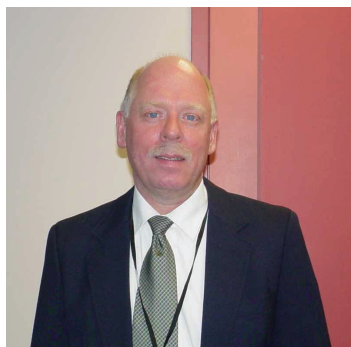


# Compliance & Enforcement

## Fiscal Year 2008 Highlights





*“I am pleased to bring you another sampling of the varied work accomplished by the Department’s compliance monitoring personnel in our fourth annual Compliance and Enforcement Highlights Report. The Highlights Report is a work in progress and it supports the Department’s Action Plan goal of sharing information more effectively with the public, regulated community and other agencies. We now have 21 different programs within the Department represented in this report. Of particular note this year is the implementation of our new environmental Stewardship program. This innovative program is designed to capture and summarize information about a particular facility’s attempts to move beyond merely complying with State and Federal environmental laws. Inspectors collect information about stewardship efforts during compliance monitoring inspections. The information is then inputted into the Department’s NJEMS system and ultimately published to the web in a summary report. As always, we continue to be dedicated to ensuring that New Jersey’s environment is clean, safe, enjoyable, preserved and enhanced for future generations.”*

~Assistant Commissioner Wolfgang Skacel

# Fiscal Year 2008 Compliance & Enforcement Highlights

Report Compiled by:

New Jersey Department of Environmental Protection  
Bureau of Enforcement & Compliance Services

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Within the New Jersey Department of Environmental Protection (Department) Compliance & Enforcement (C&E) is comprised primarily of media specific program areas each headed by managers who report to the Assistant Commissioner. The following programs are managed directly within C&E:

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

Criminal Justice.....	18
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## **Compliance Assistance**

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

Compliance assistance by the Department is offered:

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

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



### **Presentation of Data**

Our goal is to communicate outputs from all programs in three very general but standardized categories that are easily understood and have common sense definitions.

### **Data Definitions:**

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

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

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

### **Getting More Data**

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

Air Quality Permitting and Reporting  
Ambient Water Quality  
Certified Laboratories  
Community Access

Compliance & Enforcement\*  
Exams & Licensing  
General Environmental Reports  
Incidents/Complaints\*

NJPDES Permitting Program  
Pending Permit Progress Reports  
Permitting Dashboard  
Radiological Health

Site Remediation  
Stewardship

Volunteer & Watershed Ambassador  
Water Supply

Ambient Water Quality  
What's New

\*These two report categories, which provide access to the details of the data summarized in this report, contain information for the following programs:

Air  
Community Right to Know  
DPCC  
Hazardous Waste

Land Use  
Pesticides  
Radiation\*\*  
Site Remediation\*\*\*

Solid Waste  
TCPA  
Water Supply  
Water Quality\*\*\*

\*\*Limited Site Inspection data is available for the Radiation programs

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

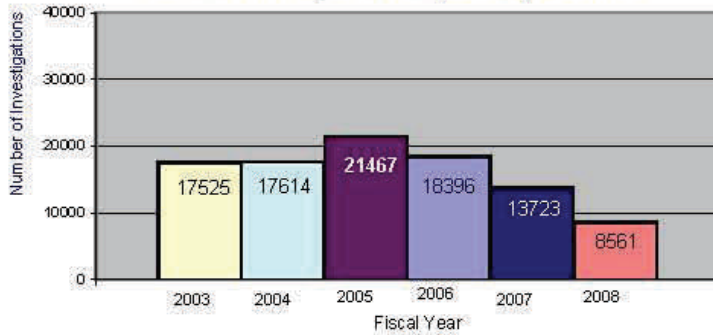
ACO	Administrative Consent Order	LOI	Letter of Interpretation
AFSP	Administrative and Fiscal Support Program	MTBE	Methyl Tertiary Butyl Ether
AO	Administrative Order	NELAC	National Environmental Laboratory Accreditation Conference
AONOCAPA	Administrative Order and Notice of Civil Administrative Penalty Assessment	NELAP	National Environmental Laboratory Accreditation Program
BECS	Bureau of Enforcement and Compliance Services	NJEMS	New Jersey Environmental Management System
BMP	Best Management Practices	NJPDES	New Jersey Pollutant Discharge Elimination System
CAFRA	Coastal Area Facility Review Act	NOCAPA	Notice of Civil Administrative Penalty Assessment
CEHA	County Environmental Health Act	NOP	Notice of Penalty
CEMS	Continuous Emission Monitors	NOV	Notice of Violation
CO	Conservation Officer	NRC	Nuclear Regulatory Commission
CRO	Central Regional Office	NRO	Northern Regional Office
CRTK	Community Right to Know	OCCA	Ocean County Consumer Affairs
DCA	Division of Consumer Affairs	OCPO	Ocean County Prosecutor's Office
DCF	Department of Children & Families	OLEM	Office of Local Environmental Management
DCR	Discharge Cleanup and Removal	OPRA	Open Public Records Act
DHS	Department of Homeland Security	OQA	Office of Quality Assurance
DNDO	Domestic Nuclear Detection Office	PCE	Tetrachloroethylene
DOL	Division of Law	PTE	Potential To Emit
DPCC	Discharge Prevention Containment and Countermeasures	PT	Performance Test
ECB	Environmental Crimes Bureau	RCRA	Resource Conservation Recovery Act
EHS	Extraordinarily Hazardous Substance	RMS	Radioactive Materials Section
EPA	Environmental Protection Agency	SCI	Standard Compliance Inspection
FDA	Food & Drug Administration	SHPO	State Historic Preservation Office
FRP	Facility Response Plan	SRO	Southern Regional Office
FWWPA	Freshwater Wetlands Protection Act	SRWM	Site Remediation & Waste Management
GIS	Geographic Information System	TCPA	Toxic Catastrophe Prevention Act
HAP	Hazardous Air Pollutant	TPY	Tons Per Year
IP	Freshwater Wetland Individual Permit	TSDF	Treatment, Storage and Disposal Facility
IPM	Integrated Pest Management	TOU	Transportation Oversight Unit
ISRA	Industrial Site Recovery Act	UST	Underground Storage Tank
IST	Inherently Safer Technology	VOC	Volatile Organic Compound



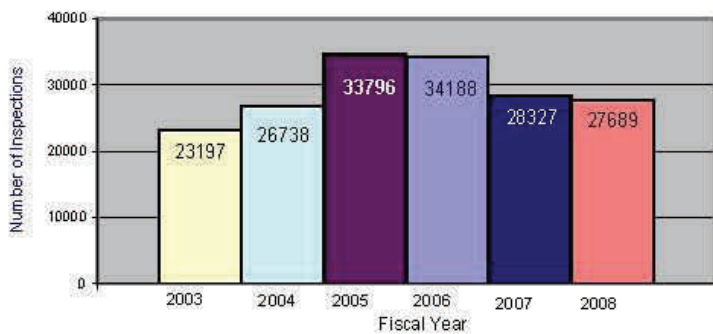
**new jersey**  
**department of environmental protection**

Summary of Investigations, Site Inspections, and Enforcement Actions - Fiscal Years 2003 to 2008

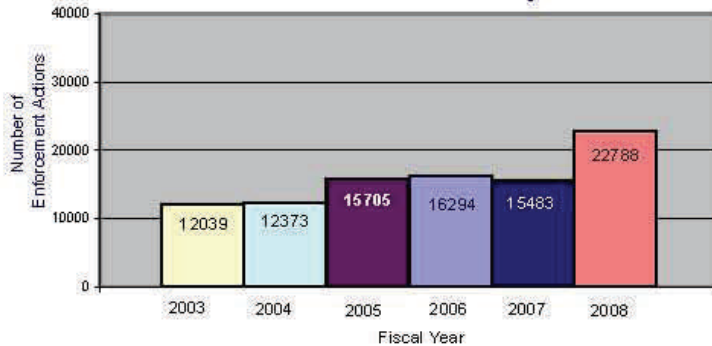
**Number of Investigations Completed by Fiscal Year**



**Site Inspections Completed by Fiscal Year**



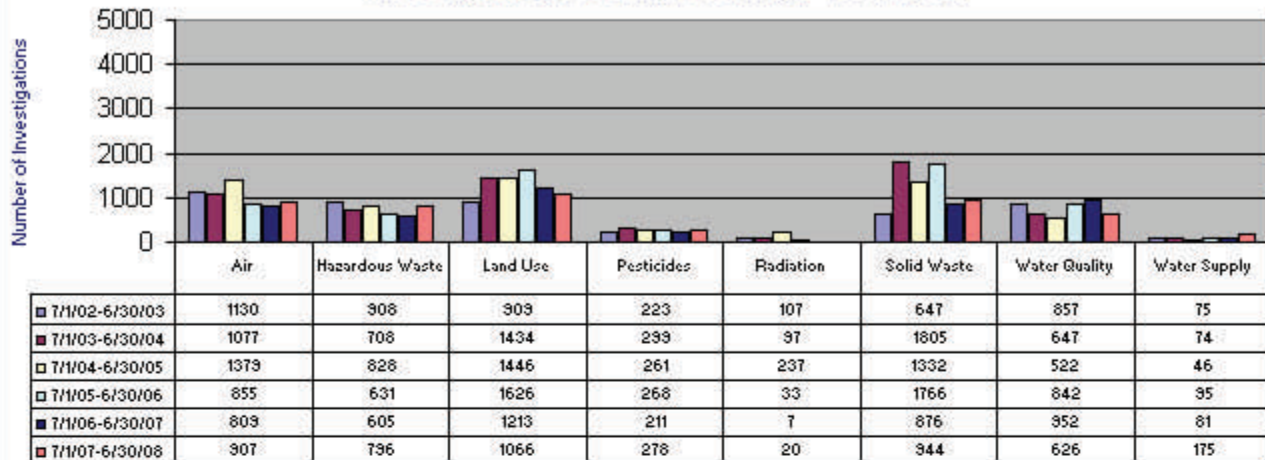
**Total Enforcement Actions Issued by Fiscal Year**



