filter backwash and clarifier water to outdoor basins. The discharge results from the process of bringing raw water supplies to drinking quality standards, which often requires the removal of low concentrations of iron, manganese, organic matter, and trace amounts of other metals. When filters are backwashed or when clarifiers are cleaned, the wastewater generated is usually discharged to an outdoor infiltration-percolation basin which ultimately discharges to groundwater.

Municipal Stormwater Permits

The Bureau of Nonpoint Pollution Control renewed four New Jersey Pollutant Discharge Elimination System (NJPDES) General Permits (Tier A Municipal Permit, NJ0141852; Tier B Municipal Permit, NJ0141861; Public Complex Permit, NJ0141879; and Highway Agency Permit, NJ0141887).

These permits were renewed with the following changes:

- Establishment of a point system for the Local Public Education Program to allow municipalities more flexibility in how they comply with the Statewide Basic requirement;
- Removal of the 7 day requirement from the Yard Waste Collection Program and Ordinance;
- Requiring the adoption and enforcement of a Fertilizer Management Ordinance when required by an adopted TMDL;
- Requiring the adoption and enforcement of an ordinance requiring private entities to retrofit catch basins when they repave parking lots or private streets;
- Revision of the Catch Basin Cleaning BMP so that permittees may be better able to comply with the minimum standard;
- Removal of the Road Erosion Control BMP; and
- Formatting changes to further develop, simplify and refine certain aspects of the general permit.

Information Available on DWQ Website

The Division of Water Quality posts many useful items and news information on its website at <http://www.nj.gov/dep/dwq/> such as:

- Various technical manuals
- News items (e.g., upcoming rule proposals, public hearings, clarifications, etc.)
- Links to other programs
- Application forms and checklists

III. ENFORCEMENT

A. INTRODUCTION

The CWEA requires the Department to report information annually concerning the number of

inspections conducted, the number and types of violations identified, the number of enforcement actions initiated and the dollar amount of penalties assessed and collected. Since 1992 Water Compliance and Enforcement has provided this required information which has demonstrated a dramatic increase in compliance with the WPCA.

Mandatory minimum penalties:

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

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

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

The CWEA also requires the Department to impose a mandatory penalty when a permittee omits from a DMR required information relevant to an effluent limitation. The penalty is \$100 per day per effluent parameter omitted and shall accrue for a minimum of 30 days.

Effective January 19, 1999, the DLAs were required to assess mandatory minimum penalties against any indirect user that commits either a serious violation, a violation that causes a user to become or remain in significant noncompliance or an omission violation as noted in the preceding paragraph. Please see Chapter IV of this report which contains the details of the enforcement actions taken by the DLAs.

B. INSPECTIONS

Number of Inspections:

The CWEA requires the Department to inspect permitted facilities and municipal treatment works at least annually. Additional inspections are required when the permittee is identified as a significant noncomplier (discussed below). The inspection requirement applies to all facilities except those that discharge only stormwater or non-contact cooling water. A DLA must inspect facilities discharging into its municipal treatment works, again excluding those facilities that discharge only stormwater or non-contact cooling water.

Each fiscal year the Department performs one full inspection of every regulated facility to determine compliance. In a full inspection, the Department reviews all DMRs and evaluates the entire water pollution control process for each discharge, including operation and maintenance practices, as well as monitoring and sampling procedures.

In 2009, the Department conducted 2860 facility inspections. This number includes 1507 Stormwater inspections that are included in the report.

C. VIOLATIONS

Section One - Results of Facility Inspections:

The Department is required to report the number of enforcement actions resulting from facility inspections. Whenever one or more serious or an SNC violation is discovered during an inspection, the Department issues a Notice of Violation (NOV) to the facility.

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

Informal Enforcement Actions:

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

Formal Enforcement Actions:

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

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

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

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

The Department resolves administrative and judicial enforcement actions through the execution of several types of Settlement Agreements (SAs). An SA resolves an administrative enforcement action, including a penalty previously assessed by the Department. The SA does not typically impose requirements for corrective action. An SA/P resolves an outstanding confirmed violation or an administrative enforcement action and provides for payment of penalties not previously assessed.

Enforcement Actions Initiated in 2009:

Informal Enforcement Actions:

In 2009, the Department initiated 432 informal enforcement actions (NOVs) for Surface Water (SW), Ground Water (GW), and Significant Indirect Users (SIU) violations. This includes NOV's issued for Stormwater violations. There were fewer NOV's issued in 2009 (432) when compared to 2008 (586).

Formal Enforcement Actions:

In 2009, the Department initiated 135 formal enforcement actions compared with 152 in 2008.

The total number of enforcement actions (informal and formal) in 2009 was 567.

Section Two - Total Number of Permit Violations:

The Department is required to report the number of actual permit violations that occurred in the preceding calendar year. There are two types of permit violations, effluent violations and reporting violations. Effluent violations occur when a discharge exceeds the limits established within the NJPDES permit or the interim limits established in a consent order. Reporting violations occur when a permittee fails to submit a Discharge Monitoring Report (DMR) or submits a DMR that does not provide all of the required information. It is important to note that enforcement actions are taken only for verified violations.

The total number of permit violations that were reported in 2009 was 1995.

Section Three - Violations for Which the Department Assessed a Penalty:

In 2009, the Department assessed penalties against 135 facilities for 955 violations of the WPCA. The 955 violations addressed by the Department's actions were more than the number of violations addressed in 2008 (767). In comparison, in 1992 the Department assessed penalties against 300 facilities for 2,483 violations.

Section Four - Violations of Administrative Orders and Consent Orders:

The CWEA requires the Department to report the number of violations of administrative orders (AOs), administrative consent orders (ACOs) and compliance schedule milestones (dates set forth in an ACO for starting and/or completing construction, or for attaining full compliance). The Department must also report the number of permittees that are out of compliance by more than 90 days from the date established in a compliance schedule for starting and/or completing construction,

or for attaining full compliance. Although not expressly required by the CWEA, the Department also includes in this section of the report, the number of violations of judicial orders (JOs) and judicial consent orders (JCOs). Information concerning violations is presented below.

Violations of Interim Effluent Limitations:

In 2009, the Department identified 24 violations of an interim effluent limitation established in an AO or ACO.

Violations of Compliance Schedules:

In 2009, the Department did not take any formal actions for violations of a compliance schedule set forth in an ACO.

Section Five - Unpermitted Discharges:

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

In 2009, the Department identified 28 unpermitted discharges at facilities that then received an enforcement action for the unpermitted discharge.

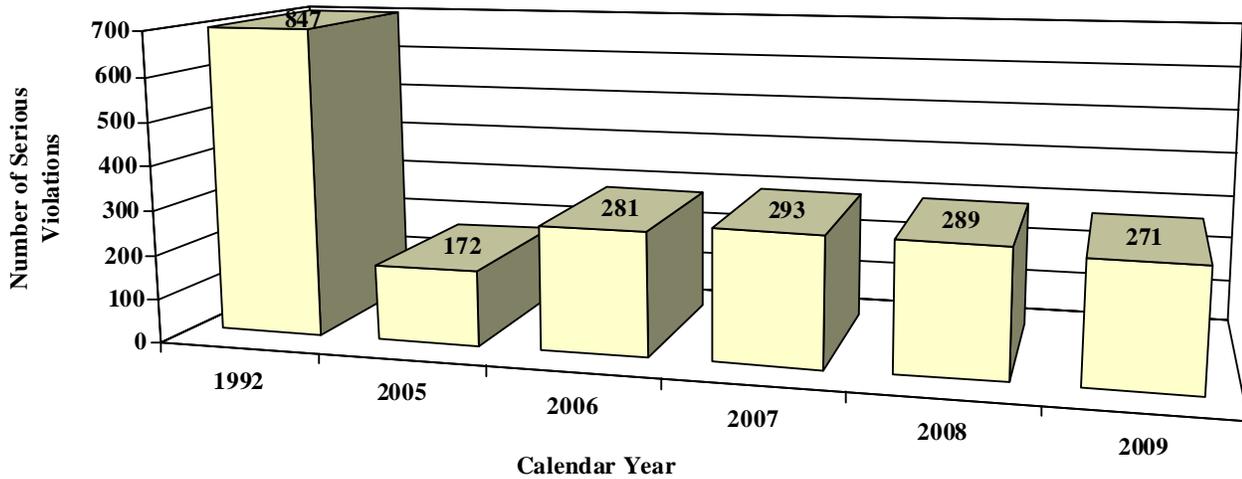
Section Six - Affirmative Defenses:

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

In 2009, the Department granted 11 affirmative defenses for violations that were considered serious as defined in the Clean Water Enforcement Act.

