

**2008 ANNUAL REPORT**

**OF THE**

**CLEAN WATER ENFORCEMENT ACT**

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

*Calendar Year 2008*



**September 2009**

*New Jersey Department of Environmental Protection*

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OF THE  
CLEAN WATER ENFORCEMENT ACT**

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*September 2009*

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Ewing-Lawrence S. A.	Gloucester County U.A.
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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.
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Ocean County U.A.	Pequannock, Lincoln Park
Passaic Valley Sewerage Commissioners	Rahway Valley S.A.
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## EXECUTIVE SUMMARY

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

The CWA established the basic structure for regulating discharges of pollutants into the waters of the United States by making it unlawful for any person to discharge any pollutant from a point source unless a permit was obtained under its provisions. 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 fourteen 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. NJPDES permits are issued for five year terms and may be renewed. 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.

A NJPDES permit may be an individual permit tailored to a specific facility or an authorization under a general permit covering a group of similar facilities. 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.

The Department's DWQ regulated 660 facilities that discharged to the surface waters of the State in 2008, as compared to the 682 facilities regulated in 2007. 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 2008, the DWQ regulated 5,057 of these other facilities (either separately or combined with a DSW), as compared to the 4,963 regulated in 2007, an increase of .02 percent. The DWQ regulated a total of 5,451 facilities in 2008, compared with 5,377 facilities in 2007, an increase of .01 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, 2008, the Department permitted 6,099 discharge types for 5,451 facilities.

In 2008, the Department took 1596 formal permit actions, reflecting a 46 percent decrease in permit actions from 2007.

The Department issued 292 new permits and received no hearing requests on these actions. The Department also issued 1016 permit renewals and received 9 hearing requests on these actions. The Department renewed permits for 24 DSW major facilities in 2008. Over the past few years, DWQ has focused its permitting resources on renewing major DSW permits.

For the Stormwater Permitting Program in 2008, 159 general permit renewal authorizations were issued, 2 Master General Permits were renewed, 2 Master General Permit modifications were issued, 72 new general permit authorizations were issued, 17 were modified, and 141 general permit authorizations were terminated. In addition, 4 new individual permits were issued, 31 were renewed, 4 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 2008, the Department conducted 3393 facility inspections.

### *Violations*

In 2008, the Department assessed penalties against 152 facilities for 767 violations of the WPCA. In comparison, in 1992 the Department assessed penalties against 300 facilities for 2,483 violations.

### *Serious Violations*

In 2008, the Department identified and issued formal and informal enforcement actions for 289 serious effluent violations. Serious violations have decreased from a reported high figure of 847 in 1992. This decrease from sixteen 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 2008, the Department issued formal enforcement actions to 21 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 2008, the Department initiated 586 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 2008, the Department initiated 152 formal enforcement actions. Since these are the documents in which the Department assesses penalties and, the Department typically initiates penalty actions only against a permittee committing a serious violation or violations which causes it to become an SNC.

*Penalties Assessed and Collected*

In 2008, the Department assessed a total of \$4.23 million in civil and civil administrative penalties within 152 distinct enforcement actions.

In 2008, the Department collected \$2.23 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 845 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 761 of the 845 permittees at least once during the calendar year.

The DLAs reported 680 permit violations by permitted facilities in 2008, compared with 757 violations in 2007. The DLAs reported a total of 30 indirect users who qualified as SNCs under the State definition during 2008. The analysis in the 2007 report indicated that 35 indirect users met the SNC definition. Therefore, there was a decrease of 5, or a 14.3 percent decrease in the number of facilities in significant noncompliance. The DLAs reported as a whole that by the end of calendar year 2008, 17 (56.7 percent) of the 30 indirect users in significant noncompliance had achieved compliance. During 2008, the DLAs issued 252 enforcement actions as a result of inspections and/or sampling activities.

In calendar year 2008, 13 of the DLAs assessed a total of \$672,963 in penalties for 298 violations while collecting \$503,876. In 2007, 16 DLAs assessed \$862,861 in penalties for 404 violations while collecting \$625,669.

**Criminal**

In 2008, the Division of Criminal Justice conducted a total of twenty-eight (28) WPCA investigations. The Division also reviewed over five hundred and thirty (530) Department actions (NOVs, Orders, Penalty Assessments, etc.) for potential criminality. Division State Investigators responded to twenty-one (21) water pollution emergency response incidents, out of a total of forty-three (43) emergency response incidents. The Division filed ten (10) criminal actions (indictments or accusations) for violations of the requirements of the WPCA. (The Division filed a total of twenty-six (26) actions in environmental cases.) Two (2) prosecutions were for third degree violations of the WPCA. Four (4) of the criminal actions constituted fourth degree charges involving a negligent violation of the WPCA. Four cases were third and fourth degree fraud prosecutions for false submissions to the Department under the Safe Drinking Water Act, and the Underground Storage Tank Act. Seven of the ten 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 CWFEB 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. 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 presents 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).

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 Document \(Methods Document\)](#).

The Integrated Report is published on the Department's Web site at <http://www.state.nj.us/dep/wms/bwqsa/assessment.htm> in April of even-numbered years.

## **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 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 Departments' Division of Water Quality administers the NJPDES Permitting Program which protects New Jersey's ground and surface water quality by assuring the proper treatment and discharge of wastewater and stormwater from various types of facilities and activities. This includes the generation, monitoring, and management of residual (commonly known as sludge) and residual derived products.

The types of regulated facilities vary widely in size from small users such as campgrounds, schools, and small shopping centers to larger industrial and municipal wastewater dischargers. The Department received federal NPDES program authorization from the United States Environmental Protection Agency (USEPA) in 1982.

NJPDES permit categories include:

- Discharge to Surface Water (DSW) Permits (municipal/domestic and industrial)
- Stormwater Permits (municipal and industrial)
- Discharge to Groundwater (DGW) Permits (including the Underground Injection Control Program)
- Significant Indirect User (SIU) permits (addressing indirect discharges of non-domestic wastewater to municipal sewer systems)
- Land Application of Residual permits (such as land application of sewage sludge, food processing wastes and potable water residual)
- Combined Sewer Overflows

A NJPDES permit may be an individual permit tailored to a specific facility or an authorization under a general permit covering a group of similar facilities. The most recent addition to the NJPDES program is the Municipal Stormwater Regulation program which regulates every municipality, county, and most State, interstate and federal entities and ultimately affects every citizen of the State.

Section One - Number of Facilities Permitted:

The Department's DWQ regulated 660 facilities that discharge to the surface waters of the State

in 2008, as compared to the 682 facilities regulated in 2007. 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 2008, the DWQ regulated 5,057 of these other facilities (either separately or combined with a DSW), as compared to the 4,963 regulated in 2007, an increase of .02 percent. The DWQ regulated a total of 5,451 facilities in 2008, compared with 5,377 facilities in 2007, an increase of 1.3 percent.

TABLE II-1 REGULATED FACILITIES 2006-2008

FACILITIES REGULATED (including stormwater)	2006	2007	2008	% Growth 2006-2008
Discharge to Surface Water only	429	414	394	-4.8
DSW/Other combined	273	268	266	-.7
Other only	4656	4695	4791	2
<b>TOTAL</b>	<b>5358</b>	<b>5377</b>	<b>5451</b>	<b>1.4</b>

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, 2008, the Department permitted 6,099 discharge types for 5,451 facilities. Table II-2 below provides information regarding the number of discharge types permitted by the Department between 2005 and 2008.

TABLE II – 2 REGULATED DISCHARGES BY TYPE 2005-2008

ACTIVITY TYPE	2005	2006	2007	2008
INDUSTRIAL DSW	467	466	463	449
MUNICIPAL DSW	262	313	304	306
SIU	82	80	81	87
GROUNDWATER	1137	1179	1238	1395
RESIDUALS	59	71	72	71
STORMWATER	3838	3873	3840	3791
<b>TOTAL</b>	<b>5,845</b>	<b>5982</b>	<b>5998</b>	<b>6099</b>

The Department continues to issue permits to new facilities, renew permits for existing facilities and terminating permits for facilities no longer operating. In 2008, the permitted facility universe increased by 74. Most of the growth in the NJPDES permit universe in recent years has been through the use of general permits.