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

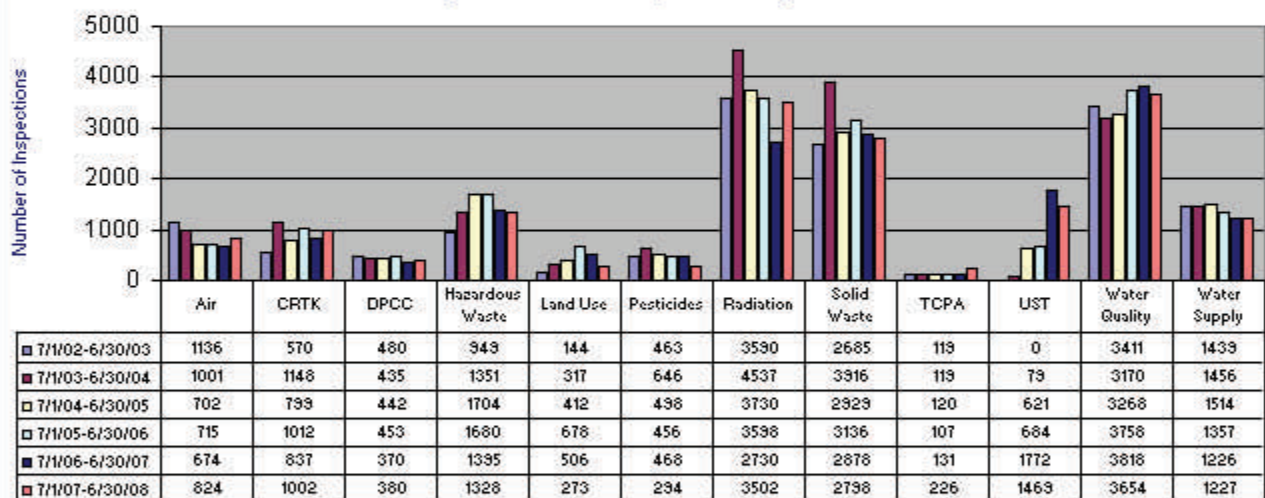
- Air
- Community Right to Know (CRTK)
- County Environmental Health Act (CEHA) Program
- Discharge Prevention, Containment and Countermeasures (DPC)
- Hazardous Waste
- Land Use
- Pesticide Control
- Radiation Protection
- Site Remediation Program (SRP)
- Solid Waste
- Toxic Catastrophe Protection Act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

### Investigations Completed by Fiscal Year

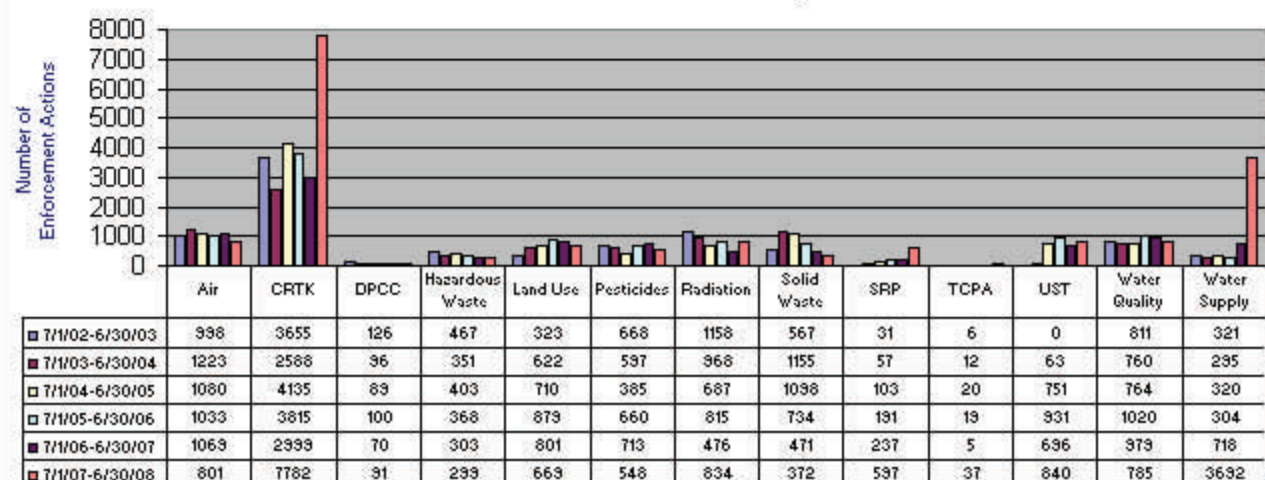


\* The number of investigations for the Site Remediation Program have been omitted from Fiscal Year 2008 Highlights report. The historic and current investigation numbers are being evaluated to assure that future Highlights reports include investigation numbers that reflect an accurate accounting of the work conducted.

### Inspections Completed by Fiscal Year



### Enforcement Actions Issued by Fiscal Year

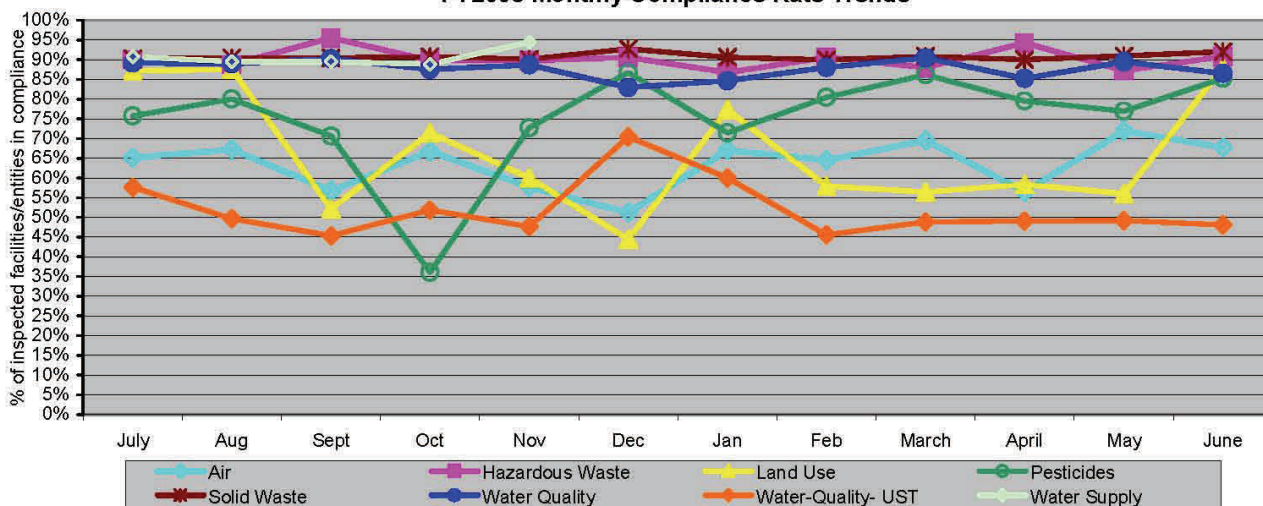


# FY2008 Inspection-Based, Facility Compliance Rates

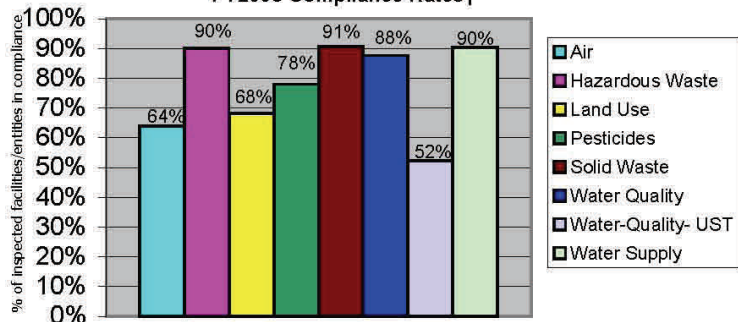
You are Viewing an Archived Copy from the New Jersey State Library

Compliance rates are based the number of discrete facilities or entities inspected by the programs and reflect the percentage found in compliance. Entities are only counted once even if inspected multiple times within a given period. One or more violations at any inspection in the period counts as non-compliance. The entities counted here are only where routine or pre-planned inspections occurred and are primarily where permits, licenses, or other Departmental approvals exist. These figures exclude observations based solely on submittals of self-reported information, monitoring and investigations (such as those stemming from hot-line calls or complaints). This report was run on Novemehr 12, 2008.

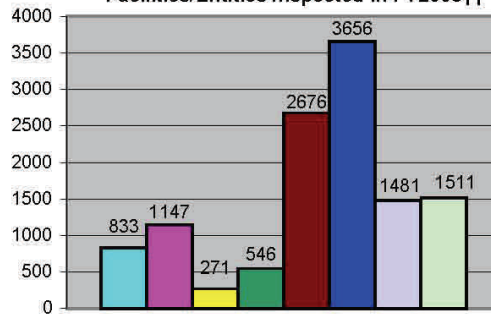
### FY2008 Monthly Compliance Rate Trends



### FY2008 Compliance Rates†



### Facilities/Entities Inspected in FY2008††



Compliance Rate	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	March	April	May	June	Entire year†
<a href="#">Air</a>	65.1%	67.2%	56.7%	66.7%	57.7%	51.2%	67.0%	64.5%	69.5%	56.5%	71.9%	67.7%	64.0%
<a href="#">Hazardous Waste</a>	90.0%	88.7%	95.5%	89.8%	89.7%	90.6%	86.7%	90.6%	88.0%	94.2%	87.2%	90.8%	90.1%
<a href="#">Land Use</a>	87.1%	87.5%	52.2%	71.4%	60.0%	44.4%	77.3%	57.9%	56.4%	58.3%	56.0%	88.0%	68.3%
<a href="#">Pesticides</a>	75.7%	80.0%	70.6%	36.0%	72.7%	86.7%	71.4%	80.4%	86.1%	79.5%	76.9%	85.3%	78.0%
<a href="#">Solid Waste</a>	90.2%	90.4%	90.4%	90.7%	90.1%	92.7%	90.6%	89.9%	90.8%	90.0%	90.9%	92.0%	90.7%
<a href="#">Water Quality</a>	89.1%	88.9%	90.2%	87.5%	88.6%	82.9%	84.6%	88.0%	90.4%	85.2%	89.4%	86.5%	87.7%
<a href="#">Water-Quality- UST</a>	57.6%	49.6%	45.3%	51.8%	47.6%	70.4%	60.0%	45.5%	48.8%	49.0%	49.2%	48.0%	52.3%
<a href="#">Water Supply</a>	90.7%	89.5%	89.5%	88.8%	94.4%	90.8%	89.7%	88.8%	92.9%	91.9%	90.0%	88.5%	90.3%
Facilities Inspected	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	March	April	May	June	Entire year††
<a href="#">Air</a>	86	122	60	45	52	43	91	62	59	85	64	64	833
<a href="#">Hazardous Waste</a>	80	106	112	98	97	85	105	96	117	86	78	87	1147
<a href="#">Land Use*</a>	31	32	23	7	15	9	22	19	39	24	25	25	271
<a href="#">Pesticides</a>	37	40	34	25	11	30	28	46	36	112	52	95	546
<a href="#">Solid Waste</a>	214	228	209	246	212	218	223	207	207	229	232	251	2676
<a href="#">Water Quality</a>	221	368	296	345	220	175	254	242	271	393	435	436	3656
<a href="#">Water-Quality- UST**</a>	198	139	148	141	126	98	155	88	80	143	63	102	1481
<a href="#">Water Supply</a>	75	124	124	143	90	65	116	89	141	172	190	182	1511
<b>Totals</b>	<b>942</b>	<b>1159</b>	<b>1006</b>	<b>1050</b>	<b>823</b>	<b>723</b>	<b>994</b>	<b>849</b>	<b>950</b>	<b>1244</b>	<b>1139</b>	<b>1242</b>	<b>12121</b>

\*\* A new Underground Storage Tank (UST) inspection program began in early 2004.