SERIOUS VIOLATIONS

Chart III-1



Section Seven - Serious Violations:

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

In 2009, the Department identified and issued formal and informal enforcement actions for 271 serious effluent violations. Serious violations have decreased from a reported high figure of 847 in 1992. This decrease from seventeen years ago is a very positive trend indicating the regulated community, as a whole, is paying close attention to monitoring their discharges and taking the appropriate corrective action to prevent their facilities from having serious violations.

Section Eight - Significant Noncompliers:

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

In 2009, the Department issued formal enforcement actions to 22 permittees identified as SNCs. Appendix III-A of this report identifies each SNC and sets forth information concerning each SNC's violations.

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

The Department assesses a penalty only after conducting an inspection or confirming the violation by some other contact with the permittee. Accordingly, serious violations and violations which cause a permittee to become an SNC, which were reported on DMRs but not confirmed before the end of the 2009 calendar year, will be the subject of penalty assessments once the Department confirms that the violations occurred. If the Department establishes that a report of an exceedance was in error (for example, if the reported exceedance is attributable to a mistake in the reporting or processing of discharge data), the Department does not take an enforcement action for the reported exceedance.

D. PENALTIES ASSESSED AND COLLECTED

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

Section One - Penalties Assessed:

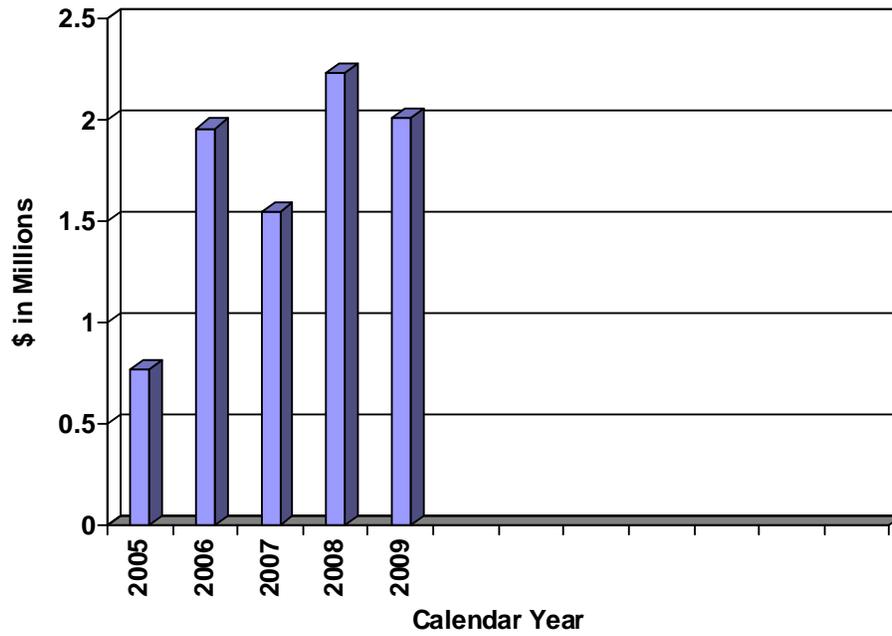
In 2009, the Department assessed a total of \$3.36 million in civil and civil administrative penalties within 135 distinct enforcement actions. This is a decrease from \$4.23 million assessed 2008.

Section Two - Penalties Collected:

In 2009, the Department collected \$2.01 million in penalties. This is a decrease from last year's amount collected (\$2.23 million).

As shown in Chart III-2 below, penalty collections have averaged \$1.7 million over the past five years. It is anticipated that the amount of penalties collected each year will remain in the neighborhood of \$1.5 to 2.0 million or drop slightly lower. Of course, one large payment of an outstanding assessment could temporarily reverse this trend.

CHART III - 2
PENALTIES COLLECTED 2005-2009



IV. DELEGATED LOCAL AGENCIES

A. INTRODUCTION

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

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

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

Twenty-two DLAs had obtained the Department's approval for their industrial pretreatment programs, which they implement with oversight by the Department. In calendar year 2009, three (3) DLAs, the Ewing-Lawrence Sewerage Authority, Stony Brook Regional Sewerage Authority, and Pequannock, Lincoln Park and Fairfield Sewerage Authority (aka, Two Bridges Sewerage Authority), had their IPP programs revoked by the Department due to the small number of permittees discharging to each facility. SIU permits in these service areas are now issued by the Department. This report *does* include information from the three revoked programs covering the portion of the calendar year during which their programs were still in place. Each of these DLAs was required to implement and enforce the program until the revocation was effective. A current listing of the DLAs is provided at the end of this chapter in Section F. The Department's oversight of approved pretreatment programs includes: (i) conducting periodic audits of the DLA's pretreatment program; (ii) reviewing the annual report required by 40 CFR Part 403; and (iii) providing technical assistance the DLA requests. The audit includes a review of industry files maintained by the DLA to determine whether the DLA has met its permitting, sampling, inspection, and enforcement obligations. The annual report required by 40 CFR Part 403 is a detailed discussion of the implementation of the approved pretreatment program and includes elements that allow the Department to gauge the program's success.

In addition to the Federal reporting requirements, the CWEA requires each DLA to file information with the Department annually, for inclusion in the Department's annual CWEA report. The information discussed in this chapter represents cumulative totals from these 22 DLA submissions received by the February 1, 2010 statutory deadline as well as any addenda received as of February 28, 2010. Table IV-4 summarizes the information submitted by the DLAs. The original documents are available for review upon request.

B. PERMITS

The 22 DLAs have issued permits to control the discharges from a total of 842 facilities discharging to their sewage treatment plants. In its report, each DLA groups these dischargers into two categories based on the flow and character of the discharge.

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

Other Regulated (OR) includes any permitted discharger that does not fall within CSM.

In 2008, the DLAs issued a total of 33 new permits, 274 renewals, and 83 permit modifications with no permits contested by interested parties. Of the DLA regulated total of 847 dischargers, 505 were classified as CSM and 340 were classified as OR. In 2009, the DLAs issued 53 new permits, 158 renewals, and 34 permit modifications with zero permits contested by interested parties. As of December 31, 2009, the DLAs had issued permits to 502 CSM facilities and 340 OR facilities for a total of 842 permits. Table IV-1 details the permit actions mentioned above and identifies the CSM and OR categories.