**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**

<b>NJPDES No.</b>	<b>Category</b>	<b>Name of General Permit</b>	<b>Discharge Type</b>	<b>Year Issued</b>
NJ0142581	ABR	Wastewater Beneficial Reuse	DSW	2006
NJ0070203	CG	Non-contact Cooling Water	DSW	2000
NJ0102709	B4B	Groundwater Petroleum Product Clean-up	DSW	2003
NJ0128589	B6	Swimming Pool Discharges	DSW	1998
NJ0134511	B7	Construction Dewatering	DSW	1999
NJ0132993	BG	Hydrostatic Test Water	DSW	1999
NJ0105023	CSO	Combined Sewer Overflow	DSW	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	2002
NJ0108308	I1	Stormwater Basins/SLF	DGW	2001
NJ0108642	I2	Potable WTP Basins/Drying Beds	DGW	2003
NJ0130281	T1	Sanitary Subsurface Disposal	DGW	2003
NJ0142051	LSI	Lined Surface Impoundment	DGW	2004
NJ0168416	K2	Dental Facilities Onsite Wastewater Treatment Systems	DGW	2008
NJ0088315	5G2	Basic Industrial Stormwater	DST	2002
NJ0088323	5G3	5G3 –Construction Activity Stormwater	DST	1997
NJ0108456	CPM	Concrete Products Manufacturing	DST	2003
NJ0107671	SM	Scrap Metal Processing/Auto Recycling	DST	2004
NJ0132721	R4	Hot Mix Asphalt Producers	DST	2004
NJ0134791	R5	Newark Airport Complex	DST	2000
NJ0138622	R7	Wood Recyclers	DST	2008
NJ0138631	R8	Concentrated Animal Feeding Operations	DST	2003
NJ0141852	R9	Tier A Municipal Stormwater	DST	2004
NJ0141861	R10	Tier B Municipal Stormwater	DST	2004
NJ0141879	R11	Public Complex Stormwater	DST	2004
NJ0141887	R12	Highway Agency Stormwater	DST	2004
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. Renewed this past year in 2008, this permit is administered by the 15 local Soil Conservation Districts in conjunction with the Soil Erosion and Sediment Control Plan certification. The Department issued 1,488 construction activity general permit authorizations in 2008. There are a total of 15,118 active authorizations under this general permit.

*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 22 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 2008, the Department took 1,596 formal permit actions, reflecting a 46 percent decrease in permit actions from 2007. Approximately 18 percent of the final permit actions were new facilities, 64 percent of the actions were permit renewals, 5 percent were for permit modifications, and 13 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 2008, the Department received 9 requests for adjudicatory hearings, compared to 9 requests received in 2007. This is a request rate of .6 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 24 major facilities in 2008. The Department also issued 292 new permits and received no hearing requests on these actions. The Department issued 1016 permit renewals and received 9 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 commonly provides 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 improves acceptance of the permit by the permittee and helps diminish the filing of hearing requests.

TABLE II - 4  
 PERMIT ACTIONS TAKEN BY THE DIVISION OF WATER QUALITY  
 2005 - 2008

TYPE OF PERMIT ACTION	2005	Contested 2005	2006	Contested 2006	2007	Contested 2007	2008	Contested 2008
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Industrial Surface Water								
-New	22	0	18	0	25	0	12	0
-Renewals	66	1	26	1	54	1	80	1
- Modifications	22	0	39	0	35	0	30	0
-Terminations	27	0	16	0	33	0	32	0
Subtotal	137	1	99	1	147	1	154	1
Municipal Surface Water								
-New	0	0	47	0	1	0	0	0
-Renewals	40	11	26	9	28	8	30	8
- Modifications	28	0	54	0	35	0	25	0
-Terminations	4	0	5	0	0	0	2	0
Subtotal	72	11	132	9	64	8	57	8
Significant Indirect User								
-New	6	0	3	0	7	0	1	0
-Renewals	10	0	11	0	6	0	15	0
- Modifications	1	0	5	0	6	0	2	0
-Terminations	5	0	1	0	3	0	2	0
Subtotal	22	0	20	0	22	0	20	0
Ground Water								
-New	50	0	28	2	56	0	199	0
-Renewals	31	0	31	0	36	0	694	0
- Modifications	12	0	9	0	13	0	11	0
-Terminations	15	0	12	0	9	0	16	0
Subtotal	108	0	80	2	114	0	920	0
Land Application of Residuals								
-New	5	0	1	0	6	0	3	0
-Renewals	2	0	4	1	3	0	5	0
- Modifications	2	0	3	0	1	0	0	0
-Terminations	2	0	3	0	1	0	2	0
Subtotal	11	0	11	1	11	0	10	0
Stormwater								
-New	255	0	376	0	132	0	77	0
-Renewals	271	0	24	1	2300	0	192	0
- Modifications	684	0	14	0	2	0	21	0
-Terminations	123	0	166	0	158	0	145	0
Subtotal	1333	0	580	1	2592	0	435	0

TOTALS	1683	12	922	14	2950	9	1596	9
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For the Stormwater Permitting Program in 2008, 159 general permit renewal authorizations were issued, 2 Master General Permit renewals were issued, 2 Master General Permit modifications were issued and 72 new general permit authorizations were issued, 17 were modified, and 141 general permit authorizations were terminated. In addition, 4 new individual permits were issued, 31 were renewed, 4 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 2005 – 2008

TYPE OF PERMIT ACTION	2005	2006	2007	2008
New	338	473	227	292
Renewal	420	122	2427	1016
Modifications	749	124	92	89
Terminations (Revocations)	176	203	204	199
<b>TOTAL ACTIONS</b>	<b>1683</b>	<b>922</b>	<b>2950</b>	<b>1596</b>

## B. NEW DEVELOPMENTS

### NJPDES Permit Universe Status

The total universe of NJPDES issued permits as of September 30, 2008 is 5,584 permits. This is up from 5,571 permits as of September 30, 2007, a 0.231% increase. Of these 5,584 permits, 5,142 (92%) are current, while 442 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.

### Implementation of Dental Amalgam Rule

One step in a multi-faceted approach to controlling and reducing mercury released in the air, soil and waters of our state was implemented by adopting a new section in the NJPDES regulations at N.J.A.C. 7:14A-21.12 called the Dental Amalgam Rule. This rule establishes best management practices and regulatory requirements for owners of dental facilities that generate amalgam waste through the removal or placement of amalgam fillings and requires dentists to install amalgam separators.

The Dental Amalgam Rule is expected to affect approximately 3,400 dental facilities in New Jersey, and will result in removal and recycling of approximately 2,550 pounds of mercury per year. The regulations were published in the October 1, 2007 New Jersey Register at 39 N.J.R. 4117(a).

The expected result is a reduction in the amount of mercury released into the collection systems of municipal wastewater treatment plants and ultimately into the sludge generated and the waters of the state. In order to determine the effluent baseline levels of mercury discharged from the state's sewage treatment plants the Department required effluent testing for mercury using a more sensitive analytical method both before and after implementation of the Dental Amalgam Rule. Testing for mercury was required before the implementation of the Dental Amalgam Rule. This testing was to be conducted by taking a set of three distinct samples at intervals no less than 30 days, during the period of November 1, 2007 through June 30, 2008, at the major municipal discharges across the State. Additionally, after the complete implementation of the Dental Amalgam Rule, in spring 2010, a second set of monitoring is required to be undertaken by these facilities. A comparison of the two sets of the sampling analysis results will allow the Department to gauge the improvements resulting from the reduction in the amount of mercury being discharged by dental facilities and determine if further actions need be undertaken by the dischargers.