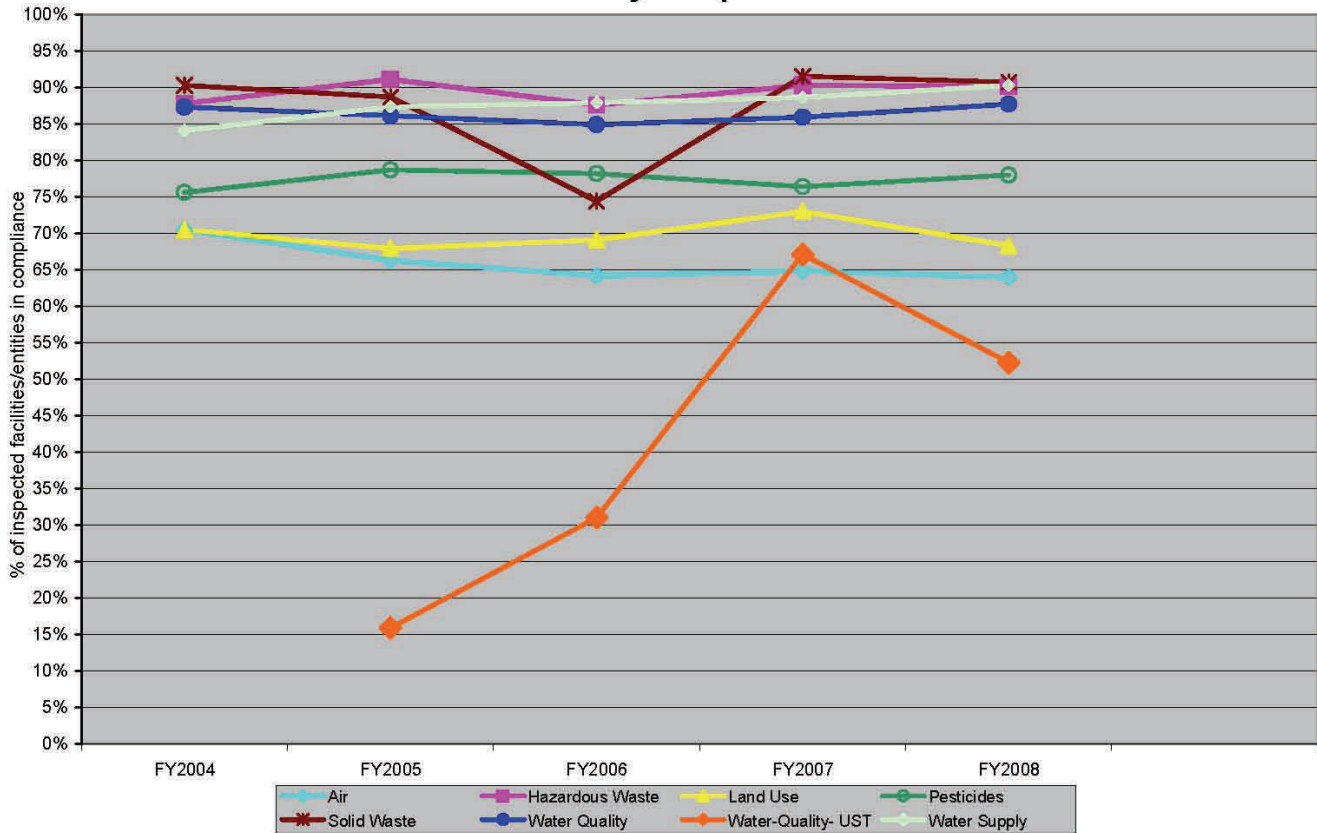
† Compliance Rates for the entire year will be lower than average monthly rates because of repeat visits to some facilities.

†† Facilities Inspected for the entire year will be lower than the total for all months because of repeat visits to some facilities.

## FY2004 - FY2008 Inspection-Based, Facility Compliance Rates

Compliance rates are based the number of discrete facilities or entities inspected by the programs and reflects the percentage found in compliance. Entities are only counted once even if inspected multiple times within a given period. One or more violations at any inspection in the period counts as non-compliance. The entities counted here are only where routine or pre-planned inspections occurred and are primarily where permits, licenses, or other Departmental approvals exist. These figures exclude observations based solely on submittals of self-reported information, monitoring and investigations (such as those stemming from hot-line calls or complaints). This report was run on November 13, 2008.

### FY2004 - FY2008 Yearly Compliance Rate Trends



### Compliance Rates FY2004 -FY2008

Compliance Rates	FY2004	FY2005	FY2006	FY2007	FY2008
<a href="#">Air</a>	70.5%	66.3%	64.2%	64.8%	64.0%
<a href="#">Hazardous Waste</a>	87.8%	91.1%	87.6%	90.3%	90.1%
<a href="#">Land Use</a>	70.5%	67.9%	69.1%	73.0%	68.3%
<a href="#">Pesticides</a>	75.6%	78.7%	78.2%	76.4%	78.0%
<a href="#">Solid Waste</a>	90.3%	88.7%	74.4%	91.5%	90.7%
<a href="#">Water Quality</a>	87.3%	86.1%	84.9%	85.9%	87.7%
<a href="#">Water-Quality- UST</a>		15.9%	31.0%	67.1%	52.3%
<a href="#">Water Supply</a>	84.1%	87.3%	87.9%	88.6%	90.3%

### Facilities Inspected FY2004 - FY2008

Facilities Inspected	FY2004	FY2005	FY2006	FY2007	FY2008
<a href="#">Air</a>	1037	700	725	667	833
<a href="#">Hazardous Waste</a>	1291	1562	1503	1236	1147
<a href="#">Land Use</a>	312	483	691	533	271
<a href="#">Pesticides</a>	677	832	1002	817	546
<a href="#">Solid Waste</a>	3574	2852	2884	2781	2676
<a href="#">Water Quality</a>	3139	3777	3777	3899	3656
<a href="#">Water-Quality- UST</a>		615	689	1884	1481
<a href="#">Water Supply</a>	1482	1830	1607	1533	1511

# Strategic Plan

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

The following values will be demonstrated through our business operations:

## ▪Integrity

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

## ▪Environmental Dedication

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

## ▪Responsiveness and Effectiveness

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

## ▪Clarity of Communication and Accountability

C&E will continually strive to improve our relationship with all of our stakeholders by expanding our outreach to the various constituents. We will accom-

plish this by providing clear purpose and goals, and sharing the results of our program's performance.

## ▪Continuous Improvement and Innovation

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

## ▪Fair and Just

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

Driven by purpose and guided by our values, C&E will pursue the following five goals:

▪**Build a work environment that attracts, develops and retains dedicated, motivated and talented employees.**

▪**Effectively balance compliance assistance, enforcement and education to achieve compliance and move the regulated community and the public towards environmental stewardship.**

▪**Lead the Department in the management, use and sharing of environmental information and intelligence to aid in the decision making, policy development and targeting activities.**

▪**Ensure effective participation in the Department's planning, policy-making, rule-making and decision-making process.**

▪**Improve productivity, accountability, and operation efficiency.**

Workgroups have been continuously working toward the advancement of the first two goals.

## Training and Development

Over the past fiscal year, the workgroup completed a comprehensive evaluation of training and development programs within both state and federal government. A training database is being developed to keep, maintain and track training and professional

development of C&E staff. General and media specific knowledge, core skills and abilities are also being developed for each level of inspector from trainee to supervisor. Once these are in place, professional development plans can be tailored for each inspector based on their needs in mastering the knowledge, skills and abilities for their title and program. These are just two steps in the development of a formal C&E training program for inspectors. The workgroup anticipates completion of preliminary documents and program rollout in the upcoming months.

## **Stewardship**

The greatest advancement of C&E's strategic plan came in the development and implementation of an Environmental Stewardship Program. C&E has a well established and highly effective enforcement program which routinely inspects over 1,000 facilities a month. An overall inspection-based compliance rate around 80 percent is due to the vigilance and effectiveness of our well trained staff. While we continue to focus on compliance with existing regulations, it was decided that a new approach was needed to recognize those facilities that go beyond merely complying with their permits and regulations. Everyone appreciates a pat on the back for going above and beyond what's expected. The Department took its existing workforce and infrastructure to initiate this new program simply by taking a unique approach and expanding our enforcement role by making stewardship evaluations a component of routine inspections of facilities. This required training the enforcement inspectors to recognize environmental stewardship activities.

Training of all enforcement staff was conducted in the first three months of 2008. By spring of 2008, all inspectors conducting enforcement inspections began educating the regulated community about the new Environmental Stewardship program and documenting environmental stewardship on the Department's database system. A web page was designed to provide program information to the public as well as reports that show the environmental stewardship activities being performed by members of the regulated community. A guidance document was also

developed for inspectors to use and refer to in educating the regulated community.

On May 6, 2008, the Department began recognizing the scores of companies and other entities that have taken steps to embrace environmental stewardship. The Department initiative included recognizing the Naval Air Engineering Station in Lakehurst, Mannington Mills Industries in Mannington Township, and Wyeth Holdings Corp. in Bridgewater Township for their efforts to integrate environmental stewardship practices into their operations. They demonstrated strong overall environmental policies, are committed to community outreach, participate in federal stewardship programs, and carry out programs to enhance the environment. They also assisted in the development of the Environmental Stewardship Program.

In June 2008, the Department began issuing Certificates to all facilities in recognition of their environmental stewardship activities. In fiscal year 2008, 128 certificates had been issued to sites engaging in environmental stewardship activities.

### Future Goals

C&E is looking closely at the results of the program and the demand this is having on the workforce. Going forward with this program may require some adjustments to streamline and make the documentation process more efficient.

An online submittal process is being considered and will mirror other similar Department online submittal processes by using the existing New Jersey Environmental Management System (NJEMS) infrastructure.

# Connecting the Dots

C&E is not just about inspections and penalties, although that is what is reported on most. These figures are easy to track and report, but what do they mean? What about the things that are harder to quantify? Does what we do on a daily basis make a difference to the environment? How have we helped to better the lives of our citizens?

Answering these questions requires that we connect the dots between enforcement and the environment. This remains a significant challenge, but it is one well worth pursuing. Only by connecting the dots can we be sure our efforts are focused to do the most good. We believe that we owe this to the public and to all stakeholders in our activities. But as professionals dedicated to protecting the environment, we also owe this to ourselves.