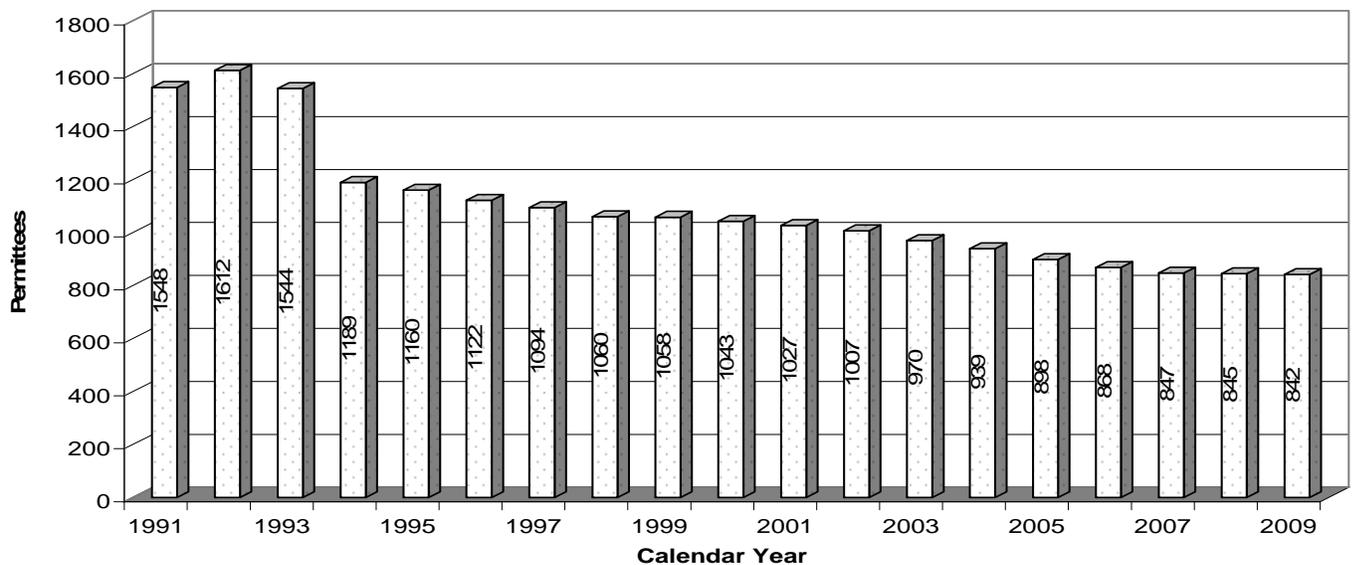
As noted in Table IV-1 below, four (4) permittees had their permit limits relaxed through an administrative order (AO) or an administrative consent order (ACO) issued by a DLA. In two (2) of these cases, the limits were relaxed for conventional pollutants (BOD and COD), while two (2) cases involved interim limits for heavy metals. In 2008, the DLAs issued four (4) AOs or ACOs that relaxed the local limits.

**TABLE IV - 1
PERMIT ACTIVITY SUMMARY
January 1 - December 31, 2009**

PERMIT ACTIONS	CSM	OR	TOTAL
New Permits	16	37	53
Permit Renewals	76	82	158
Permit Modifications	21	13	34
Permits contested by interested parties	0	0	0
AO/ACO compliance schedules relaxing local limits	2	2	4

The number of permittees regulated by DLAs has been steadily decreasing since 1992, the first full year of reporting under the CWEA. As noted in Chart IV-1, the permitted universe peaked in 1992, with 1,612 permittees under the regulation of DLAs. DLAs reported 842 permittees under their regulation at the end of calendar year 2009, representing a decrease of 47.7% (or 770 permittees) since 1992. A significant decrease (319) in the number of permittees is noted between 1993 and 1994. A majority of this decrease in permittees (249 of 319 permittees, or 78.1%) can be attributed to the Township of Wayne "delisting" facilities regulated only for oil and grease.

**CHART IV-1
TOTAL NUMBER OF PERMITTEES REGULATED BY DLAS**



C. INSPECTIONS AND SAMPLINGS

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

The DLAs inspected and sampled 786 of the 842 permittees at least once during the calendar year. The DLAs inspected and sampled 465 (92.6 percent) of the 502 CSM permittees and 321 (94.4 percent) of the 340 OR facilities. In 2008, the DLAs inspected and sampled 761 of the permittees at least once. The DLAs inspected and sampled 463 (91.7 percent) of the 505 CSM permittees and 298 (87.6 percent) of the 340 OR permittees. In 2009, there was a shortfall of approximately 7 percent in the number of CSM facilities both inspected and sampled, as compared to the 8 percent shortfall from last year. A significant number of the facilities that were not sampled/inspected during the calendar year were either not currently discharging, had not begun discharging, or were new permittees thus causing the shortfall. In assessing compliance with pretreatment program

requirements, EPA guidance indicates that a 20 percent shortfall would place the DLA in reportable noncompliance. There was no sampling/inspection shortfall in the OR category as the CWEA only requires one third of these facilities to be both sampled and inspected annually. The DLAs inspected and sampled 321 of the 340 OR facilities (or 94.4 percent of the universe) in calendar year 2009, as compared to the statutory requirement of 33 percent.

D. VIOLATIONS

Section One - Violations by Permitted Facilities:

The DLAs reported 616 permit violations by permitted facilities in 2009, compared with 680 violations in 2008. Violations fall into the following categories: (i) effluent violations where the discharge exceeds the limits established within the permit; and (ii) reporting violations where self-monitoring data has not been submitted, has been submitted late, or has been submitted in an incomplete manner.

Of the 616 permit violations reported in 2009, 419 (68.0 percent) were effluent violations, and 197 (32.0 percent) were reporting violations, compared with 508 (74.7 percent) effluent violations and 172 (25.3 percent) reporting violations in 2008. The total number of violations reported decreased by 64 (9.4 percent) compared to 2008.

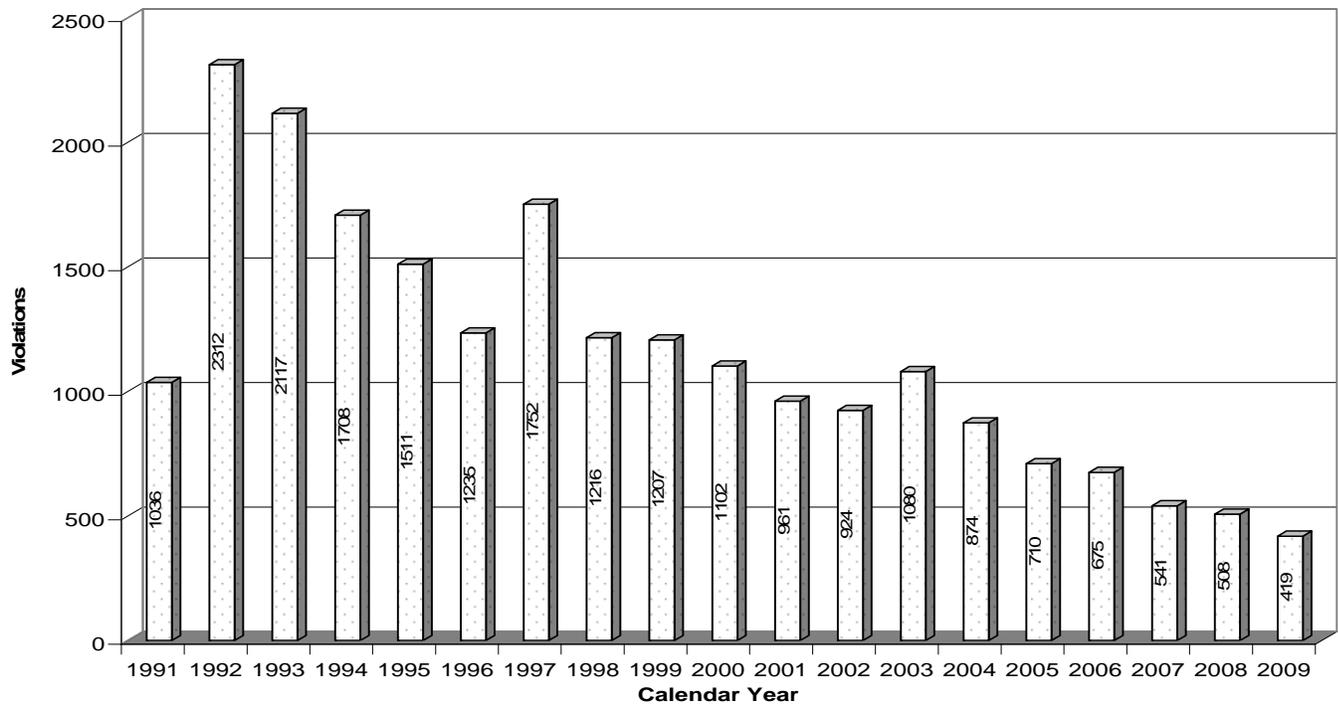
Of the 419 effluent violations, 214 (51.1 percent) were for non-hazardous discharges of conventional pollutants, such as suspended solids and nutrients, and 205 (48.9 percent) were for hazardous pollutant discharges, such as metals, organics and other toxic substances. In 2008, 265 effluent violations were for non-hazardous pollutants and 243 effluent violations were for hazardous pollutants. Of the total number of effluent violations in 2009, 154 (36.8 percent) constituted serious violations compared with 194 (38.2 percent) serious violations in 2008. Table IV-2 details the permit violations mentioned above and identifies the CSM and OR categories.