#### Dental Facilities Onsite Wastewater Treatment Systems General Permit (K2) NJPDES NJ0168416

The Bureau of Nonpoint Pollution Control issued the New Jersey Pollutant Discharge Elimination System – Discharge to Ground Water (NJPDES-DGW) general permit for Dental Facilities Onsite Wastewater Treatment Systems (NJ0168416) on October 1, 2007. On October 1, 2007 at 39 N.J.R. 4117(a), the Department adopted revisions to N.J.A.C. 7:14A-21.12 to regulate dental facilities that discharge to sanitary sewer treatment facilities through the establishment of Best Management Practices (BMPs) authorized by the New Jersey Pollutant Discharge Elimination System-Significant Indirect User (NJPDES-SIU) regulations to remove mercury amalgam prior to entering the waste stream. The purpose of the NJPDES-DGW general permit NJ0168416 (Category K2) is to implement similar efforts for those dental facilities that discharge to individual subsurface sewage disposal systems (Class V Underground Injection Control (UIC) wells), which when properly maintained, are pumped out and solids are disposed at a sanitary sewer treatment facility.

#### Municipal Stormwater Advisory Group and Highway Agencies Meetings

Bureau of Nonpoint Pollution Control staff held a series of five (5) meetings of the Municipal Stormwater Advisory Group with representatives from the regional Water Compliance and Enforcement offices, the Division of Watershed Management, and various municipalities, counties, and environmental groups. This advisory group met for the purpose of discussing the Department's proposed changes for the 2009 Tier A Permit and Tier B Permit renewal. The meetings also provided a forum for the Department to share the latest permit compliance issues with the group and for permittees to share their experience.

A number of significant changes to the permit requirements will be incorporated during the permit renewal process. The Department also conducted various meetings with Highway agencies and provided an updated compliance schedule.

#### The Wood Recyclers General Permit (R7)

The Wood Recyclers General Permit (R7) was issued on October 22, 2007 and made effective on November 1, 2007. This general permit was developed in response to several incidents involving wood recycling facilities that contributed to water quality issues. Facilities that store

and process raw wood material and final products, including dyed chips, are eligible to receive this general permit. In addition, facilities that include minor volumes of compostable material may also be eligible for regulation under this general permit. The R7 is a Best Management Practice (BMP) permit that creates a framework for facilities to develop their site specific Stormwater Pollution Prevention Plan (SPPP) and Drainage Control Plan (DCP). The SPPP and DCP function as working documents that control how stormwater and process wastewater is managed throughout areas of industrial activity. Facilities are encouraged to discharge both stormwater and process wastewater to ground water through infiltration/percolation structures, however, provisions for discharge to surface water of stormwater are provided in the R7 permit. Discharge monitoring is required to characterize pollutant loads, primarily nutrient parameters such as nitrate and ammonia, prior to the discharge points. Design criteria, which are not mandatory enforcement reporting limits, are provided for each pollutant of concern so facilities can monitor their BMP strategy in order to achieve their respective quality standards.

### 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 has 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 2005-2008. Commercials were also run on many statewide cable television networks, Cablevision, Time -Warner, Comcast, in 2006 and 2007. In addition the commercial will run on Verizon – Fios in 2008. The Campaign has produced six radio commercials, two television commercials and one animated television commercial for children for this effort.

The Campaign also developed a series of 4 posters with 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 and the Adventure Aquarium. In 2008, the Campaign held a photo contest for high school students to raise awareness of stormwater pollution and awarded savings bonds to three winners. In addition, the Campaign recently took advertising space on the NJ Transit buses.

Construction Activity Stormwater General Permit (NJPDES Permit No. NJ0088323).

The Bureau of Nonpoint Pollution Control renewed this permit (NJ0088323) with only minor

modifications regarding eligibility and the name of the permit.

This general permit controls discharges to surface water of stormwater from certain industrial activity and small construction activities as defined in N.J.A.C. 7:14A-1.2. Facilities where construction activities, including clearing, grading, and excavation, disturb five acres or more of land, or disturb less than five acres but are part of a larger plan of development or sale are classified as industrial activities. Facilities engaged in the same construction activities that disturb one acre or more of land but less than five acres, or disturb less than one acre but are part of a larger plan of development or sale are classified as small construction activities.

#### Concentrated Animal Feeding Operation (CAFO) General Permit (NJ0138631)

The Bureau of Nonpoint Pollution Control renewed this permit (NJ0138631) with only minor modifications to update references and the implementation schedules set forth in the existing permit, effective March 1, 2003.

This general permit controls discharges to surface water of process wastewater, process generated wastewater, and stormwater from concentrated animal feeding operations to the surface and ground waters of the State from eligible facilities throughout the State of New Jersey.

#### Electronic Submission Initiative

The Division of Water Quality is currently in the process of developing a means for the regulated public to electronically register or apply for an authorization online. Specifically, dental practices who use amalgam will be allowed to register online and authorization for stormwater construction activities will be able to be applied for online. The Division expects to register 1,500 dental entities and issue 1,500 Stormwater Construction final authorizations this fiscal year. Electronic submittal was made available in early September 2008. Additionally, it is expected that applicants will be able to electronically apply for the Stormwater Construction General Permit in late 2008 or early 2009.

#### 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. (see Chapter IV. page---for the details of the enforcement actions taken by 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 and to those facilities which DLA is required to inspect. A DLA must inspect facilities discharging into its municipal treatment works, again excluding those facilities that discharge only stormwater or non-contact cooling water.

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

In 2008, the Department conducted 3393 facility inspections. This number includes 1994 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 in most cases.

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 2008:**

#### *Informal Enforcement Actions:*

In 2008, the Department initiated 586 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 less NOV's issued in 2008 (586) when compared to 2007 (714).

#### *Formal Enforcement Actions:*

In 2008, the Department initiated 152 formal enforcement actions compared with 192 in 2007. Since these are the documents in which the Department assesses penalties and, the Department typically initiates penalty actions only against a permittee committing a serious violation or violations which causes it to become an SNC.

The total number of enforcement actions (informal and formal) in 2008 was 738.

### **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 on verified violations.

The total number of permit violations that were reported in 2008 was 2296.

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

In 2008, the Department assessed penalties against 152 facilities for 767 violations of the WPCA. The 767 violations addressed by the Department's actions were slightly less than the number of violations addressed in 2007 (800). 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 2008, the Department did not identify any violations of an interim effluent limitation established in an AO or ACO.

*Violations of Compliance Schedules:*

In 2008, the Department did not take any formal actions for violations of a compliance schedule set forth in an ACO.

**Section Five - Unpermitted Discharges:**

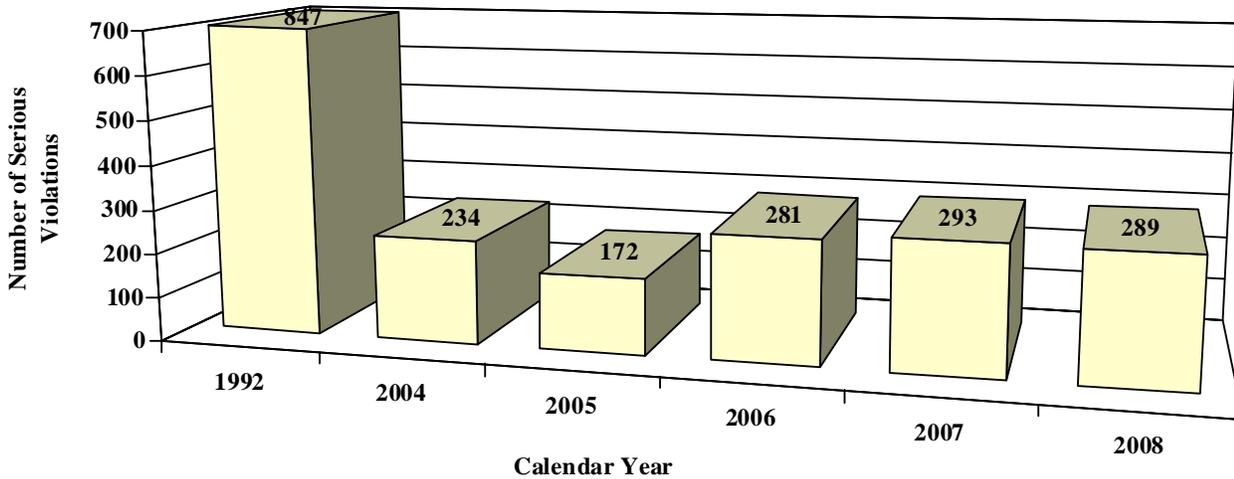
An unpermitted discharge is the release of pollutants into surface water, ground water or a municipal treatment works when the discharger does not hold a valid NJPDES permit or when the discharge is not authorized under the discharger's permit.