There is much to be done. We are actively examining the growing volumes of data about the state of our environment and continue to present compliance rates in this report (pgs. vii-viii). Looking at the trends over time, compliance rates have fluctuated based upon the implementation of new regulations and shifts in inspection priorities. Our overall inspection-based compliance rate is around 80 percent, so how can we achieve even greater compliance and resulting environmental benefits? Rather than continue to focus only on compliance with existing regulations, a new approach was needed. Environmental stewardship is deep-rooted in our strategic plan's purpose, vision and goals. This became the driving force behind our new Stewardship Program initiative designed to motivate businesses to do more than the minimum required by environmental laws and regulations. This is a sensible and long overdue approach to environmental protection that meshes corporate responsibility with public transparency. Stewardship practices can reduce a company's costs, foster goodwill within their communities, and result in a cleaner environment for everyone. We are leading the country again, this time by defining and measuring the incredible amount of environmental good that exists in our state.

## Improving Air Quality

On July 6, 2007, Governor Jon S. Corzine signed legislation adopting proactive and ambitious goals for the reduction of greenhouse gas emissions in New Jersey. The legislation calls for reducing greenhouse gas emissions to 1990 levels by 2020, approximately a 20 percent reduction, followed by a further reduction of emissions to 80 percent below 2006 levels by 2050. New Jersey is only the third state in the nation to make greenhouse gas reduction goals law.

Advancing efforts to improve New Jersey's air quality, the Department launched a statewide campaign that focuses on reducing harmful diesel emissions from idling construction vehicles. Nearly one third of all diesel vehicle emissions in New Jersey come from the construction industry. This is a significant initiative given the fact that scientific studies consistently show a link between exposure to harmful diesel emissions and increased incidents of respiratory disease. Construction vehicles produce about 1,600 tons of the 5,700 tons of diesel particulate emissions that are generated every year in New Jersey. The Department is working with construction trade organizations and interest groups throughout the state to raise awareness about the benefits of lower diesel emissions. Construction vehicle operators can save money in fuel costs and repair expenses from reduced idling.

## Municipal Stormwater Control Program

Since the Department launched the municipal stormwater regulation program in April 2004, C&E has conducted 1,347 compliance inspections designed to assist regulated entities.

The four-year-old program has generated significant benefits. More than 83,000 tons of street sweepings have been collected. Nearly 508,000 sewer catch basins have been inspected and more than 39,000 stormwater outfall pipes have been mapped and inspected. In addition, more than 291,000 tons of sediments, trash and debris have been retrieved from storm sewers, preventing these



materials from entering the state's waterways. Most municipalities have adopted pet waste, litter, wild-life-feeding and yard waste ordinances. Moreover, 91 percent of municipalities have distributed educational brochures to their residents, and most municipalities have held community outreach programs.

### **Land Use**

Our enforcement activities this fiscal year led to the restoration, enhancement and preservation of approximately 35 total acres of wetlands and transition areas and mitigation money provided to the

Monmouth Battlefield State Park for implementation of an interpretive exhibit (pg 13).

As you read through the highlights of our activities, we hope you will get a sense of the ways we are aiming for the highest of our goals - these being a clean, safe, healthy and enjoyable environment now and in the future. Through this and future reports, it is our sincere interest to continue to clarify the links and "connect the dots" between our work and the environment.

## **Air**

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### **Initiatives**

#### **Camden Waterfront South-Camden County Municipal Utilities Authority**

The Department and Camden County Municipal Utilities Authority (CCMUA) entered into an agreement to resolve various air pollution violations. CCMUA is required to conduct annual maintenance tune ups on the engines, submit annual emission statements, and submit permit applications as required by applicable state regulations. CCMUA will also conduct a plant study and report its findings regarding the updated odor analysis and its impact on the surrounding Waterfront South neighborhood.

The local community will benefit from this settlement by obtaining a green entry way into Camden and the reduction of nitrogen and oxide emissions. CCMUA will demolish, remediate, and green two vacant properties located on the Northeast corner of South Broadway and Chelton Avenue. Over 100 tons per year each of nitrogen oxide and carbon monoxide emissions will be eliminated in Water Front South via the electrification or cessation of the Primary Treatment Facility and Oxygen Building engines by January 1, 2012.

### **Efficiency Improvements**



On January 29 and 30, 2008, Walter Beland and Jim Scarvalli from Air C&E's Central Regional Office (CRO) spoke at compliance assistance seminars at the request of the New Jersey Gasoline and Convenience Store Automotive Association (NJGCA) for their members. Over 150 members of the NJGCA, including private Gasoline Dispensing Facility (GDF) owners, corporate GDF representatives, environmental consultants and GDF vapor recovery testing and parts contractors, were in attendance at these seminars. Good feedback in regards to their presentation was received from both NJGCA officials and general attendees.

On April 9 and June 18, 2008, air inspectors Walter Beland, Donna Summers and Jim Scarvalli from Air C&E's CRO conducted compliance assistance seminars for representatives of municipal departments of public works for both Union and Monmouth Counties. Subjects covered at these seminars included subchapter 8 permit applicability and compliance, subchapter 16-3 Gasoline Dispensing Facility requirements and subchapter 19 generator requirements. Attendees included representatives of several county municipalities and school districts for these compliance assistance seminars.

## **Case Highlights**

### **RC Cape may Holdings**

#### **Upper Township, Cape May, NJ**

The Department and RC Cape May Holdings entered into an Administrative Consent Order (ACO) to resolve outstanding

stack test failures for ammonia and carbon monoxide. Previous stack tests resulted in nitrogen oxide failures, however more recent tests resulted in compliance for nitrogen oxide, but failure

for carbon monoxide and ammonia. In this agreement, RC Cape may agreed to install oxidation catalyst on all four diesel generators. The addition of the control devices will result in a 90 percent reduction in carbon monoxide emissions from the engines thereby lowering the emission standard from 500 parts per million at 15 percent oxygen to 50 parts per million at 15 percent oxygen. Currently the engines are permitted to emit 280 tons per year of carbon monoxide.



RC Cape May Holdings also agreed to conduct an optimization study for carbon monoxide, nitrogen oxide, and ammonia to establish an ideal urea injection rate that will result in compliance for all contaminants. Permit modifications applications will be submitted to modify the carbon monoxide and urea injection rates. A penalty will also be paid to the Department.

### **Colorite Specialty Resins**

#### **Burlington, NJ**

The Department, US Environmental Protection Agency, US Department of Justice and Colorite Specialty Resins entered into a consent decree to resolve environmental violations dating back to 2003.

According to the settlement agreement (SA), Colorite has agreed to lower limits on residual vinyl chloride in both types of resins it produces; test for such residues in every batch of resin and test for vinyl chloride emissions during every reactor opening; conduct an analysis of its wastewater stripper to determine the sources of Clean Air Act violations; and institute better hazardous waste handling practices. Colorite will remove compressors used in the manufacturing process and replace them with two rotary compressors which is expected to reduce vinyl chloride emissions by 2,200 lbs. per year. Combined, the lower regulatory limits and compressor replacements are estimated to reduce vinyl chloride emissions by approximately 11,000 pounds per year.

The SA also requires the company to implement an extensive and comprehensive leak detection and repair program. The program will require internal notifications of emissions levels and action when levels reach specified concentrations, as well as quarterly trend analysis on ambient monitoring data to identify areas of the facility with the greatest number of leaks. It also requires the company to develop a training program and apply it to all employees involved in the facility's operations.

Colorite has further agreed to a third party audit of all operations at the facility, with a follow-up audit two years later.

### **Valero Refinery**

#### **Paulsboro, NJ**

On March 14, 2008, the Department and Valero Refining entered into an

SA to resolve air related violations that occurred during 2005 and 2006. The violations include deviations of permit emissions, monitoring limitations, leak detection and repair standards, and recordkeeping requirements.

Valero Refining agreed to various Supplemental Environmental Projects (SEPS) that will benefit the neighboring communities of Paulsboro



and Greenwich Township. The SEPs include the purchase and demolition of four properties immediately adjacent to Valero refining so that the entrance of Fort Billings Park can be beautified. Upon completion, the deeds of the property will be offered to the Borough of Paulsboro for ownership.

Valero will also provide funding to Paulsboro and Greenwich Township to support the acquisition and installation of a community early warning system that will notify residents of any conditions that may require action. Additional funds will be provided to Paulsboro High School in order to financially support the purchase and installation of improvements to the ventilation system for the high school build-

ing that would enable the school to prevent the circulation of pollutants in the building. The total value of these SEPs is \$977,808.

In an effort to reduce the potential of fugitive Volatile Organic Compound (VOC) emissions released to the atmosphere, the refinery will screen its process units and the tank farm for leaks utilizing a state of the art infrared camera that is capable of detecting leaks from a distance. Valero will report these leaks to the Department and remedy all leaks identified. In addition to the above, Valero Refining agreed to modify its Title V permit to include the submittal of electronic excess emission reports.

## Office of Local Environmental Management

The Office of Local Environmental Management (OLEM) oversees the administration of the County Environmental Health Act (CEHA) program, the State's Noise Control program and the Greenstart voluntary compliance assistance program. OLEM oversees the activities of 21 county health agencies, which employ over 200 environmental staff to administer environmental health programs delegated by the Department.

### CEHA Activities & Performance

The Department relies heavily upon its partners, the certified county health agencies, to perform a variety of environmental activities. In the past year, the CEHA agencies collectively conducted a total of 16,527 inspections and complaint investigations, including 5,441 enforcement actions, and over 2,500 hazardous materials emergency response actions. Each county health agency participates in the five core programs of water, air, noise, solid waste control and hazardous waste emergency response. The five coastal counties also conduct the coastal bathing beach monitoring program, to ensure the cleanliness of the ocean and bays during the summer months and collected 5,628 samples that were tested in 2007.

In the past year, priorities have included inspecting dry cleaning establishments to address the hazardous air pollutant perchloroethylene; inspecting small public non-community water systems to ensure that the water is safe to drink; and ensuring overall consistency in handling delegated enforcement actions.



### CEHA Environmental Pilot Projects

The county health agencies also participate in a number of pilot projects to address environmental concerns in their communities. Currently there are 14 county health agencies participating in the school chemical compliance assistance project to address how the schools control their chemical inventory, including storage and disposal, which has resulted in 205 school inspections in the past year. There are 13 counties addressing pesticides compliance issues through the inspection of commercial landscapers, retail stores, apartment buildings, golf courses, schools, and campgrounds. Several counties participated in a sweep of landscapers in the spring to monitor compliance with registrations and applications. There are 10 counties that continue to inspect regulated underground storage tanks at gas stations to maintain strict compliance with environmental laws.