**TABLE IV-2
SUMMARY OF ALL PERMIT VIOLATIONS
January 1 - December 31, 2009**

VIOLATION TYPE	CSM	OR	TOTAL	%
Non-hazardous pollutants	155	59	214	34.7
Hazardous pollutants	120	85	205	33.3
Reporting violations	93	104	197	32.0
TOTALS	368	248	616	100.0

Based on a compilation of data from the CWEA annual reports submitted by the delegated local agencies since 1991, the number of effluent violations (for both hazardous and non-hazardous pollutants) has tended to decrease from year to year (see Chart IV-2 below). Compared to the first full reporting year (calendar year 1992), discharge violations by indirect users discharging to delegated local agencies have declined from 2312 in 1992 to 419 in 2009, a decrease of 81.9 percent.

**CHART IV-2
EFFLUENT VIOLATIONS BY DLA PERMITTEES**



Section Two - Unpermitted Discharges and Pass Throughs:

An unpermitted discharge is the release of pollutants, into the sanitary sewer, which is not covered under an existing permit. Unpermitted discharges include any newly identified facilities that have recently come within the jurisdiction of a DLA due to service area expansions by regional sewerage facilities and therefore must obtain a permit. In 2009, the DLAs reported zero unpermitted discharges. In 2008, the DLAs reported three unpermitted discharges.

The term pass through means a discharge which exits the treatment plant and enters the waters of the State in quantities or concentrations which alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the treatment plant's permit, including an increase in the magnitude or duration of a violation. In 2009, one pass through incident was reported. This incident was caused by the discharge of untreated leachate/overload of pretreatment system at the industrial user, and resulted in or contributed to the receiving treatment plant violating its discharge permit for biochemical oxygen demand, or BOD. Penalties were issued along with an order to upgrade the pretreatment system. One pass through incident was reported in 2008.

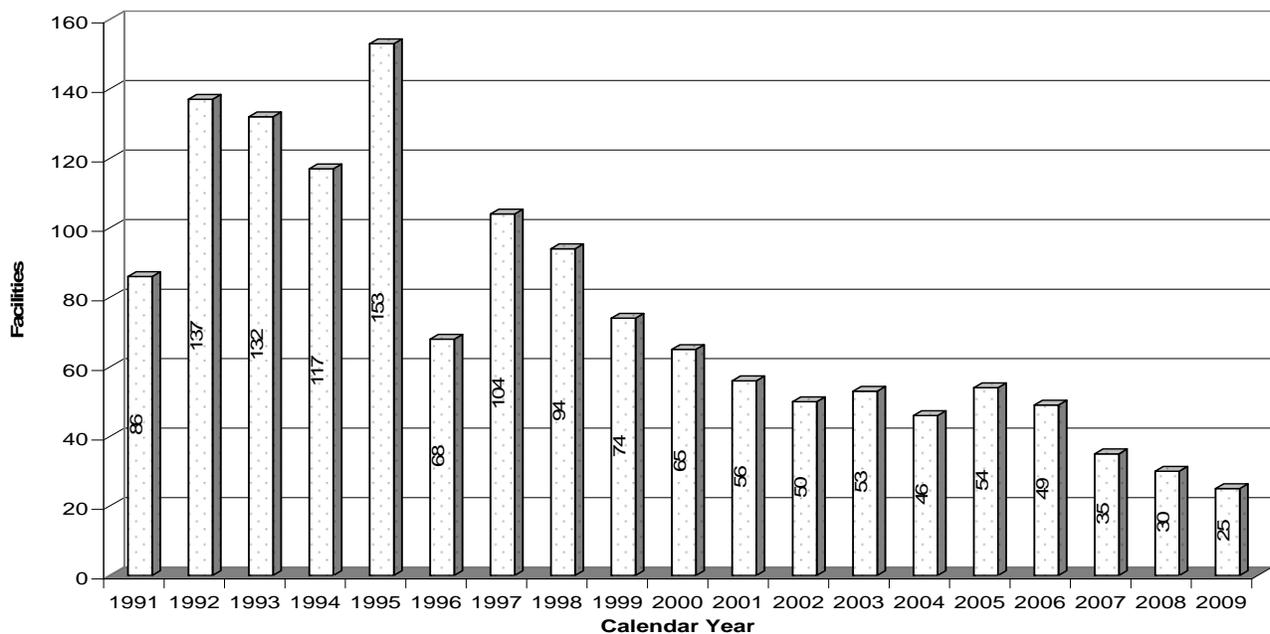
Section Three - Significant Noncompliance:

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

The DLAs reported a total of 25 indirect users who qualified as SNC under the State definition during 2009. The analysis in the 2008 report indicated that 30 indirect users met the SNC definition. Therefore, there was a decrease by 5, or 16.7 percent, in the number of facilities that met the significant noncompliance criteria. The DLAs reported as a whole that by the end of calendar year 2009, 10 (40.0 percent) of the 25 indirect users in significant noncompliance had achieved compliance. Table IV-3 provides a listing, as submitted by the DLAs, of IUs that met the SNC criteria during calendar year 2009.

For facilities discharging into a delegated local agency, Chart IV-3 shows the trend in the number of indirect users meeting the SNC criteria. For calendar year 1995, the increase or spike can be attributed to implementation of new local limits by the Passaic Valley Sewerage Commissioners (PVSC) and failure by 67 companies in the PVSC service area to submit a local limits baseline monitoring report to PVSC by the prescribed deadline. Over the eighteen year period from 1992 (the first full calendar year of reporting) through 2009, the number of facilities meeting SNC criteria shows a decrease of 81.8 percent. The percentage of DLA indirect users meeting the SNC criteria in 2009 was 3.0 percent. For CSMs only, the percentage meeting SNC is 3.6. EPA guidance indicates that a 15 percent SNC rate for CSMs would place a DLA in reportable noncompliance.