In 2008, the Department identified 26 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 2008, the Department granted 27 affirmative defenses for violations that were considered serious as defined in the Clean Water Enforcement Act.



**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 2008, the Department identified and issued formal and informal enforcement actions for 289 serious effluent violations. Serious violations have decreased from a reported high figure of 847 in 1992. This decrease from sixteen 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 2008, the Department issued formal enforcement actions to 21 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 2008 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:**

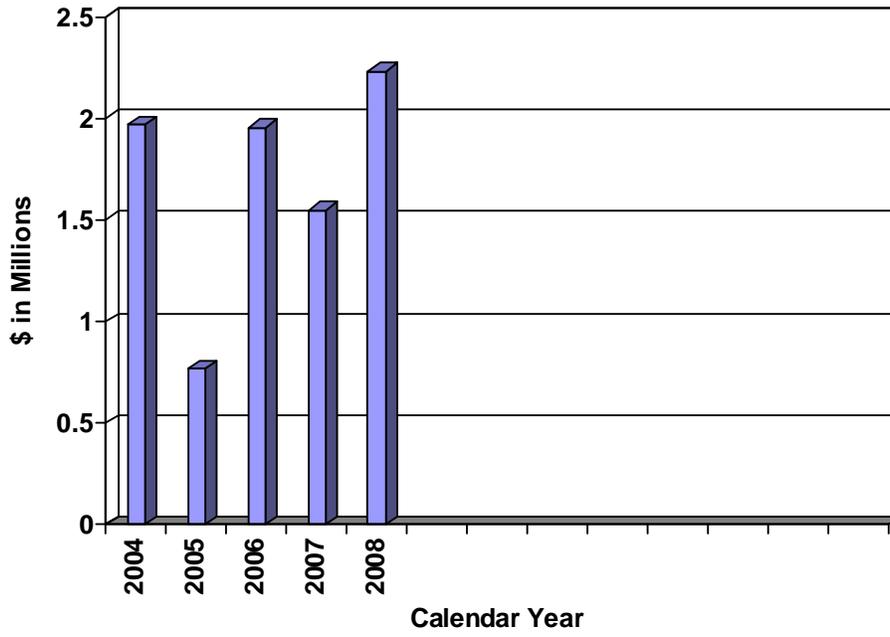
In 2008, the Department assessed a total of \$4.23 million in civil and civil administrative penalties within 152 distinct enforcement actions. This is a slight increase from \$4.22 million assessed 2007.

### **Section Two - Penalties Collected:**

In 2008, the Department collected \$2.23 million in penalties. This is an increase from last year's amount collected (\$1.55 million).

As shown in Chart III-2 below, penalty collections have averaged \$1.69 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 2004-2008**



## 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. Previous reports included data for twenty-four DLAs, but in calendar year 2007, two DLAs, Hamilton Township and the City of Trenton, had their IPP programs revoked by the Department due to the small number of permittees discharging to each facility. 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, 2009 statutory deadline as well as any addenda received as of February 28, 2009. 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 845 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 2007, the DLAs issued a total of 30 new permits, 158 renewals, and 138 permit modifications with one permit contested by interested parties. Of the DLA regulated total of 847 dischargers, 528 were classified as CSM and 319 were classified as OR. In 2008, the DLAs issued 33 new permits, 274 renewals, and 83 permit modifications with zero permits contested by interested parties. As of December 31, 2008, the DLAs had issued permits to 505 CSM facilities and 340 OR facilities for a total of 845 permits. Table IV-1 details the permit actions mentioned above and identifies the CSM and OR categories.

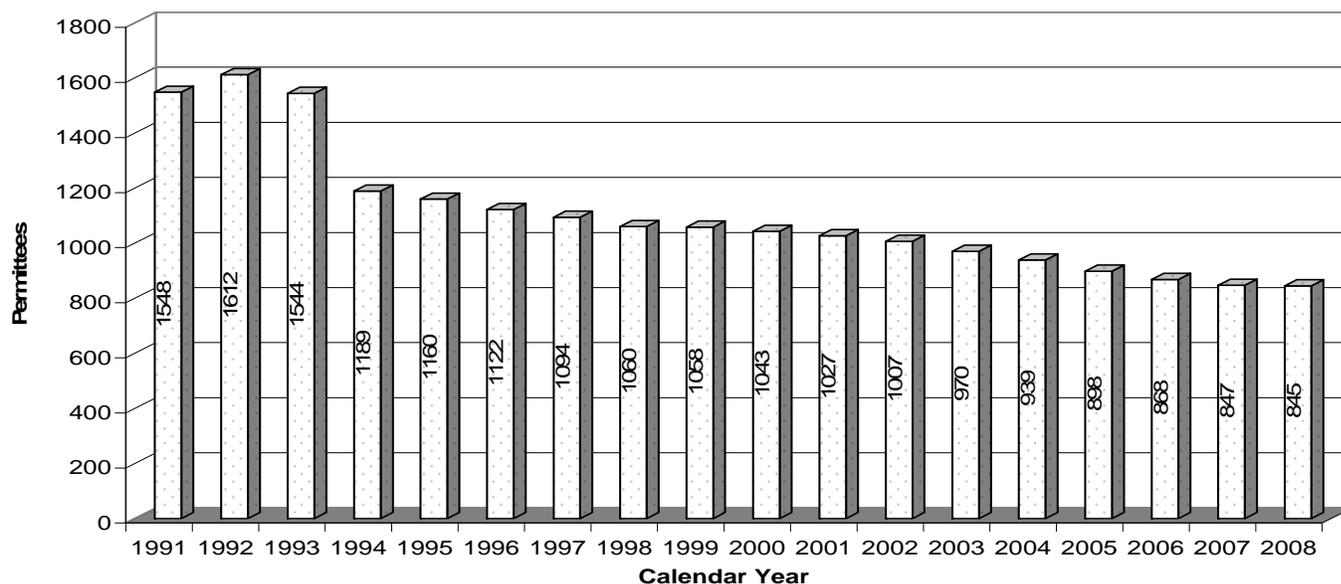
As noted in Table IV-1 below, four (4) permittees had their permit limits relaxed through an administrative order (AO) or an administrative consent order (ACO) issued by a DLA. In three (3) of these cases, the limits were relaxed for conventional pollutants (COD and pH), while the fourth case involved interim action levels for organic pollutants. In 2007, the DLAs issued three (3) AOs or ACOs that relaxed the local limits.

**TABLE IV - 1  
PERMIT ACTIVITY SUMMARY  
January 1 - December 31, 2008**

<b>PERMIT ACTIONS</b>	<b>CSM</b>	<b>OR</b>	<b>TOTAL</b>
<b>New Permits</b>	<b>18</b>	<b>15</b>	<b>33</b>
<b>Permit Renewals</b>	<b>139</b>	<b>135</b>	<b>274</b>
<b>Permit Modifications</b>	<b>59</b>	<b>24</b>	<b>83</b>
<b>Permits contested by interested parties</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>AO/ACO compliance schedules relaxing local limits</b>	<b>4</b>	<b>0</b>	<b>4</b>

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 845 permittees under their regulation at the end of calendar year 2008, representing a decrease of 47.6% (or 767 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 761 of the 845 permittees at least once during the calendar year. The DLAs inspected and sampled 463 (91.7 percent) of the 505 CSM permittees and 298 (87.6 percent) of the 340 OR facilities. In 2007, the DLAs inspected and sampled 795 of the permittees at least once. The DLAs inspected and sampled 492 (93.2 percent) of the 528 CSM permittees and 303 (95.0 percent) of the 319 OR permittees. In 2008, there was a shortfall of approximately 8 percent in the number of CSM facilities both inspected and sampled, as compared to the 7 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 298 of the 340 OR facilities (or 87.6 percent of the universe) in calendar year 2008, as compared to the statutory requirement of 33 percent.