### Compliance Assistance Initiatives

OLEM continues to be responsible for administering the Greenstart, voluntary compliance assistance program, which is a cost-free initiative to help small businesses and municipalities comply with regulatory requirements. This service is provided by C&E inspectors who work with facility representatives to strengthen compliance through a cooperative working relationship. OLEM has also found that sector-based compliance assistance can be an effective mechanism to foster greater environmental responsibility and awareness. OLEM continues to focus on the school chemical management pilot and has added junkyards as a new sector for county health agencies to educate facility operators on best management practices on stormwater management and hazardous waste, as well as all applicable environmental regulations.



### Noise Control

OLEM is responsible for the coordination of noise control activities by counties and municipalities. In fiscal year 2008, OLEM responded to over 160 noise inquiries from residents and local officials. OLEM has been working with the NJ Noise Control Council to update the Model Noise Ordinance and a new ordinance to address noise from off road vehicles. A grant provided through OLEM helps fund the Rutgers Noise Technical Assistance Center, providing CEHA personnel and other local officials throughout the State with Noise Enforcement Certification and refresher training.

## Hazardous Waste

### Initiatives

#### End of Life Vehicles - Mercury Switch Removal

To ensure mercury containing vehicle switching devices are removed from vehicles prior to the vehicles being crushed, shredded and smelted into steel product, inspections of junkyards, vehicle dismantlers, and metal shredding facilities were conducted during the fiscal year. Staff inspected approximately 50 percent of the handler universe (145) and should complete the first full round of inspections in fiscal year 2009. Most facilities are properly removing and storing the switches however the storage/containment buckets need to be removed off site for recycling in a more timely manner.

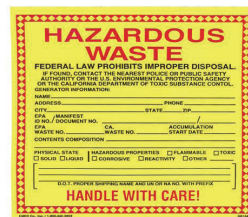
#### Newark High School Lab Inspections

Hazardous waste inspectors accompanied the Newark Fire Department (NFD) during inspections of the laboratories found inside the high schools, within the City of Newark's school system. These inspections began in August 2007 with the last of the inspections concluded in October 2007. The Department's role during this initiative was to offer technical assistance to the NFD for chemical stor-

age and potential hazardous waste issues. A total of eight high schools were inspected. At each of the high schools, a physical inspection was conducted of each laboratory, classroom, and storage area that was found to have, or may be storing chemicals. The emphasis was to identify chemical storage, usage and disposal issues that would pose an imminent health and safety concern to students, faculty, and staff that work in the schools. Upon conclusion several common problems were observed:

- rarely used and/or excess chemicals being stored in the classrooms;
- chemicals being stored for excessive period of time;
- incompatible raw materials being stored either directly next to one another, or in very close proximity;
- raw materials being stored in improper containers.

The Department's intervention led to a positive outcome in that the Newark school district reviewed and upgraded the way it managed chemicals in its



labs, specifically, disposing of outdated or unwanted chemicals, segregating the remaining chemicals in storage according to chemical compatibility, and acquiring an awareness of their Resource Conservation and Recovery Act (RCRA) responsibilities sufficient to prevent the likely over-accumulation of chemicals in the future. The NFD benefited from the Department's intervention as well, because they are the one Newark entity that routinely inspects the high schools and is now more competent in their abilities to find problems within the schools.

### **Paterson School Lab Inspections**

Hazardous waste inspectors accompanied the Paterson Fire Department (PFD) and the Passaic County Sheriff's Department (PCSD) during inspections of the Paterson Public School System laboratories. The inspections took place in October 2007 at the request of the Mayor's office. A total of 30 schools were inspected. The emphasis was to identify chemical storage, usage and disposal issues that would pose an imminent health and safety concern to students, faculty, and staff that work in the schools and to offer technical assistance to the schools on chemical storage and potential hazardous waste issues. Upon conclusion several common problems were observed:

- storage of incompatible chemicals
- old/expired chemicals
- no hazardous waste management plan in place

A joint report was prepared by the Department, PFD, and PCSD that primarily identified violations of the fire code. Based on the fact that lots of old, expired chemicals were stored in some of the school labs, the Department recommended that an inventory be conducted of all the chemicals stored in the labs to determine if the chemicals could be utilized or needed to be disposed of. The Department also recommended that the Paterson School District develop a chemical management plan and a hazardous waste management plan. The chemical management plan should address proper storage and compatibility requirements, etc.



The Department conducted follow-up inspections in the Spring of 2008 at 17 of the previously inspected schools and determined that the district had identified and removed a total of **4,694 pounds** of hazardous wastes offsite from 15 of the schools. (The largest amount, 2,120 pounds, came from JFK High School). The waste types included cyanides, barium, cadmium, arsenic, ignitables, corrosives, chromium, mercury, lead and carbon tetrachloride. No hazardous waste violations were observed during the reinspections. In fact, all 17 schools are now under Conditionally Exempt Small Quantity Generator (CESQG) status. The district is in the process of coming into full compliance with their fire code violations, which are being handled by the Fire Department.

The Department's intervention led to a positive outcome in that the Paterson school district was forced to review and upgrade the way it managed chemicals in its labs, specifically, disposing of outdated or unwanted chemicals, segregating the remaining chemicals in storage according to chemical compatibility, and acquiring an awareness of their RCRA responsibilities sufficient to prevent the likely over accumulation of chemicals in the future. The District has also implemented a centralized chemical management program where the acquisition, distribution (to the various school labs), monitoring, and disposal of the lab chemicals are monitored.

### **Efficiency Improvements**

#### **Fees - Disclosure and Assessment Process**

In January 2008, the Waste Enforcement Program adopted streamlined fee rules allowing the program to annually update hourly rates and fees. Revising the hourly rate annually avoids abrupt changes in fees by metering costs yearly and, in the event of decreased costs, ensures that the regulated community will receive this benefit in the next, immediate billing cycle. Additionally, the Department will now prepare annual hourly rate calculation reports detailing the factors used to calculate the hourly rates, and fee calculation reports that include the task hours used to calculate each fee. Each December, the Program will publish a notice in the New

Jersey Register and include a summary of each report, including the hourly rate and the task hours used to calculate each fee. Additionally, a copy of each report will be posted on the Department's website at [www.state.nj.us/dep](http://www.state.nj.us/dep).

### **Hazardous Waste Manifest Tracking System**

A new manifest tracking data system was developed that allows easy entry and retrieval of manifest information for public use and Department and Federal planning purposes. Manifest data is now stored and linked to existing facility permitting and enforcement information already stored within the New Jersey Environmental Management System (NJEMS).

### **E-Manifest Pilot Program**

New Jersey, Michigan, Minnesota and Massachusetts have joined forces and received a grant from the US EPA to conduct a pilot with an aim to supplement or replace the existing paper-based manifest tracking system with an e-Manifest process that takes advantage of key Exchange Network technologies. In fiscal year 2008 the pilot system was designed and developed and is currently undergoing testing by state agencies and industry representatives. Utilization of electronic manifests in the hazardous waste shipping industry saves upwards of \$400 million annually in paper handling, storage and data management costs nationwide.

### **Hazardous Waste Handler Seminars and Training Opportunities Webpage**

Hazardous Waste C&E presented the "Basic Hazardous Waste Handler Seminar" on May 7, 2008, and had approximately 100 registrants. All of the participants were registered on-line via the newly developed Hazardous Waste Training Opportunities webpage. The webpage was developed to facilitate on-line seminar registration, and to keep the regulated community informed about this important program. The webpage was also developed to provide updated regulatory information, and survey the regulated community regarding the type of educational programs and general information they need.

Links were added so visitors to the webpage could access PowerPoint presentations from previously

held seminars. A link to the C&E Compliance Advisories webpage was also provided, so they can access all of the important information provided by the advisories. In addition, anyone who opens the page is able to participate in a survey on the subject of Universal Waste and Used Oil. Nearly 40 individuals have taken the survey. The data from the survey is being used in the process of planning the "Universal Waste/Used Oil" seminar scheduled for October 1, 2008. The webpage can be accessed at: [http://www.state.nj.us/dep/enforcement/hw\\_seminar.html](http://www.state.nj.us/dep/enforcement/hw_seminar.html).

### **Training/Expertise**

Hazardous Waste C&E staff provided extensive participation in developing and providing training programs, offering presentations and lending expertise in RCRA, hazardous waste regulations, universal wastes, and used oils to various agencies including Rutgers University, Northeast Environmental Enforcement Project, Northeast Waste Management Officials' Association, and the NJ School Superintendents Organization.

### **RCRA Data Exchange**

The Department is continuing to work towards using Exchange Network technologies to automatically transfer hazardous waste permitting and inspection/enforcement data from the Department's NJEMS system to the Federal RCRAINFO system. Currently this data must be manually re-keyed into the RCRAINFO system.

### **Cross Program Referrals**

Due to cross media training of inspectors, the program identified over 80 instances of violations in other programs during fiscal year 2008 and referred them to the appropriate programs.

### **Case Highlights**

#### **IGI Inc.**

#### **Buena Vista, Atlantic County**

On February 21, 2008, IGI Inc. agreed to settle a penalty for storing 35,690 pounds of wastes in trailers at a trucking storage location as well as storing oxidizers and ignitable waste material in proximity to each other.



**Cardolite Corp.  
Newark, Essex County**

In October of 2007, Cardolite Corp. was assessed a penalty for failing to ship off site 165 (55-gal.) drums of F003 hazardous waste within the 90 day storage limit and failing to address leaking drums.

Removal of mercury from the environment is a high priority. The following two cases highlight the program's responses to the mis-handling of certain universal wastes specifically mercury containing bulbs.

**ShopRite  
Bordentown, Burlington County**

In mid 2007 ShopRite and its electrical contractor improperly disposed of nearly 900 fluorescent tubes tossing them into a compactor/rolloff unit causing breakage and mercury contamination of their stock room area and the outside area where the compact-

tor/rolloff was located. The inside of the store, trash compactor and the attached unit for trash were washed down with a solution of HGX, an amalgamate that's bonds to mercury and renders it harmless to the environment, Once the mercury is bound in this form it can be disposed of as a solid waste. The company enacted procedures to take all bulbs from their 29+ stores to their warehouse in Freehold where the bulbs will subsequently be shipped to a recycler. An administrative penalty was issued.

**Supreme Computer Recycling  
Lakewood, Ocean County**

Supreme Computer Recycling (an approved Class D Universal Waste Recycling facility) was recently cited for improperly handling and storing significant amounts of spent florescent bulbs without proper authorization.

## Solid Waste

### Efficiency Improvements

**Proper Waste Handling Workshop**



In October 2007, representatives from Solid & Hazardous Waste C&E and OLEM conducted a compliance assistance workshop for employees of Parks & Forestry at the Burlington County ECO Complex. The workshop highlighted best

management practices for different types of solid and hazardous waste handling, including how to recognize the benefits of purchasing smaller amounts of chemicals; proper storage and disposal of waste; and types of waste streams that can be recycled.