**CHART IV-3
SIGNIFICANT NONCOMPLIERS AS REPORTED BY DLAs**



Section Four - Violations of Administrative Orders and Administrative Consent Orders:

Two DLAs reported that two (2) users had four violations of their AOs or ACOs, including violations of interim limits, compliance schedule milestones for starting or completing construction, or failure to attain full compliance. The two users included one CSM facility and one OR facility. The violations involved exceedences for the parameters chemical oxygen demand (COD) and zinc. In 2008, three DLAs reported that users had 9 violations of their AOs or ACOs.

As required by the Act, a DLA must report any permittee who was at least six months behind in the construction phase of a compliance schedule. One permittee was at least six months behind in the construction phase of a compliance schedule in 2009. Puebla Foods, Inc., Passaic, was required by PVSC to install and operate a pH control system as a condition of a Settlement Agreement. Puebla Foods failed to do so because of zoning constraints by the City of Passaic. This facility is currently closed pending litigation.

Section Five - Affirmative Defenses:

Six DLAs granted 38 affirmative defenses for upsets, bypasses, testing or laboratory errors for serious violations. Twenty-one (55.3 percent) of the 38 affirmative defenses were given due to laboratory error, and 17 (44.7 percent) for upset or bypass. In calendar year 2008, 36 affirmative defenses were granted by ten DLAs: twenty-five (69.4 percent) for laboratory error; and 11 (30.6 percent) for upset or bypass.

E. ENFORCEMENT ACTIONS AND PENALTIES

Section One - Enforcement Actions:

During 2009, the DLAs issued 217 enforcement actions as a result of inspections and/or sampling activities. CSM permittees were the subject of 58.1 percent (126) of these actions, and OR permittees were the subject of the remaining 41.9 percent (91). In 2008, the DLAs issued 252 enforcement actions. CSM permittees were the subject of 149 (59.1 percent) of these actions and OR permittees were subject to 103 (40.9 percent) of these enforcement actions.

It is important to note that the Department requires that DLAs respond to all indirect user violations. This section of this report only reflects the 217 enforcement actions taken as a result of DLA inspection and sampling activity as specifically required by statute and not those enforcement actions taken by DLAs based upon indirect user self-monitoring report results. Subsequent sections of this chapter reflect these additional enforcement actions taken by DLAs.

Section Two - Penalty Assessments and Collections:

In calendar year 2009, 15 of the DLAs assessed a total of \$951,038 in penalties for 233 violations while collecting \$883,331. In 2008, 13 DLAs assessed \$672,963 in penalties for 298 violations while collecting \$503,876.

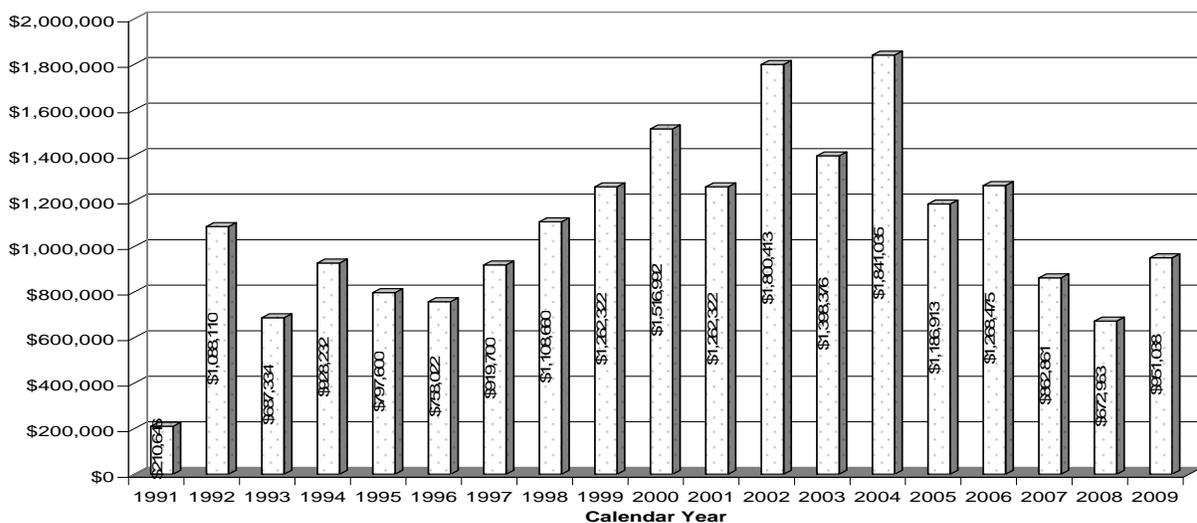
No DLAs reported that they recovered enforcement costs in civil and/or civil administrative actions in calendar year 2009. Similarly, no DLAs reported that they recovered enforcement costs in civil and/or civil administrative actions in calendar year 2008.

DLAs may refer cases to the Attorney General's office or to the County Prosecutor for further enforcement action. In calendar year 2009, no cases were referred to either office. In 2008, one case was reported to either the Attorney General or County Prosecutor offices for further enforcement action.

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

Chart IV-4 shows the monetary penalties assessed by the DLAs since the implementation of the CWEA in 1991. The monetary penalties assessed by DLAs in 2009 increased for the first time in three years. This increase is attributed to two DLAs taking significant enforcement actions against five particular users, with those actions including substantial penalty assessments.

**CHART IV-4
PENALTY MONEY ASSESSED BY DLAs**



**TABLE IV-3
LIST OF IUs THAT MET THE SNC CRITERIA**

IU NAME	IU LOCATION	POTW
All Metal Polishing Company	Newark, NJ	Passaic Valley Sewerage Commissioners
Alzo International/Pharmetic Mfg. Company	Sayreville, NJ	Middlesex County Utilities Authority
Barry Callebaut	Pennsauken, NJ	Camden County Municipal Utilities Authority
Chemtura Corp. d/b/a Hatco Corporation	Fords, NJ	Middlesex County Utilities Authority
Ciao Bella Gelato	Irvington, NJ	Joint Meeting of Essex and Union Counties
Colgate-Palmolive Company	Morristown, NJ	Passaic Valley Sewerage Commissioners
Dana Trucking	Crown Point, NJ	Gloucester County Utilities Authority
Deep Foods	Union, NJ	Joint Meeting of Essex and Union Counties
Duke Linden Development Cogen Facility	Linden, NJ	Linden-Roselle Sewerage Authority
Ferro Corp., Buildings A-C	South Plainfield, NJ	Middlesex County Utilities Authority
Gregory Packaging	Newark, NJ	Passaic Valley Sewerage Commissioners
Hi-Speed Plating	Irvington, NJ	Joint Meeting of Essex and Union Counties
L'Oreal USA Products	Clark, NJ	Rahway Valley Sewerage Authority
Lioni Latticini	Union, NJ	Joint Meeting of Essex and Union Counties
Menu Foods	Pennsauken, NJ	Camden County Municipal Utilities Authority
Monroe Township Utility Department	Monroe Twp, NJ	Middlesex County Utilities Authority
Pennsauken Landfill	Pennsauken, NJ	Camden County Municipal Utilities Authority
Perk-Up d/b/a Kari Out	Totowa, NJ	Passaic Valley Sewerage Commissioners
PNC 2, Inc.	Nutley, NJ	Passaic Valley Sewerage Commissioners
Prem Khichi Enterprises T/A Metal Graphics	Newark, NJ	Passaic Valley Sewerage Commissioners
Puebla Foods	Passaic, NJ	Passaic Valley Sewerage Commissioners
Quala Systems	Rahway, NJ	Rahway Valley Sewerage Authority
Quickline Design & Manufacturing	Gloucester, NJ	Camden County Municipal Utilities Authority
Royal Winery	Marlboro, NJ	Passaic Valley Sewerage Commissioners
SS Studios	Union, NJ	Joint Meeting of Essex and Union Counties