**D. VIOLATIONS**

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

The DLAs reported 680 permit violations by permitted facilities in 2008, compared with 757 violations in 2007. 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 680 permit violations reported in 2008, 508 (74.7 percent) were effluent violations, and 172 (25.3 percent) were reporting violations, compared with 541 (71.5 percent) effluent violations and 216 (28.5 percent) reporting violations in 2007. The total number of violations reported decreased by 77 (10.2 percent) compared to 2007.

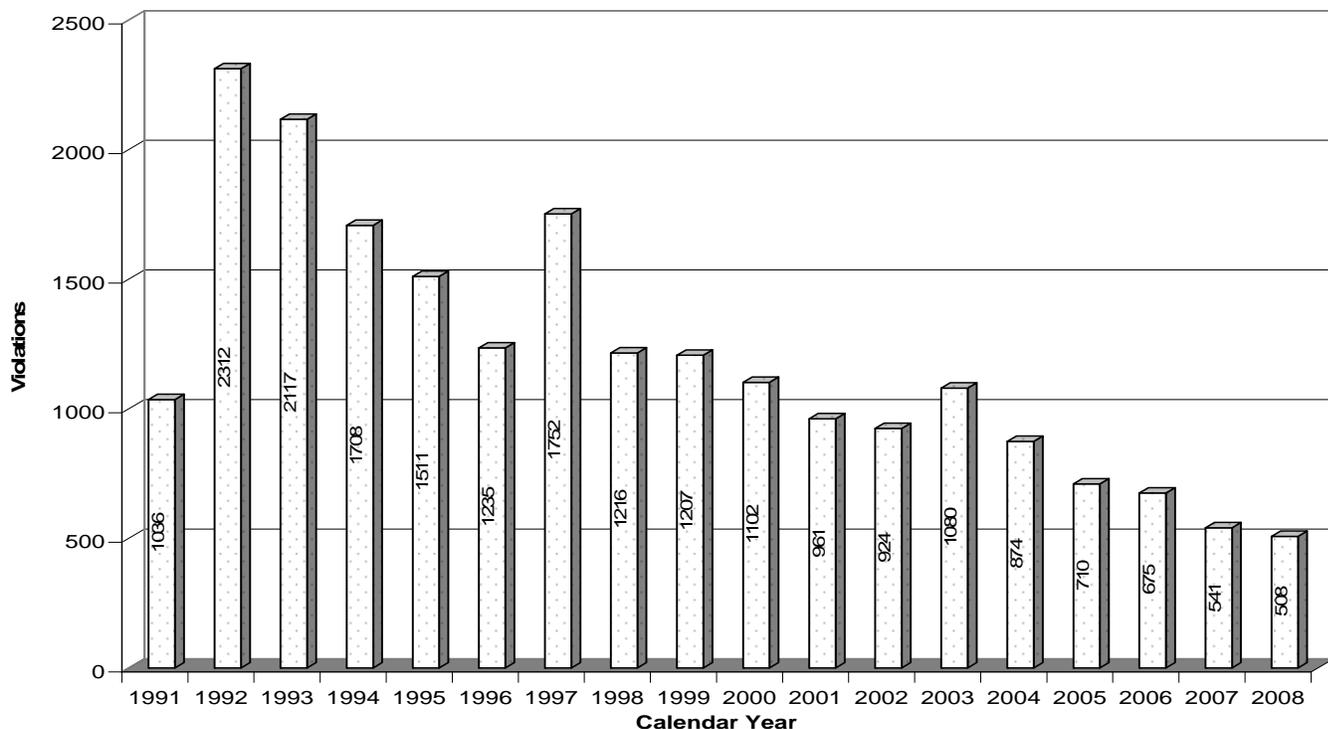
Of the 508 effluent violations, 265 (52.2 percent) were for non-hazardous discharges of conventional pollutants, such as suspended solids and nutrients, and 243 (47.8 percent) were for hazardous pollutant discharges, such as metals, organics and other toxic substances. In 2007, 280 effluent violations were for non-hazardous pollutants and 261 effluent violations were for hazardous pollutants. Of the total number of effluent violations in 2008, 194 (38.2 percent) constituted serious violations compared with 230 (42.5 percent) serious violations in 2007. 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, 2008**

VIOLATION TYPE	CSM	OR	TOTAL	%
Non-hazardous pollutants	211	54	265	39.0
Hazardous pollutants	142	101	243	35.7
Reporting violations	88	84	172	25.3
<b>TOTALS</b>	<b>441</b>	<b>239</b>	<b>680</b>	<b>100.0</b>

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 508 in 2008, a decrease of 78.0 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 2008, the DLAs reported three unpermitted discharges. All three of these facilities are under the OR classification. Two are in the process of being issued permits, and one was subsequently declassified because it no longer discharges industrial wastewater. In 2007, the DLAs reported two 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 2008, one pass through incident was reported. This incident was caused by a sludge discharge and operation problems 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 and an order to upgrade treatment were issued. One pass through incident was reported in 2007.

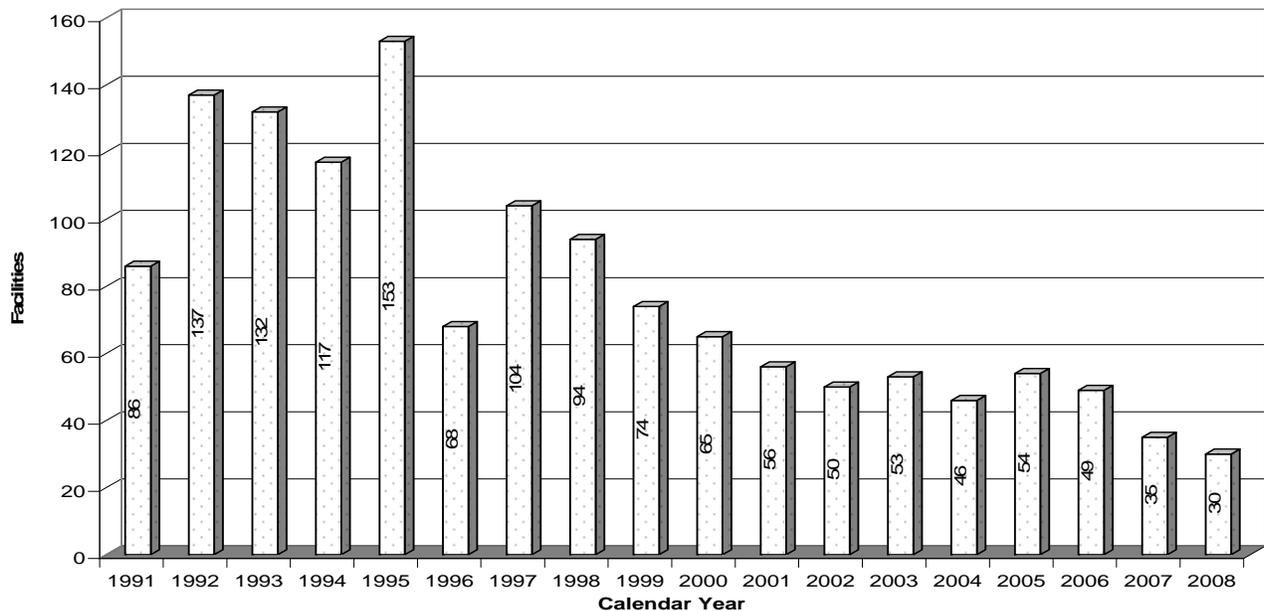
**Section Three - Significant Noncompliance:**

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 30 indirect users who qualified as SNC under the State definition during 2008. The analysis in the 2007 report indicated that 35 indirect users met the SNC definition. Therefore, there was a decrease by 5, or 14.3 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 2008, 17 (56.7 percent) of the 30 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 2008.