## Solid and Hazardous Waste Regulation

The Bureau of Solid and Hazardous Waste Regulation consists of four units, each of which are responsible for an intricate part of waste management, tracking and compliance and enforcement in New Jersey. The Licensing and Registration Unit is responsible for registering both licensed (A-901) and exempt transporters (which includes Solid, Medical, Hazardous and Public Entity), collecting fees, and issuing decals for all equipment used to transport waste in the State. The Hazardous Waste Report Unit works in conjunction with the EPA to verify hazardous waste reporting in

New Jersey on a biennial cycle. The Economic Regulation Unit regulates fees for solid waste and handles requests under the Open Public Records Act (OPRA). The Manifest/Medical Waste Unit tracks hazardous waste on Uniform Manifest forms and registers medical waste generators.



**Economic Regulation**

The Economic Regulation Unit processed 7,300 OPRA requests and issued 60 new Certificates of

Public Convenience and Necessity to licensed transporters. These CPCNs are required for a commercially operating Solid Waste Collector/transporter.

### **Registrations**

Fiscal year 2008 added 1,386 new solid and hazardous waste transporters. This included a total of 116 newly approved A-901 licensed transporters. A total of 18,475 transport units were added and decaled. Staff has been working with CGI Consultants to convert the Vehicle Registration System from the OIT-run Mainframe to NJEMS. The system currently registers nearly 12,000 solid waste transporters, public entity and hazardous waste transporters, generates NJDEP transporter ID numbers, and automatically assigns proper decals. The new system will allow this registration process to be done on-line. We look forward to upgrading to the new system soon, and know it will greatly improve the processing time for staff and the public.

## **Efficiency Improvements**

### **Waste Transporting Vehicle -Registration Program**

A new data system was developed that allows easy entry and retrieval of vehicle registration information. Registrants are also able to register on-line and submit required reports on-line easing waste reporting requirements.

### **EPA**

Fiscal year 2008 is the biannual reporting cycle for Hazardous Waste Generators. Booklets and CDs were sent out to approximately 1,150 Hazardous Waste Generators in New Jersey. DEP staff is compiling data to submit to EPA by September 15, 2008.

## **Pesticides**

### **Initiatives**

#### **School Integrated Pest Management Bureau of Pesticide Operations (BPC)**

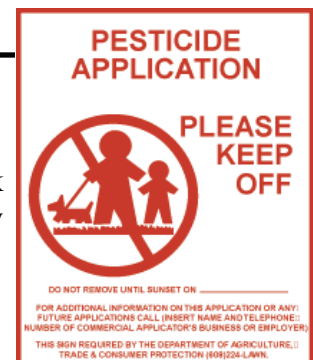
A School Integrated Pest Management (IPM) enforcement initiative took place between April 16, 2007 and May 8, 2007, in Essex, Monmouth and Salem Counties along with Camden City in Camden County. IPM requires that a school first consider preventive means of controlling a pest problem such as sanitation or building maintenance. If preventive or non-chemical means of control fail and the school must use a pesticide, the school must choose the least hazardous chemical and method of control that will solve the pest problem. The law, which became effective for schools on June 12, 2004, was designed to lower the risk of school-aged children to pesticide exposure by reducing the amount of chemical pesticides used in schools and on school grounds.

The purpose of the IPM enforcement initiative was

to promote compliance with the School IPM Act while taking a comprehensive look at compliance in New Jersey over a representative cross-section of the State, and to initiate enforcement action for non-complying schools.

In addition, the results would be used to identify common problems and hopefully assist both New Jersey schools and the Department in developing strategies to attain full compliance.

A total of 84 schools were inspected during the initiative. Overall, 74 percent of all schools (73 percent of all public schools and 80 percent of private schools) had major violations and were substantially out of compliance; IPM was not being implemented in these schools. Schools with no violations accounted for 19 percent of the schools inspected, and 7 percent of the schools had only minor violations that did not significantly detract from their IPM program.



As a result of the initiative and other ongoing planning, Department is pursuing the following strategies:

- The Department in conjunction with Rutgers University has completed a study manual for new license category 13 for pesticide applicators servicing schools. All pesticide applicators servicing a school must have this special license category for “IPM in Schools” in addition to other license categories by August 1, 2009. (All commercial applicators must take a basic “core” pesticide exam and at least one specialty or “category” exam in order to become licensed. Examples of categories include “Termite and Wood Destroying Insects”, “General and Household Pest Control”, and “Turf Pest Control”). The Department believes it is critical to the success of IPM in Schools that the pest control professionals have adequate knowledge of the law and be a working partner in a school’s pest management decisions.
- Continue (when feasible and appropriate) to direct enforcement case settlement monies to outreach and education to schools.
- Issue Administrative Orders for major violations that indicate no viable IPM program, or for repeat violations. Administrative Orders are enforceable by a court if proven to be valid.
- Increase the level of training that county inspectors receive from the Department in advance of doing school inspections for compliance with the IPM in Schools Act (there are 11 New Jersey county health departments currently performing delegated inspections for the Department under the County Environmental Health Act). This will increase the consistency in inspections between state and county inspectors and increase the school’s understanding of what an IPM program in full compliance entails.
- Continue to offer free IPM training events through the New Jersey Environmental Federation, and outreach at select events like the New Jersey Education Association

convention and the New Jersey Parent Teacher Association convention.

- Continue to offer compliance assistance inspections at individual schools and regulatory refreshers for school districts that ask for assistance. (Compliance assistance inspections do not result in violations being issued for non-compliance with IPM requirements. A school motivated to ask for assistance will receive this discretion as a result).
- Select a certain number of inspections in 2008 and 2009 to target schools that have received training. This will hopefully measure how successful the classroom training translates to successful IPM programs on school sites, and offer ways to improve the training.
- Initiate higher-level discussions with the Department of Education, County Superintendents, and private school organizations to focus compliance efforts and strategies.

Once the IPM in Schools license category is in place, pesticide-use surveys of these license-holders can be done to determine the types and amounts of pesticides used in schools (completion of pesticide-use surveys is a regulatory requirement). This could be a key indicator of the success of IPM in New Jersey schools, and help determine the level of regulatory oversight needed by the Department.

### **Monitoring for Pesticides on Produce Grown in New Jersey and in Ground and Surface Water**

The bureau continues to monitor for pesticides on produce grown in New Jersey and in ground and surface water. This monitoring assists in identifying potential problems with routine pesticide use. The bureau also worked with the DEP Bureau of Mosquito Control Coordination and the Mercer County Mosquito Control Agency on a research project to evaluate the distribution of pesticide residues when mosquito adulticiding is performed under proper conditions. This characterization will assist in determining whether a treatment was

correctly done when complaints are received involving mosquito control treatments.

## **Efficiency Improvements**

### **Pesticide Control Program's Web Site**

The bureau has been making great efforts to provide information to the regulated community, the public and other governmental agencies on pesticide regulatory issues and requirements via the Program's web site. A link on the web site's home page goes to a list of 30 reports on the Department's DataMiner site that retrieves data from the bureau's licensing database and pesticide product registration database. Application forms for permits, exams, licenses, pesticide registrations, training, etc., are all available from the web site, along with detailed instructions. Results of pesticide use surveys and environmental monitoring are also included. The bureau is in the process of taking the next step in developing a process to allow the regulated community to pay for the 15,000 licenses it needs each year using DEP Online, including electronically handling the high volume of address and employer changes inherent to the pesticide application industry. Another effort underway is developing a GIS coverage of all aquatic pesticide use permitted sites, along with the metadata specific to the permits for that site. When complete, this coverage will be available over the internet. These and other efforts allow the bureau to provide the services the regulated community and public need more efficiently, and with less resources.

## **Case Highlights**

### **Bench Warrant Issued for Illegal Applicator Bureau of Pesticide Compliance (BPC)**

A bench warrant has been issued for pesticide applicator David Kwiatkowski (aka Dave Ski). Mr. Kwiatkowski fled the State of New Jersey to escape responsibility for a 1995 Administrative Consent Order (ACO) which included a penalty and jail time if he ever again used pesticides commercially in New Jersey. For years, Mr. Kwiatkowski operated as an unlicensed applicator

and often misused pesticides under multiple personal alias names. In approximately 2002, Mr. Kwiatkowski returned to New Jersey to again become involved in operating a commercial pesticide applicator business, and directly applying pesticides, in violation of the 1995 ACO. Avoiding further prosecution, Mr. Kwiatkowski operated as an unlicensed applicator under multiple personal alias names; operated an unlicensed applicator business using at least a dozen alias business names; and, managed to operate while avoiding assets being put in his own name.

Complaints of fraud began coming into the Pesticide Control Program during 2006, 2007 and early 2008 that led to the 1995 ACO being recorded as a lien against Mr. Kwiatkowski in May 2007. On April 9, 2008, the Office of the Attorney General presented a case against defendant Kwiatkowski to the State Grand Jury, which resulted in an indictment. Mr. Kwiatkowski showed up for arraignment on May 12, 2008, but failed to do so with an attorney. The judge in the case gave the defendant two weeks to get an attorney. On May 27, 2008, Mr. Kwiatkowski failed to appear in court and the judge issued a bench warrant for his arrest.

# Land Use

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## Case Highlights

### **Bryce Builders / Allen Bros./ Fountain Spring Estates Ringwood Borough, Passaic County**

In June 2008, a Stipulation of Settlement was negotiated with Bryce Builders for unauthorized regulated activities conducted during the construction of an 1,050-foot road. The road construction resulted in the clearing, filling and grading of Exceptional Resource Value wetlands (approximately 2,000 square feet) and wetland transition areas (approximately 12,000 square feet). The settlement involved restoration and deed restriction of land and payment of a penalty. Bryce Builders is being allowed to construct one "exempt" home on the remainder property, with the option of applying to DEP for the necessary Highlands and other land use permits to construct a second home, with no guarantee that such permits will be issued. The Stipulation of Settlement has resulted in the permanent protection through deed restriction, of 26+ acres of mixed forested wetlands and uplands, located in the headwaters of Meadow Brook, a tributary to the Wanaque River. The site is located within the Highlands Preservation Area, and the wetlands are of Exceptional Resource Value. The Settlement also requires the removal of approximately 500 linear feet (approximately 10,000 square feet) of roadway and restoration of the affected areas, by seeding and reforestation.

### **Frank Liquori Galloway Twp., Atlantic County**

After receiving a complaint from the Atlantic County Health Department regarding the placement of trash and debris in wetlands a site inspection was conducted on April 25, 2008. The property owner, Frank Liquori, explained that the site is a rental property and the tenant had been filling wetlands behind the property with bricks, concrete, tree parts, wood chips and fill dirt. Mr. Liquori was issued a field Notice of Violation (NOV) and a restoration line was set in the field. Within thirty days the fill

and debris were removed resulting in the restoration 4,500 square feet of freshwater wetlands and 6,000 square feet of freshwater wetlands transition area. This site consists of maritime forested freshwater wetlands adjacent to Reeds Bay in close proximity to the Edwin B. Forsythe Wildlife Refuge.