**TABLE IV-4
SUMMARY OF DLA RESPONSES IN CWEA ANNUAL REPORTS**

#	QUESTION	CSM	OR	TOTAL
1	Permitted industries in DLA service areas	502	340	842
2	Unpermitted discharges in DLA service areas	0	0	0
3	New indirect user permits issued	16	37	53
4	Renewed indirect user permits issued	76	82	158
5	Indirect user permit modifications	21	13	34
6	Permits contested by interested parties	0	0	0
7	Compliance schedules issued that relax local limits	2	2	4
8	Facilities inspected and sampled at least once	465	321	786
9	Pass-throughs of pollutants	1	0	1
10a	Reporting violations	93	104	197
10b	Effluent violations for hazardous pollutants	120	85	205
10c	Effluent violations for non-hazardous pollutants	155	59	214
11	Effluent violations constituting serious violations	104	50	154
12	Affirmative defenses granted	23	15	38
13	Indirect users qualifying as significant non-compliers	18	7	25
14	Violations of AOs/ACOs	2	2	4
15	Violations of compliance schedule milestones by 90 days or more	0	1	1
16a	As of 12/09, number if indirect users from question 13 no longer in SNC status	7	3	10
16b	2008 SNC indirect users which achieved compliance in 2009	14	10	24
17	Enforcement actions resulting from DLA inspection/sampling	126	91	217
18	Violations for which penalties have been assessed	159	74	233
19	Amount of all assessed penalties	\$513,038	\$438,000	\$951,038
20	Amount of penalties collected	\$495,556	\$387,775	\$883,331
21	Enforcement costs recovered, from violations, in an enforcement action	\$0	\$0	\$0
22	Criminal actions filed by the Attorney General or County Prosecutors	0	0	0

F. LIST OF DLAs

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

DELEGATED LOCAL AGENCY	FACILITY MAILING ADDRESS
Bayshore Regional S.A.	100 Oak Street , Union Beach, NJ 07735
Bergen County U.A.	PO Box 9, Little Ferry, NJ 07643
Camden County M.U.A	1645 Ferry Avenue, Camden, NJ 08101
Cumberland County U.A.	333 Water Street, Bridgeton, NJ 08302
Ewing-Lawrence S.A.(1)	600 Whitehead Road, Lawrenceville, NJ 08648
Gloucester County U.A.	Paradise Road, West Deptford, NJ 08066
Hanover S.A	PO Box 320, Whippany, NJ 07981
Joint Meeting of Essex and Union Counties	500 South First Street, Elizabeth, NJ 07202
Linden-Roselle S.A.	PO Box 4118, Linden, NJ 07036
Middlesex County U.A.	PO Box 159, Sayreville, NJ 08872
Morris Township	50 Woodland Avenue, PO Box 7603 Convent Station, NJ 07961
Mount Holly M.U.A.	PO Box 486, 37 Washington Street Mount Holly, NJ 08060
North Bergen M.U.A.	6200 Tonnelle Avenue, North Bergen, NJ 07047
Northwest Bergen County U.A.	30 Wyckoff Avenue, Waldwick, NJ 07463
Ocean County U.A.	PO Box P, Bayville, NJ 08721
Passaic Valley Sewerage Commissioners	600 Wilson Avenue, Newark, NJ 07105
Pequannock, Lincoln Park and Fairfield S.A (2)	PO Box 188, Lincoln Park, NJ 07035
Rahway Valley S.A.	1050 E. Hazelwood Avenue, Rahway, NJ 07065
Rockaway Valley Regional S.A.	99 Green Bank Rd, RD#1, Boonton, NJ 07005
Somerset-Raritan Valley S.A.	PO Box 6400, Bridgewater, NJ 08807
Stony Brook Regional S.A. (3)	290 River Road, Princeton, NJ 08540
Wayne Township	475 Valley Road, Municipal Bldg. Wayne, NJ 07470

(1)-Pretreatment program revoked effective 12/1/2009.

(2)- Pretreatment program revoked effective 6/1/2009.

(3)- Pretreatment program revoked effective 4/1/2009

V. CRIMINAL ACTIONS

CLEAN WATER ENFORCEMENT REPORT - 2009

In 2009, the Attorney General, through the Division of Criminal Justice and county prosecutors' offices, continued its commitment to the enforcement of the criminal provisions of the Water Pollution Control Act (WPCA), N.J.S.A. 58:10A-10(f).

For over twenty-five (25) years, the Division of Criminal Justice has prosecuted violations of the State's water pollution laws on a statewide basis, as well as violations of air pollution, hazardous waste, solid waste and regulated medical waste laws. It also investigates and prosecutes traditional crimes, such as racketeering, thefts, frauds and official misconduct that have an impact on environmental regulatory programs, including the Department's water pollution program. The Division handles matters brought to its attention by the Department, county health departments, local police and fire departments and citizens. In addition, the Division coordinates the criminal enforcement efforts of the county prosecutors and provides technical and legal training and assistance to those offices.

In 2009, the Division of Criminal Justice conducted a total of sixteen (16) WPCA investigations. The Division also reviewed over one hundred thirty (130) Department actions (NOVs, Orders, Penalty Assessments, etc.) for potential criminality. Division Detectives responded to eighteen (18) water pollution emergency response incidents, out of a total of thirty-four (34) emergency response incidents. The Division filed three (3) criminal actions (indictments or accusations) for violations of the requirements of the WPCA. (The Division filed a total of fourteen (14) actions in environmental cases.) Two (2) prosecutions were for third degree violations of the WPCA. One (1) was for a fourth degree negligent violation of the WPCA. DCJ also initiated two (2) prosecutions for fraudulent activity relating to the Underground Storage Tank program. One involved a second degree racketeering charge and third degree theft charges and the other involved a fourth degree falsification of records charge. Three (3) of the actions have been resolved through guilty pleas.

In addition to its own investigative and prosecutorial activities, the Division worked closely with county prosecutors' offices to assist them in the handling of WPCA investigations. The Division provided regular legal and technical advice to the counties. In 2009, while some counties did conduct environmental crimes investigations, none resulted in criminal charges being filed.

In summary, the Attorney General, through the Division of Criminal Justice, filed three (3) WPCA criminal actions in 2009, involving two (2) third degree charges and one (1) fourth degree charge, filed two (2) criminal actions under the Criminal Code for fraudulent conduct relating to the Underground Storage tank program, and secured four (4) final dispositions for criminal violations of the WPCA.

Water Pollution

1. In State v. R.D. Secaucus, Crowne Plaza (Indictment No. 09-09-00183-S), the State Grand Jury returned a one count indictment charging defendant corporation with unlawfully discharging sewage into the Hackensack River, contrary to N.J.S.A. 58:10A-10f(2). The indictment charges the hotel with regularly pumping sewage contaminated wastewater into the river.
2. In State v. Ramon Pena Diaz (Indictment No. 09-10-00258-S), the State Grand Jury returned a one count indictment charging defendant with third degree water pollution, contrary to N.J.S.A. 58:10A-10f for dumping drums of waste paint into a stream in Bergen County.
3. In State v. Peter Dominski and State v. Accurate Analytical Laboratories, Inc. (Accusation No.

08-12-00534 and Accusation No. 08-12-00535), in 2008, the State filed Accusations charging defendants with falsifying records, fourth degree, contrary to N.J.S.A. 2C:21-4 for submitting false laboratory report information to the DEP, as well as to community water systems and private well owners for Safe Drinking Water Act water quality testing. In 2009 the Court sentenced defendant Dominski to pay a \$10,000 fine and defendant corporation to pay a \$5,000 fine.