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 twelve year period from 1992 (the first full calendar year of reporting) through 2008, the number of facilities meeting SNC criteria shows a decrease of 78.1 percent. The percentage of DLA indirect users meeting the SNC criteria in 2008 was 3.6 percent. For CSMs only, the percentage meeting SNC is 4.0. 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**

One DLA reported that three (3) users had a total of nine (9) 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 three users included two CSM facilities and one OR facility. All of the violations involved exceedences for the parameter chemical oxygen demand (COD). In 2007, two DLAs reported that users had 2 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. Two permittees were at least six months behind in the construction phase of a compliance schedule in 2008. American Halal Meats, Newark, was required by PVSC to install and operate both a pH meter/recorder and a sanitary wastewater discharge meter as conditions of its discharge permit. This facility has ignored these requirements and PVSC has initiated legal action. Global Protein, Newark, failed to submit a permit application within 30 days as required, and failed to install/operate a pH meter/recorder and composite sampler. This facility has hired a consultant to assist them with complying. PVSC is in the process of initiating legal action.

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

Ten DLAs granted 36 affirmative defenses for upsets, bypasses, testing or laboratory errors for serious violations. Twenty-five (69.4 percent) of the 36 affirmative defenses were given due to laboratory error, and 11 (30.6 percent) for upset or bypass. In calendar year 2007, 25 affirmative defenses were granted by eight DLAs: 21 (84.0 percent) for laboratory error; and 4 (16.0 percent) for upset or bypass.

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

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

During 2008, the DLAs issued 252 enforcement actions as a result of inspections and/or sampling activities. CSM permittees were the subject of 59.1 percent (149) of these actions, and OR permittees were the subject of the remaining 40.9 percent (103). One DLA, PVSC, is responsible for a large percentage (90, or 35.7 percent) of these actions and most of these enforcement actions initiated by PVSC were due to pH violations. In 2007, the DLAs issued 201 enforcement actions. CSM permittees were the subject of 123 (61.2 percent) of these actions and OR permittees were subject to 78 (38.8 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 252 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 2008, 13 of the DLAs assessed a total of \$672,963 in penalties for 298 violations while collecting \$503,876. In 2007, 16 DLAs assessed \$862,861 in penalties for 404 violations while collecting \$625,669.

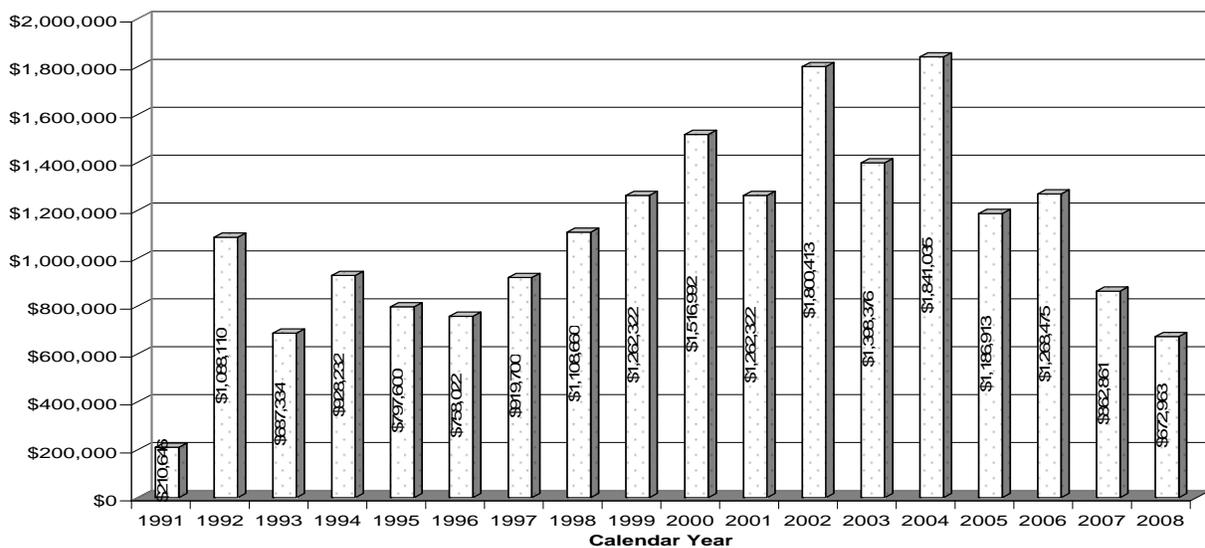
No DLAs reported that they recovered enforcement costs in civil and/or civil administrative actions in calendar year 2008. Similarly, no DLAs reported that they recovered enforcement costs in civil and/or civil administrative actions in calendar year 2007.

DLAs may refer cases to the Attorney General’s office or to the County Prosecutor for further enforcement action. In calendar year 2008, one (1) case was referred to either office. In 2007, two cases were 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 2008 were again less than that assessed in the previous year. This decrease is not attributed to lack of enforcement by the DLAs, but rather a decrease in number of effluent and reporting violations by permittees.

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



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

IU NAME	IU LOCATION	POTW
AcuPowder	Union, NJ	Joint Meeting of Essex and Union Counties
American Halal Meats	Newark, NJ	Passaic Valley Sewerage Commissioners
Atlantic Casting & Engineering	Clifton, NJ	Passaic Valley Sewerage Commissioners
C&C Metal Products Corp.	Englewood, NJ	Camden County Municipal Utilities Authority
Cavalier Chemical	Elizabeth, NJ	Joint Meeting of Essex and Union Counties
Chemtura Corp. d/b/a Hatco Corp.	Fords, NJ	Middlesex County Utilities Authority
Clean-TEX Services	Irvington, NJ	Joint Meeting of Essex and Union Counties
Cumberland Dairy	Bridgeton, NJ	Cumberland County Utilities Authority
Deep Foods	Union, NJ	Joint Meeting of Essex and Union Counties
G & K Services Co.	Belleville, NJ	Passaic Valley Sewerage Commissioners
Global Protein	Newark, NJ	Passaic Valley Sewerage Commissioners
Hexacon Electric Company	Roselle Park, NJ	Joint Meeting of Essex and Union Counties
Hi-Speed Plating	Irvington, NJ	Joint Meeting of Essex and Union Counties
Intergel	Irvington, NJ	Joint Meeting of Essex and Union Counties
Kerry Ingredients & Flavors	Clark, NJ	Rahway Valley Sewerage Authority
Kinder Morgan Liquids Terminals, LLC	Carteret, NJ	Middlesex County Utilities Authority
L'Oreal USA Products, Inc.-Franklin Manuf.	Somerset, NJ	Middlesex County Utilities Authority
Lioni Latticini	Union, NJ	Joint Meeting of Essex and Union Counties
Maplewood Beverage Packers	Maplewood, NJ	Joint Meeting of Essex and Union Counties
Meadowland Gas Treaters	Kearny, NJ	Passaic Valley Sewerage Commissioners
Menu Foods	Pennsauken, NJ	Camden County Municipal Utilities Authority
Novus Fine Chemicals	Carlstadt, NJ	Bergen County Utilities Authority
Pennsauken Landfill	Pennsauken, NJ	Camden County Municipal Utilities Authority
Prince Donut	Linden, NJ	Joint Meeting of Essex and Union Counties
Puebla Foods, Inc.	Passaic, NJ	Passaic Valley Sewerage Commissioners
Quala Systems, Inc.	Rahway, NJ	Rahway Valley Sewerage Authority
SS Studios	Union, NJ	Joint Meeting of Essex and Union Counties
Stepan Company	Maywood, NJ	Bergen County Utilities Authority
U.S. Vision	Blackwood, NJ	Camden County Municipal Utilities