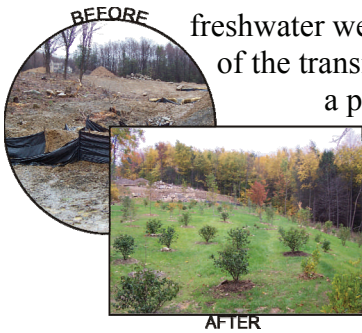
### **4 Seasons at Manalapan Manalapan Township, Monmouth County**

In 2003, the Division of Land Use Regulation issued a freshwater wetlands permit and transition area waiver to K. Hovnanian for the construction of 900 housing units. K Hovnanian failed to disclose the presence of historic resources on site during the permitting review and during site preparation demolished portions of the historic Hankinson farmstead. The developer also failed to record the required protective deed restrictions. On June 13, 2005, an NOV was issued for failure to provide information to the Department and on January 4, 2006 an NOV was issued for failure to provide deed restrictions. K Hovnanian subsequently filed the deed restrictions, and initiated the historic surveys of other homesteads on the site and a prehistoric archaeological site as would have been required during a fully informed review process. An ACO was executed that requires a penalty, preservation of the central area of the farmstead, historic surveys on remaining undisturbed portions of the site, and mitigation provided to the Monmouth Battlefield State Park for implementation of an interpretive exhibit.

### **Woodmont Homes, Inc. Vernon Twp, Sussex Co**

On April 21, 2006, an NOV was issued for the destruction of vegetation, disturbance of soil, and placement of fill material within freshwater wetlands (approximately 750 square feet) and transition area (approximately 40,162 square feet). The dis-

turbance was associated with the construction of a development road and lot clearing/grading. A settlement was negotiated through an ACO in 2008, through which, Land Use C&E required full restoration of the disturbed transition area and



freshwater wetlands, deed restriction of the transition area, and negotiated a penalty assessment. To date, the penalty has been paid and the site has been substantially restored and is in the monitoring phase.

**Fay, Stephanie**  
**Sparta Twp, Sussex Co**

On May 26, 2006, a field NOV was issued for disturbance of soil and placement of fill material within freshwater wetlands (approximately 1,000 square feet) and transition area (approximately 3,900 square feet). The disturbance was associated with the installation of an in-ground pool and appurtenances authorized (in part) with Township permits. A settlement was negotiated through an ACO in 2008, through which, Land Use C&E authorized Mrs. Fay to keep the pool (approximately 1,200 square feet in transition area) in trade for heavily planting approximately 9,000 square feet of lawn south and west of the residence, and 4.85 acres of deed restricted compensation area (wetlands, transition area, and non-Freshwater Wetlands Protection Act regulated uplands) provided by the Township on an adjacent lot. To date, the site is planted and in monitoring phase.

**Liberty Square**  
**Rt. 517, Independence Twp, Warren County**

Liberty Square is major development under the Highlands Act. Any major development receiving local and State approvals prior to March 29, 2004 would be exempt from the provisions of the Highlands Water Protection and Planning Act (HWPPA) and could be built provided construction beyond site preparation had taken place prior to August 10, 2007. Liberty Square was unable to complete construction beyond site preparation by August 10, 2007 and was issued an NOV and stopped work on the site. The NOV was followed by and AO.

Liberty Square challenged the Department's interpretation of construction beyond site preparation and the closing date of August 10, 2007 for projects granted an exemption under N.J.A.C. 7:38-2.3. The Administrative Law Judge upheld the Department's interpretation that "construction beyond site preparation" refers to having completed a foundation capable of supporting a building or structure, and does not include the clearing, cutting, or removing of vegetation, bringing construction materials to the site or grading or other earth work associated with preparing a site for construction. The judge ruled that a retaining wall is not a structure under the HWPPA but is a component of grading under the umbrella of site preparation. The second decision is that Liberty Square had not commenced construction beyond site preparation by August 10, 2007. This case is a significant victory for the Highland Act.

**Jeffrey Soccer Fields**  
**Berkshie Valley Park, Jefferson Twp., Morris Co.**

In October of 2005 during an inspection of another site, it was noticed that the wetlands surrounding an abandoned parking lot were being cleared and filled (approximately 56,554 square feet). Jefferson Township had approved expanding the old parking lot into freshwater wetlands and transition area to create soccer fields. The disturbance in the area where an Letter of Interpretation (LOI) had previously been issued for the site and the filling activities were clearly in the regulated area. Jefferson entered into an ACO with the Department that required that the fill be removed, the site regraded and the area re-planted with native vegetation. The site has just completed the last of its plantings and will now enter a 3 year monitoring phase.

# Water

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## Case Highlights

### **James Genke, Public Wastewater System Licensed Operator**

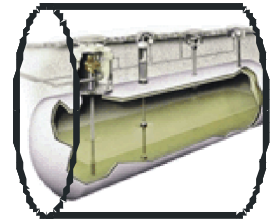
James Genke, an S-4 public wastewater system licensed operator was responsible for operating the wastewater treatment system at a restaurant/hotel located in Colts Neck Twp in Monmouth County. Mr. Genke's responsibilities included collecting samples from the system's DSN 001 outfall, delivering the samples to a certified lab for analysis, entering the results on Discharge Monitoring Report (DMR) forms, and mailing those forms to the Department each month. On March 25, 2006, Mr. Genke submitted the system's February 2006 DMR to the Department certifying that "the information is true accurate and complete." As a result of a Compliance Evaluation inspection conducted at the facility by DEP on March 21, 2006 and a subsequent investigation by Andrew Coleman of Water C&E's CRO it was

determined that Mr. Genke had falsified analytical results that were reported on the February 2006 DMR. As a result of this determination the Department issued an AONOCAPA and Notice of License Suspension (NLS) to Mr. Genke on February 1, 2007. The AONOCAPA/NLS suspended Mr. Genke's S-4 license for two years and assessed a penalty. Mr. Genke subsequently submitted an administrative hearing request to contest the AONOCAPA/NLS.

In the interest of resolving the AONOCAPA/NLS, the Department and Mr. Genke agreed to settle the case and executed a Stipulation of Settlement and Withdrawal of Hearing Request on March 17, 2008. In the settlement, Mr. Genke agreed to a penalty payment and a license suspension of one year commencing March 1, 2008.

# Underground Storage Tanks

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## Case Highlights

### **ABC Environmental, Inc. Elmwood Park, Bergen County**

For the period of fiscal year 2008, the Water C&E UST (state and CEHA agencies) program performed 2,240 Standard Compliance Inspections. At 1,850 of those inspections no violations were observed. This can be expressed as a 83.8 percent compliance rate, which is well above the regional and national averages for sites with regulated USTs.

During the same period of time a historic milestone was reached: in 2004 over 70 percent of active UST facilities did not possess a valid UST registration certificate, as is required by law to operate regulated USTs in New Jersey. Prior to the end of fiscal year 2008 over 70 percent of active UST facilities in New Jersey possessed a valid registration certificate. Water C&E's UST inspection program was identified as the primary catalyst for this reversal.

In February 2008 the Water C&E UST unit fined ABC Environmental, Inc. for 58 violations of state requirements for certification of firms and individuals that monitor and service underground storage tanks. This was the first enforcement case of it's kind by the Department.

The firm, doing business as Certified Tank Testing, lacked DEP certifications when it performed various services at 14 gas stations from June 2006 through April 10, 2007. By letter dated April 16, 2007, the Department instructed the company to cease performing the services until it secured certi-

fications for the business and for its individual employees. ABC Environmental obtained Department certification as a company for various tank-testing services on May 17, 2007. However, it continued to send employees who lacked individual certifica-

tions and were not accompanied by certified supervisors to conduct services at six service stations from May through September 2007.

## Administrative & Fiscal Support

The Administrative and Fiscal Support Program (AFSP) provides administrative guidance, fiscal, human resources, employee services and computer support to all programs within C&E. Issues addressed by AFSP staff include budget, procurement, database design and all aspects of personnel management, including training, travel, health and safety and assisting employees navigating through the myriad of benefit services and workplace issues within DEP. The AFSP team continually strives to provide effective customer service in meeting the current and future needs of C&E staff. There are currently seven team members. Meeting technical and all other training issues for the division continues on a daily basis and remains challenging as budgetary constraints are tighter than ever. Team members continue to support these and other new ventures on a daily basis.

### Initiatives

AFSP participated in ongoing workgroup discussions advancing the fair and productive work environment goal area of the C&E's strategic plan.

### Efficiency Improvements

2008 was another challenging, busy year for AFSP. Our database design members remain very busy monitoring and updating all AFSP databases to maintain accuracy of stored records. In addition this year, they purchased new computer hardware for C&E and coordinated deployment of these items to staff.

### Training

A total of 190 technical training requests were processed for C&E staff during 2008 as follows: 70 in the Air program, 27 in the Bureau of Hazardous Waste, 10 in the Bureau of Solid Waste, 21 in the Water program, 3 in the Bureau of Local Environmental Management, 17 in Bureau of Enforcement Compliance Services, 20 in the Pesticides Program and 17 in Coastal and Land Use Enforcement.

The Team remains committed to providing customer service and support as needed to C&E staff in the areas identified in the Team's mission statement.



# Enforcement & Compliance Services

The Bureau of Enforcement and Compliance Services (BECS) performs a variety of functions that are integrated directly with the day to day operations and outputs of all the programs performing enforcement activities throughout the Department. Functions include managing responses to OPRA requests, supporting and advancing the use of data and technology, producing outreach materials, web page development and processing collections. While carrying out these functions, the bureau has an overriding responsibility to encourage innovation and seek improvements in order to advance the Department's Action Plan and C&E's strategic plan.

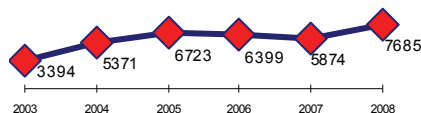
## Outreach

BECS continues to be the lead on the highly successful Compliance Advisory system. During fiscal year 2008, 12 advisories were posted and distributed to 1,200 subscribers listed in the advisory listserve. A survey was added to the advisory system to gain input on how effective the program has been and how it could be improved upon. Of those that responded to the survey, the majority have been subscribers for two to three years and have found that between four and six advisories have been relevant to them. Ninety percent of the respondents agreed that the advisories are timely and helpful with compliance issues. Positive outcomes that have occurred as a result the advisories were an increase in awareness and information, a process or business practice was reviewed, the advisory was shared with staff or others, training/guidance was provided to staff and the reduction of emissions, pollutants, energy use or waste.

## OPRA

OPRA oversight is one of several core functions

C&E OPRA Requests Received  
Fiscal Years 2003-2008



performed by BECS. The bureau managed the response to 7,685 requests in the year, an increase of approximately 31 percent over the 5,874 in fiscal year 2007.