4. In State v. Salem Packing Company (Indictment No. 09-02-00033-S), the State Grand Jury returned a one count indictment against defendant charging it with a fourth degree violation of the Water Pollution Control Act, N.J.S.A. 58:10A-10f(3), for discharging bloody wastewater from its meat processing operation into a stream.
5. In State v. James and Megan, Inc. (Indictment No. SGJ558-08-5), in 2009, defendant corporation pled guilty to the indictment, fourth degree Water Pollution, contrary to N.J.S.A. 58:10A-10f. In 2009, the Court sentenced the defendant corporation to pay a \$15,000 fine for unlawfully discharging septic waste water from the Waterfront Café restaurant in Carlstadt into the Hackensack River.

Environmental Fraud

1. In State v. Albert Taylor (Indictment No. 09-04-0060-S), the State Grand Jury returned a four count indictment against defendant charging him with racketeering, second degree, and racketeering conspiracy, second degree, contrary to N.J.S.A. 2C:41-2c & d; and theft, third degree, contrary to N.J.S.A. 2C:20-4, (2 counts). Defendant is charged with defrauding clients who had hired him to provide services relating to determining the integrity of underground storage tanks.
2. In State v. A&S Trading (Accusation No. 09-07-1530A), the State filed an Accusation against defendant charging it with fourth degree Falsifying Records, contrary to (N.J.S.A. 2C:21-4a) for submitting a falsified Cathodic Protection survey to the DEP. Defendant pled guilty and the Court sentenced defendant to pay a \$6,000 fine.

VI. FISCAL
A. CWEA FUND SCHEDULE AND COST STATEMENT

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

The CWEA, in accordance with N.J.S.A. 58:10A-14.2a(21), requires the Department to include in this report the specific purposes for which penalty monies collected have been expended, displayed in line format by type of expenditure, and the position numbers and titles funded in whole or in part from the penalty monies deposited into the CWEF and the Program Cost Statement (Table VI-2) . Accordingly, the CWEA Fund Schedule (Table VI-1) presents the monies deposited into the Fund and the Program Cost Statement (Table VI-2) presents the specific purposes for which the monies in the CWEF were expended in 2009, based upon cost accounting data.

Monies collected from the Underground Storage Tank Enforcement Program are included in this number.

TABLE VI – 1
CLEAN WATER ENFORCEMENT FUND SCHEDULE
For the period from January 1, 2009 through December 31, 2009

	January – June 2009	July – December 2009
Total Penalties Recorded	\$1,963,272.84	\$1,232,981.74

The CWEA Program Cost Statement

The WPCA Program Cost Statement (Table VI-2) represents disbursements from the CWEF in accordance with N.J.S.A. 58:10A-14.4, for the costs associated with the implementation and enforcement of the WPCA.

**TABLE VI-2
CLEAN WATER ENFORCEMENT COST STATEMENT
For the period from January 1, 2009 through December 31, 2009**

	FY2009 January - June	FY2010 July – December
Division of Law (Dept. of Law & Public Safety)	\$294,143.00	\$78,621.00
Office of Administrative Law	\$111,000.00	-0-
Office of Information Technology	-0-	-0-
Department of Environmental Protection		
- Salaries	\$258,613.03	\$257,434.01
- Materials and Supplies	\$8,683.72	\$3,005.82
- Services Other than Personal	\$4,072.04	\$26,696.84
- Maintenance and Fixed Charges	-0-	-0-
- Equipment	-0-	-0-
DEP Subtotal	\$271,368.79	\$287,136.67
Total Disbursements	\$676,511.79	\$365,757.67

VII. WATER QUALITY ASSESSMENT

The Department routinely assesses the water quality of New Jersey's rivers, streams, lakes, and coastal waters by evaluating data collected through its [extensive water quality monitoring networks](#) and by other entities that collect and submit high quality monitoring data and related information. Water quality assessment results are presented in the biennial [New Jersey Integrated Water Quality Monitoring and Assessment Report](#) (Integrated Report), which combines the reporting requirements of federal Clean Water Act Sections 305(b) and 303(d), and is submitted to the U.S. Environmental Protection Agency (USEPA) for approval. The Integrated Report explains the extent to which waters of the State are achieving surface water quality standards and attaining corresponding designated uses, and identifies waters that exceed water quality criteria and require development of total maximum daily loads (TMDLs). The Integrated Report also provides extensive information about the water quality conditions and trends of New Jersey's water resources to inform the general public and guide water resource management at statewide, regional, and local levels. This information includes a detailed description of the types and relative amount of water resources in the State of New Jersey, the different types of water monitoring and assessment programs (surface and ground water), and the various management strategies and actions being employed by the Department to protect and improve water quality.

The federal Clean Water Act requires that the Integrated Report be submitted to USEPA for approval by April 1st of even-numbered years. In January of odd-numbered years, the Department solicits the submission of water quality data collected during the prior five years, to supplement Department-generated data. The Department evaluates all the data received for conformance with its data requirements and then assesses the data in accordance with the methods established in the Department's Integrated Water Quality Monitoring and Assessment Methods Document (Methods Document). The Methods Document describes the methodology used to assess water quality for the Integrated Report. A [draft Methods Document](#) is published in the summer of odd-numbered years for public review and comment, prior to the development of the corresponding Integrated Report. The Integrated Report is published on the Department's Web site at <http://www.state.nj.us/dep/wms/bwqsa/assessment.htm>.

The List of Water Quality Limited Waters (or 303(d) List) is a regulatory component of the Integrated Report which identifies waters that do not attain the applicable designated use because of a known pollutant and for which a TMDL must be established. The 303(d) List is adopted as an amendment to the Statewide Water Quality Management Plan, after public review and comment, pursuant to the Water Quality Management Planning rules at N.J.A.C. 7:15-6. The [final 2008 303\(d\) List](#) was approved by USEPA on August 13, 2009 and was adopted by the Department, along with the [final 2008 Integrated Report](#) and the [final 2008 Integrated List](#) on October 8, 2009. A notice of adoption of the 2008 303(d) List was published in the New Jersey Register on November 16, 2009 (see 41 N.J.R. 4321(a)) and on the Department's Web site at http://www.state.nj.us/dep/wms/bwqsa/2008_integrated_report.htm.

APPENDIX III- A

**NJ DEPARTMENT OF ENVIRONMENTAL PROTECTION
SIGNIFICANT NONCOMPLIERS**

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

FACILITY NAME	PERMIT #	ADDRESS	DATE OF VIOLATIONS	DESCRIPTION OF VIOLATIONS	FOLLOW-UP and ACTION	TOTAL # OF VIOLATIONS
BRITTON INDUSTRIES INC	NJG0135836	227 Bakers Basin Rd, Lawrenceville	April 07- Sept. 08	Britton exceeded the effluent concentration limitations of its NJPDES Permit for COD and TSS	AONOCAPA was issued 1/14/09 in the amount of \$165,000. A Hearing has been requested. The permit for Britton Industries was administratively revoked on 12/31/2009 as the Department confirmed that they are no longer performing any activities requiring the permit.	9
CAMDEN COUNTY VOC & TECH SCHOOL	NJ0031615	343 Berlin-Crosskeys Road, Gloucester Township	Jan 09 - June 09	CCTS exceeded the effluent concentration limitations of its NJPDES Permit for CPO, TSS, Fecal Coliform and BOD5	Settlement Agreement executed on 12/9/09 for \$13,000.	7
CLAYTON BLOCK CO INC/EDISON	NJG0124290	1025 RT 1 EDISON	May 06 - April 07	Clayton exceeded the effluent concentration limitations of its NJPDES Permit for TSS, COD, Oil and Grease and pH.	A global settlement agreement was executed on 3/31/2009 for \$242,000. This settles violations at this facility and the other Clayton facilities listed in this table.	18
CLAYTON BLOCK CO LLC	NJG0144029	225 THROCKMORTON ST Freehold	April 06 - March 07	Clayton exceeded the effluent concentration limitations of its NJPDES Permit for TSS and COD.	A global settlement agreement was executed on 3/31/2009 for \$242,000. This settles violations at this facility and the other Clayton facilities listed in this table.	9