		Authority
Union Beverage Packers	Hillside, 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	505	340	845
2	Unpermitted discharges in DLA service areas	0	3	3
3	New indirect user permits issued	18	15	33
4	Renewed indirect user permits issued	139	135	274
5	Indirect user permit modifications	59	24	83
6	Permits contested by interested parties	0	0	0
7	Compliance schedules issued that relax local limits	4	0	4
8	Facilities inspected and sampled at least once	463	298	761
9	Pass-throughs of pollutants	1	0	1
10a	Reporting violations	88	84	172
10b	Effluent violations for hazardous pollutants	142	101	243
10c	Effluent violations for non-hazardous pollutants	211	54	265
11	Effluent violations constituting serious violations	154	40	194
12	Affirmative defenses granted	30	6	36
13	Indirect users qualifying as significant non-compliers	20	10	30
14	Violations of AOs/ACOs	8	1	9
15	Violations of compliance schedule milestones by 90 days or more	0	2	2
16a	As of 12/08, number if indirect users from question 13 no longer in SNC status	13	4	17
16b	2007 SNC indirect users which achieved compliance in 2008	20	8	28
17	Enforcement actions resulting from DLA inspection/sampling	149	103	252
18	Violations for which penalties have been assessed	168	130	298
19	Amount of all assessed penalties	\$469,463	\$203,500	\$672,963
20	Amount of penalties collected	\$377,711	\$126,165	\$503,876
21	Enforcement costs recovered, from violations, in an enforcement action	\$0	\$0	\$0
22	Criminal actions filed by the Attorney General or County Prosecutors	1	0	1

**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.	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	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.	290 River Road, Princeton, NJ 08540
Wayne Township	475 Valley Road, Municipal Bldg. Wayne, NJ 07470

**V. CRIMINAL ACTIONS**

## **CLEAN WATER ENFORCEMENT REPORT - 2008**

In 2008, 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 2008, the Division of Criminal Justice conducted a total of twenty-eight (28) WPCA investigations. The Division also reviewed over five hundred and thirty (530) Department actions (NOVs, Orders, Penalty Assessments, etc.) for potential criminality. Division State Investigators responded to twenty-one (21) water pollution emergency response incidents, out of a total of forty-three (43) emergency response incidents. The Division filed ten (10) criminal actions (indictments or accusations) for violations of the requirements of the WPCA. (The Division filed a total of twenty-six (26) actions in environmental cases.) Two (2) prosecutions were for third degree violations of the WPCA. Four (4) of the criminal actions constituted fourth degree charges involving a negligent violation of the WPCA. Four cases were third and fourth degree fraud prosecutions for false submissions to the Department under the Safe Drinking Water Act, and the Underground Storage Tank Act. Seven of the ten 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 2008, 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 ten (10) WPCA criminal actions in 2008, involving two (2) third degree charges and four (4) fourth degree charges, filed four (4) criminal action under the Criminal Code for false submissions to the DEP under the Safe Drinking Water Act and Underground Storage Tank Act, and secured one (1) final dispositions for criminal violations of the WPCA.

1. In State v. McFarland (Indictment No. 08-11-00260-S), the State obtained a two count indictment against defendant charging him with third degree Unlawful Discharge of a Pollutant, contrary to N.J.S.A. 58:10A-10f, and third degree Unlawful Disposal of Medical Waste, contrary to N.J.S.A. 13:1E-48.20 for dumping used dental needles and waste into Townsend Inlet that then washed up on Avalon's beaches resulting in several beach closures.
2. In State v. Keith Rose (Indictment No. 08-10-00237-S), the State obtained a one count indictment against defendant charging him with a fourth degree negligent Unlawful Discharge of a Pollutant, contrary to N.J.S.A. 58:10A-10f(3), for causing the Susan II, a commercial fishing boat, to crash into the jetty at the Manasquan Inlet, causing a release of oil into the Atlantic Ocean.
3. In State v. James and Megen, Inc. (Indictment No. SGJ558-08-5), the State obtained a one

count indictment charging defendant with fourth degree Water Pollution, contrary to N.J.S.A. 58:10A-10f for discharging septic waste from Waterfront Café restaurant into the Hackensack River.

Defendant pled guilty to the charge.

4. In State v. Peter Dominski and State v. Accurate Analytical Laboratories, Inc. (Accusation No. 08-12-00534 and Accusation No. 08-12-00535), 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.

5. In State v. Anneliese Tartell (Accusation Number 08-08-00297 A), the State filed an accusation against defendant charging her with third degree tampering with public records, contrary to N.J.S.A. 2C:28-7, for obtaining a water cooler sample, instead of a tap water sample, for Safe Drinking Water Act analysis from the day care center she operated in Sussex County. Defendant pled guilty and was admitted into PTI conditioned upon completing all DEP and County Health Department required water treatment upgrades.

6. In State v. Vernon Pinkney (Accusation No. 08-01-0069), the State filed an accusation charging defendant with fourth degree uttering a forged document, contrary to N.J.S.A. 2C:21-1 for providing a forged DEP underground storage tank certification to a DEP representative. Defendant pled guilty to the charge, and was sentenced pay \$1,500 restitution to the owner of a residential tank that defendant serviced.

7. In State v. Jason Pugh (Accusation No. 173-05-08), the State filed an Accusation against defendant charging him with fourth degree water pollution, contrary to N.J.S.A. 58:10A-10f for discharging wastewater from a vacuum truck into a storm sewer in East Brunswick. The owner of the trucks agreed to pay \$30,000 to the New Jersey Spill Compensation Fund.

8. In State v. Christiansen (Indictment No. 08-06-00114), the State obtained a one count indictment against defendant charging him with third degree Water Pollution, contrary to N.J.S.A. 58:10A-10f. Defendant pled guilty to the charge and the Court ordered defendant into PTI conditioned upon defendant paying \$2,500 to the N.J. Spill Fund for the cost of cleaning out the oil he had discharged from a tanker truck into a storm drain.

9. In State v. SWO (Accusation Number 08-2867), the State filed an accusation against defendant corporation for fourth degree water pollution, contrary to N.J.S.A. 58:10A-10f, for allowing members of the organization to dump pails of waste oil from an old boiler into street sewers in Jersey City. The Court sentenced defendant to pay \$1,768 restitution to Jersey City.

**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 2008, 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, 2008 through December 31, 2008**

	January – June 2008	July – December 2008
Total Penalties Recorded	\$1,881,067.27	\$2,141,258.85

*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, 2008 through December 31, 2008**

	FY2008 January - June	FY2009 July – December
Division of Law (Dept. of Law & Public Safety)	\$31,177.00	-0-
Office of Administrative Law	\$69,540.00	\$20,634.02
Office of Information Technology	-0-	-0-
Department of Environmental Protection		
- Salaries	\$323,659.83	\$325,488.58
- Materials and Supplies	\$6,608.03	\$8,702.92
- Services Other than Personal	\$45,569.58	\$38,276.79
- Maintenance and Fixed Charges	\$15,701.07	\$117.00
- Equipment	\$4,899.00	\$62,926.00
<b>DEP Subtotal</b>	<b>\$396,437.51</b>	<b>\$435,511.29</b>
<b>Total Disbursements</b>	<b>\$ 497,154.51</b>	<b>\$ 456,145.31</b>

## 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. 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 presents 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.

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 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 List of Water Quality Limited Waters (or 303(d) List) is a regulatory component of the Integrated Report that 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 Statewide Water Quality Management Planning rules at N.J.A.C. 7:15-6. The Integrated Report is published on the Department's Web site at <http://www.state.nj.us/dep/wms/bwqsa/assessment.htm> in April of even-numbered years.