CLAYTON BLOCK COMPANY LLC	NJG0130451	2 PORETE AVE, North Arlington	April 08	Clayton exceeded the effluent concentration limitations of its NJPDES Permit for TSS.	A global settlement agreement was executed on 3/31/2009 for \$242,000. This settles violations at this facility and the other Clayton facilities listed in this table.	1
CLAYTON BLOCK LLC	NJG0130435	RT 169 S, Bayonne	April 07 - May 08	Clayton exceeded the effluent concentration limitations of its NJPDES Permit for TSS.	A global settlement agreement was executed on 3/31/2009 for \$242,000. This settles violations at this facility and the other Clayton facilities listed in this table.	4
RALPH CLAYTON & SONS	NJG0115177	CHESTNUT ST, Dover Twp	Oct. 07 - March 08	Clayton exceeded the effluent concentration limitations of its NJPDES Permit for TSS.	A global settlement agreement was executed on 3/31/2009 for \$242,000. This settles violations at this facility and the other Clayton facilities listed in this table.	2
RALPH CLAYTON & SONS/ALLENTOWN	NJG0117773	189 RT 526 Allentown, NJ 08501-0000	Sept. 06 - April 07	Clayton exceeded the effluent concentration limitations of its NJPDES Permit for TSS.	A global settlement agreement was executed on 3/31/2009 for \$242,000. This settles violations at this facility and the other Clayton facilities listed in this table.	2
RALPH CLAYTON & SONS/FREEHOLD	NJG0117765	62 INSTITUTE ST Freehold, NJ 07728-0000	Feb. 07 - June 08	Clayton exceeded the effluent concentration limitations of its NJPDES Permit for TSS and COD.	A global settlement agreement was executed on 3/31/2009 for \$242,000. This settles violations at this facility and the other Clayton facilities listed in this table.	9

COLORITE SPECIALTY RESINS	NJ0103349	Colorite Specialty Resins Beverly Rd. Burlington Twp, Burlington County	Nov. 07 - March 08	Colorite exceeded the effluent concentration limitations of its NJPDES Permit for TSS, BOD and Ammonia-Nitrogen.	Settlement Agreement executed on 4/23/09 for \$37,500.	5
FRANKLIN SQ SHOPPING CENTER	NJ0082899	754 Franklin Ave Franklin Lakes, NJ 07417	Oct 07 - Jan. 09	Franklin Sq. exceeded the effluent concentration limitations of its NJPDES Permit for flow.	AONOCAPA was issued 8/18/09 in the amount of \$30,000. A Hearing has been requested.	6
GERDAU AMERISTEEL SAYERVILLE INC	NJ0107956	NORTH CROSSMAN RD Sayreville, NJ 08871-0000	April 09	Gerdau exceeded the effluent concentration limitations of its NJPDES Permit for TOC, COD and Oil and Grease	A stipulated penalty demand letter was issued on 7/14/09 for \$15,000 for failure to comply with the requirements of the ACO	3
INVERSAND CO	NJ0089354	625 Woodbury Glassboro Road, Township of Mantua, Gloucester County	Feb 08 - Aug.08	Inversand exceeded the effluent concentration limitations of its NJPDES Permit for TSS and exceeded its water allocation permit.	A stipulated penalty demand letter was issued on 4/19/09 for \$64,500 for failure to comply with the requirements of the ACO	8
LAMBERTVILLE MUNICIPAL UTILITY AUTH	NJ0020915	LAMBERT LN EXT, Lambertville, NJ 08530	Jan 08 - March 09	Lambertville exceeded the effluent concentration limitations of its NJPDES Permit for Ammonia Nitrogen and Total Phosphorus.	An Administrative Consent Order was executed on 6/1/09 which included a \$15,000 penalty.	17
MEDFORD TWP WASTEWATER TREATMENT PLANT	NJ0026832	10 Fostertown Road, Medford, NJ 08055	March 08 - April 09	Medford Twp. exceeded the effluent concentration limitations of its NJPDES Permit for Ammonia Nitrogen, BOD and Oil and Grease.	An Administrative Consent Order was executed on 10/1/09 which included a \$28,000 penalty.	26
MENU FOODS INC	NJ0031216	9130 Griffith Morgan Ln Pennsauken, NJ 08110	July 07 - March 09	Menu Foods exceeded the effluent concentration limitations of its NJPDES Permit for Total Phosphorus and Chlorine Produced Oxidants	An Administrative Consent Order was executed on 8/10/09 which included a \$120,027 penalty.	24

MILLVILLE (WTP) CITY OF	NJ0029467	Fowser Road City of Millville Cumberland County	May 06 - July 09	Millville exceeded the effluent concentration limitations of its NJPDES Permit for Fecal Coliform.	An Administrative Consent Order was executed on 12/10/09 which included a \$11,000 penalty.	20
NEW YORK TERMINALS LLC	NJ0056707	534 South Front Street Elizabeth, Union County	Dec 07 and Aug 08	NY Terminals exceeded the effluent concentration limitations of its NJPDES Permit for TSS.	Settlement Agreement executed on 1/28/09 for \$2,000.	2
NORTH BERGEN MUA - CENTRAL STP	NJ0034339	4306 WESTSIDE AVE North Bergen	Dec 08 - June 09	North Bergen exceeded the effluent concentration limitations of its NJPDES Permit for CBOD.	An amended Administrative Consent Order was executed on 8/10/09 which included a \$20,000 penalty.	7
SKYLANDS PARK	NJ0103748	Route 565 & Route 206 Township of Frankford Sussex County	Oct 05 - Aug 08	Skylands exceeded the effluent concentration limitations of its NJPDES Permit for Flow.	AONOCAPA was issued 3/25/09 in the amount of \$90,000. A Hearing has been requested.	12

<p>VERDUCCIS SPECIALTY MARKET</p>	<p>NJ0108294</p>	<p>176High way 202, Ringoes</p>	<p>Dates of violations can be found in the in next field</p>	<p>Verducci's failed to monitor at the facility for the parameters of Total Nitrogen, pH, and Fecal Coliform during the October, November, and December monitoring periods of calendar year 2004. Failed to conduct sampling for the parameters of pH, Ammonia Nitrogen, Nitrate, and Fecal Coliform in Monitoring Wells One, Two, and Three during the October through December 2004, January through March 2005, and April through June 2005 monitoring periods. Failed to conduct residual sampling for calendar year 2004. The facility also exceeded the parameter of flow during the December 2005, January 2006, February 2006, March 2006, and April 2006 monitoring periods.</p>	<p>Settlement Agreement executed on 8/11/09 for \$58,788.</p>	<p>22</p>
<p>WARREN CNTY DISTRICT LANDFILL</p>	<p>NJ0163333</p>	<p>500 Mt. Pisgah Avenue White Township Warren County</p>	<p>June 08 - June 09</p>	<p>The Pollution Control Financing Authority of Warren County exceeded the effluent load limitations of its NJPDES Permit for Ammonia and TSS.</p>	<p>Settlement Agreement executed on 10/15/09 for \$21,000.</p>	<p>8</p>