**APPENDIX III- A**

**NJ DEPARTMENT OF ENVIRONMENTAL PROTECTION  
SIGNIFICANT NONCOMPLIERS**

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

<b>FACILITY NAME</b>	<b>PERMIT #</b>	<b>ADDRESS</b>	<b>DATE OF VIOLATIONS</b>	<b>DESCRIPTION OF VIOLATIONS</b>	<b>FOLLOW-UP and ACTION</b>	<b>TOTAL # OF VIOLATIONS</b>
ADRON INC	NJ0003506	94 Fanny Road, Parsippany-Troy Hills Township, Morris County,	November 2005 through March 2007	Adron exceeded the effluent concentration limitations of its NJPDES Permit for COD and TSS	Settlement Agreement executed 5/6/08 for \$37,500	7
COLGATE PALMOLIVE CO	NJ0035238	191 E. Hanover Avenue, Morristown, Morris County	May and October 2007	Colgate exceeded the effluent concentration limitations of its NJPDES Permit for COD.	Settlement Agreement executed 10/9/08 for \$5,000	2
COLORITE SPECIALTY RESINS	NJ0004391	35 Beverly Rd, Burlington Township, Burlington County	December 2004 through July 2006	Colorite exceeded effluent limitations of its NJPDES permit for BOD5, TSS, Petroleum Hydrocarbons and Color.	A JCO was executed on 8/14/08. The JCO also settled violations cited in a 1/11/05 AONOCAPA for a total settlement penalty of \$76,250	13
FERRO CORP	NJ0005045	170 Route 130 S, Logan Township, Gloucester County	March 2007 through November 2007	Ferro exceeded effluent limitations of its NJPDES permit for BOD5, TSS and pH.	AONOCAPA was issued 2/22/08 in the amount of \$247,250. An ACO, settling the AONOCAPA as well as a 2/13/07 AONOCAPA was executed on 9/30/08, requiring installation of sand filters and payment of \$230,497.50	28

GERDAU AMERISTEEL SAYERVILLE INC	NJ0107956	North Crossman Road, Borough of Sayreville, Middlesex County	November 2007 through April 2008	Gerdau Amersteel exceeded the interim effluent concentration limitations of its October 25, 2007 Administrative Consent Order for COD, TOC, and O&G.	Stipulated Penalty Demand Letter issued 9/5/08 for \$9,000.	5
INVERSAND CO	NJ0004146	625 Woodbury Glassboro Rd. Mantua Twp, Gloucester County	March 2007 through January 2008	Inversand exceeded effluent limitations of its NJPDES permit for TDS, TSS and Manganese.	Pursuant to a 4/20/07 ACO, a Stipulated Penalty Demand Letter was issued on 3/31/08 in the amount of \$133,000	23
LANXESS SYBRON CHEMICALS INC	NJ0005509	200 Birmingham Rd, Pemberton Twp, Burlington County	November 2006 through December 2007	Lanxess Sybron exceeded effluent limitations of its NJPDES permit for Fecal Coliform, BOD5, TSS, TDS, Petroleum Hydrocarbons, Zinc and 1,2 Dichloropropane	An AONOCAPA for \$119,000 was issued on 3/7/08, and a Settlement Agreement was executed on 10/14/08 for \$71,437.50	20
MID-STATE FILIGREE SYSTEMS INC	NJ0127507	22 Brickyard Rd, Cranbury Twp, Middlesex County	January 2007 through September 2007	Mid-State Filigree exceeded the effluent concentration limitations of its NJPDES Permit for TSS and failed to sample for pH.	Settlement Agreement executed 11/20/08 for \$13,500	6
MOTHERS KITCHEN	NJ0156302	499 Veterans Drive, Burlington City, Burlington County	January 2006 through January 2007	Mothers Kitchen exceeded effluent limitations of its NJPDES permit for BOD5 and TSS	Mothers Kitchen ceased its discharge and on 1/25/08 executed a Settlement Agreement for \$18,000	6
NEW YORK TERMINALS LLC	NJ0056707	534 S. Front Street, Elizabeth City, Union County	May 2006 through September 2007	New York Terminals exceeded the effluent concentration limitations of its NJPDES Permit for TSS and O&G and failed to sample for pH, TSS, Zn, Cu, and Temperature.	Settlement Agreement executed 2/5/08 for \$28,518	10

REVEL ENTERTAINMENT	NJG0169161	Oriental Avenue and South Metropolitan Avenue and Oriental and South New Jersey Avenues, Atlantic City, Atlantic County	November 2007 through July 2008	Revel Entertainment exceeded effluent limitations of its NJPDES permit for Manganese, Zinc, Copper and TSS	Revel Entertainment ceased its discharge and executed a Settlement Agreement on 10/24/08 for \$56,000	16
ROXBURY TOWNSHIP	NJ0022675	Roxbury Township, Morris County	3/1/2006-8/31/2006	Roxbury exceeded its effluent concentration limits of its NJPDES Permit at the Ajax Terrace plant for Ammonia Nitrogen and BOD5	Settlement Agreement executed on 1/29/2008 in the amount of \$85000. Settled violations for both the Ajax and Skyview plants.	6
ROXBURY TOWNSHIP	NJ0022683	Roxbury Township, Morris County	10/1/2005-8/31/2006	Roxbury exceeded its effluent concentration limits of its NJPDES Permit at the Skyview plant for Ammonia Nitrogen, Acute Tox. and Total P	Settlement Agreement executed on 1/29/2008 in the amount of \$85000. Settled violations for both the Ajax and Skyview plants.	17
WASHINGTON TWP SHOPPING CENTER	NJ0059897	Washington Township Shopping Center, State Route 31, in Washington Township, Warren County	06/01/2003-08/31/2007	Washington Twp Shopping Center exceeded its effluent concentration limit of its NJPDES Permit for Nitrogen, failed to submit quarterly monitoring results for four groundwater monitoring wells, failed to submit DMRs, submitted DMRs late or incomplete, and failed to submit a Residual Waste Transfer Report and a Residual Waste Characterization Report.	Stipulation of Settlement executed on 3/12/08 in the amount of \$200,000. Settled a 12/23/03 AONOCAPA as well as penalties for violations between 6/1/03 and 8/31/07.	38

U.S. FOODSERVICE, INC.	NJ0142743	360 S. Van Brunt Street, Englewood City, Bergen County	December 2006 through February 2007	U.S. Foodservice exceeded the effluent concentration limitations of its NJPDES Permit for COD.	Settlement Agreement executed 4/4/08 for \$15,000	3
PORT AUTHORITY OF NY & NJ - TETERBORO AIRPORT	NJ0028941	399 Industrial Avenue, Teterboro Borough, Bergen County	Sep-07	Teterboro Airport exceeded the effluent concentration limitations of its NJPDES Permit for TSS.	Settlement Agreement executed 1/15/08 for \$6,000	1
PHIL'S SHAMROCK EXXON	NJ0165263	9 11 Demarest Avenue & N. Dean Street, Englewood City, Bergen County	May 2007 through June 2007	Phil's Shamrock Exxon exceeded the effluent concentration limitations of its NJPDES Permit for 2,4-Dimethylphenol.	Settlement Agreement executed 6/16/08 for \$12,000	2
STEPAN COMPANY	NJ0003182	100 W. Hunter Avenue, Maywood Borough, Bergen County	January 2007 through February 2007	Stepan Company exceeded the effluent concentration net limitations of its NJPDES Permit for BOD.	Settlement Agreement executed 8/8/08 for \$45,000	2
NORTH HUDSON SEWERAGE AUTHORITY- HOBOKEN TREATMENT PLANT	NJ0026085	1600 Adams Street, Hoboken City, Hudson County	July 2007 through January 2008	The Hoboken Treatment Plant exceeded the effluent concentration limitations of its NJPDES Permit for Fecal Coliform.	Settlement Agreement executed 11/14/08 for \$78,750.	5

<p>NORTH HUDSON SEWERAGE AUTHORITY- WEST NEW YORK TREATMENT PLANT</p>	<p>NJ0025321</p>	<p>6400 River Road, West New York Town, Hudson County</p>	<p>February 2006 through May 2008</p>	<p>The West New York Treatment Plant exceeded the effluent concentration and loading limitations of its NJPDES Permit for CBOD, Acute Toxicity, Oil &amp; Grease, Fecal Coliform, and TSS.</p>	<p>An Administrative Consent Order was executed on 11/24/08, memorializing a construction schedule for corrective actions to be taken at the West New York Treatment Plant and settled the outstanding penalty liability in the amount of \$362,000.</p>	<p>71</p>
<p>NORTH BERGEN MUNICIPAL UTILITIES AUTHORITY- WOODCLIFF TREATMENT PLANT</p>	<p>NJ0029084</p>	<p>7117 River Road, North Bergen Township, Hudson County</p>	<p>September 1993 through July 2008</p>	<p>The Woodcliff Treatment Plant exceeded the effluent concentration limitations of its NJPDES Permit for Acute Toxicity and Oil &amp; Grease.</p>	<p>An Administrative Consent Order was executed on 8/27/08, memorializing a construction schedule for corrective actions to be taken at the Woodcliff Treatment Plant and settled the outstanding penalty liability in the amount of \$279,232.</p>	<p>61</p>