## Technology

BECS continues to provide significant support in service of the data and technology needs of enforcement staff. In the 2008 fiscal year, BECS handled a steady stream of support requests. Most requests were related to enforcement uses of NJEMS, the Department's integrated, enterprise data management tool. The following support was provided by BECS in the 2008 fiscal year.

- 1626 support requests for data corrections, requirement library updates, de-bugging/troubleshooting and system enhancement designs
- 165 requests for new or modified Business Objects reports
- 148 new or modified system document templates
- 20 new functions, procedures, packages or views for use in document templates or reports
- 3,000 images posted on the image server and completion of the corresponding NJEMS spreadsheet for 350 activities
- 289 bad debt records referred to a collection agency

## Compliance Letters

A common perception is that anytime the regulated community receives a letter from C&E it can't be good news. In an effort to change this perception, C&E sends out a Compliance Letter, an official notification of compliance with applicable Department regulations, to each facility that no violations were discovered during the compliance inspection. In fiscal year 2008, 2,776 letters were issued.

# Environmental Crimes

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For over two decades, the Division of Criminal Justice has investigated and prosecuted violations of the State's water pollution, air pollution, hazardous waste and solid waste laws, as well as traditional crimes that have an impact on public health and safety and the environment. During fiscal year 2008, in addition to responding to pollution incidents statewide, the Division, working closely with the Department and local officials, focused its efforts on identifying and prosecuting those who illegally dispose of hazardous or solid waste in vulnerable urban areas, or who endanger surrounding communities and workers by the way they operate, or who submit false information to the Department. The Division also coordinates the criminal enforcement efforts of the County Prosecutors and the Department and the Marine Bureau of the State Police, and provides technical and legal assistance to the Prosecutors' Offices, as well as to local law enforcement. In fiscal year 2008, the Division obtained 17 indictments and accusations.

## **Urban Initiative**

State v. Seymour Berkowitz and Berkowitz Fat Co., Inc. (Indictment No. 07-07-00097S)

The State Grand Jury returned a four count indictment against Berkowitz Fat Co., Inc., a meat processing/rendering facility in Newark and its president Seymour Berkowitz charging them with a third degree violation of the Water Pollution Control Act, three third degree violations of the Air Pollution Control Act. The defendants are charged with violating air pollution and Passaic Valley Sewerage Commission water pollution permits and releasing odors into the environment that adversely affected people in the surrounding community.

State v. James E. Haas (Indictment No. 07-08-00112-S)

The State Grand Jury charged the defendant with second degree false payment claims for a government contract and two counts of fourth degree falsifying records for submitting false weigh tickets and bills of lading relating to the handling of soil from

the New Jersey Department of Transportation's Southard Street Bridge project in Trenton. The defendant pled guilty to second degree government contract fraud and the Court sentenced him to a three year term in state prison.

State v. Tyrone Maple (Accusation No. 08-070679-A)

Environmental Crimes filed an accusation against the defendant, an unlicensed asbestos abatement contractor, charging him with second degree unlawful and improper release of toxic pollutants for releasing asbestos into the air in the basement of a church building in Paterson. The defendant pled guilty to the accusation.

State v. Ferry Industrial Park Associates (Accusation No. 07-08-1196)

The State charged and the defendant pled guilty to third degree release of toxic pollutants, for recklessly causing asbestos to be released during the demolition of a building on Ferry Street, Newark. The Court sentenced the defendant to pay a fine.

State v. Arthur Fletcher (Indictment No. 07-07-00012-S)

The State Grand Jury charged the defendant with a third degree unlawful release of hazardous waste and toxic pollutants, and a fourth degree unlawful transportation of solid waste for allowing a pile of contaminated soil to leach onto the ground at a site in Passaic and for transporting demolition debris to the same site in Passaic.

## **Hazardous/Solid Waste**

State v. Lee Barnes and LAB Builders, Inc. (Indictment Nos. 07-12-00172-S and 08-02-00029-S)

The State Grand Jury charged the defendants with one count of third degree unlawful disposal of solid waste for dumping seven truck loads of demolition

debris from Philadelphia at a site in the Winslow Wildlife Management area. The State Grand Jury also charged the defendants with unlawfully disposing of solid waste demolition debris at a site in Camden County and a site in Atlantic County.

State v. Joe Goodwin (Accusation No. 07-12-1904)  
The defendant pled guilty to a one count Accusation charging him with third degree abandonment of hazardous waste for leaving drums of hazardous waste chemicals behind in a warehouse he leased from the Port Authority.

State v. Arthur Fletcher (Accusation No. 08-02-0138A)  
The State filed an Accusation against defendant charging him with third degree unlawful collection of solid waste for unlawfully collecting demolition debris from sites in Passaic and Newark.

State v. Mercado and State v. Torres (Accusation Numbers 429-08 and 430-08)  
The State filed Accusations against the defendants, to which defendants pled guilty, for third degree unlawful disposal of solid waste in Jersey City.

State v. Marchitello (Indictment No. 07-09-0017-S)  
The State Grand Jury returned a one count indictment against the defendant charging him with third degree abandonment of hazardous waste for causing the abandonment of drums of hazardous waste on a street in Newark.

State v. Shawn Coar (Indictment No. 05-06-00099)  
The Court found that the defendant violated his probation and imposed a one year county jail sentence. He had previously been convicted of unlawfully collecting solid waste in Jersey City.

### **Water Pollution**

State v. Jason Pugh (Accusation No. 173-05-08)  
The State filed an Accusation against the defendant charging him with fourth degree water pollution for discharging wastewater from a vacuum truck into a storm sewer in East Brunswick. The owner of the trucks agreed to pay a fine to the New Jersey Spill Compensation Fund.

### **Health & Safety**

State v. Kwiatkowski (Indictment No. 08-04-00059-S)  
The State Grand Jury returned a one count indictment against the defendant charging him with fourth degree criminal contempt for operating a commercial pesticides business in violation of a court order barring him from doing so for prior pesticides violations.

State v. Curdgele (Accusation No. 294-08)  
The State filed a one count accusation charging the defendant with a third degree violation of the Asbestos Control and Licensing Act for performing an asbestos abatement project at a Jersey City housing project without the required New Jersey Department of Labor license. The defendant pled guilty to the charge and the Court sentenced him to pay a fine.

State v. Brian Conover (Indictment No. 06-12-00141-S)  
The Court sentenced the defendant to 18 months probation for fourth degree unlawful abandonment of regulated medical waste for leaving containers of sharps and blood vials in a yard near the street in Mays Landing.

### **Environmental Fraud**

State v. Vernon Pinkney (Accusation No. 08-01-0069)  
The State filed an accusation charging the defendant with fourth degree uttering a forged document for providing a forged certification to a Department representative. Defendant pled guilty to the charge.

State v. B.B. Waste Removal (Accusation No. 07-07-575A/C)  
The defendant, a solid waste collection company in Cumberland County, pled guilty to fourth degree falsification of records for submitting false Origin and Destination Forms to the Cumberland County Improvement Authority. The Court imposed a fine.

# Natural & Historic Resources

## Dam Safety & Flood Control



### Lost Lake Dam #1, Lost Lake Dam #2, Van Dal Lake Dam, Lake Wanda Dam and West Milford Lake Dam

Five dams have been removed from the enforcement list. Lost Lake Dam #1, Lost Lake Dam #2 and Van Dal Lake Dam are in the permit process and will be reconstructed within the next two years. The reconstruction of the dams will create open water and wetland habitat for many types of fish and mammals. West Milford Lake Dam will remain drained and a permanent breach will be constructed in the embankment. The drained impoundment will create habitat for a variety of flora and fauna. In addition, a fish passage channel will be constructed in the breach. Lake Wanda Dam has been removed from the enforcement list and is still in the reconstructing planning phase. Once the dam is reconstructed, the new impoundment will create habitat for fish and mammals.

Besides environmental improvements that will occur with the reconstruction or permanent removal of a dam, the dams that have been taken off the enforcement list will eventually be in compliance with our regulations. This will make the downstream communities, located within the inundation areas, safer.

## Bureau of Law Enforcement Division of Fish & Wildlife

The Bureau is one of several enforcement agencies within the Department. At the present time the Bureau of Law Enforcement is comprised of fifty-three sworn officers and six civilian employees. Forty-seven of the sworn officers are patrol related and six are administrative. Additionally, there are currently

thirty-six volunteer Deputy Conservation Officers (COs) empowered to enforce fish and wildlife law who work directly with salaried officers,

A Bachelor's Degree in Fish & Wildlife Management, Environmental Science or one of the Natural Sciences and one year of law or environmental experience is required for appointment as a CO. COs must complete a twenty-two week NJ PTC certified Police Academy. After completion of the academy, CO III recruits attend an eight week Bureau Academy, which focuses on Wildlife Law Enforcement and finish their first year of duty in a twelve week Field Officer Training program. The officers enter their second year of duty as one of the most educated and highly trained law enforcement officers in the world.

COs have full law enforcement authority Statewide. They enforce compliance to all laws pertaining to wildlife on all lands and waters public and private. Additionally, they protect 350,000 acres of State Wildlife Management Areas(WMA). This responsibility comprises a large portion of their time, as public property has doubled since the 1960's, while the number of officers has remained constant. During the same period of time, the population increased by more than one third compounding the need for public property protection. COs investigate wildlife crimes, wildlife mortalities, incidents of pollution, hunting accidents and hunting related non-target impacts. They assist with black bear response and outreach as well as other wildlife related issues. They patrol via the use of four wheel drive vehicles, ATV, boat, foot and occasionally aircraft. They combat complex wildlife crimes and commercialization by the use of conventional patrol and covert operations.



The Bureau is comprised of the administrative element, which includes our training section and four

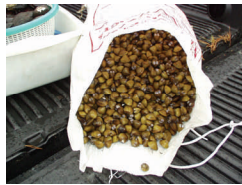
regional elements. The regional elements are staffed by a Captain (CO I), two Lieutenants (CO II), one Investigator (CO II), one Senior Communications Operator and eight to ten CO IIIs. Each region is divided into two districts. There are three inland and one marine regional element.

In fiscal year 2008, COs performed more than 79,135 hours of Bureau related activities. These hours can be further broken down to 9,442 fishing, 13,592 marine fishing, 7,229 deer hunting, 4,259 hunting, 4,327 WMA and 1,061 non-game endangered species. COs attended and conducted 11,462 hours of training. Additionally, they conducted 50,444 field inspections which resulted in 4,298 complaints signed, 28 criminal arrests and 343 written warnings.

### **Case Highlights**

#### **Marine Region**

On the evening of August 12, 2007, Marine Region COs Dravis and Soell were accompanied by Captain Chicketano on a night patrol for striped bass fishermen and potential illegal clamming in the Shark River area. At 01:15 am, Captain Chicketano observed 3 clammers working the bare mudflats of Shark River behind the Shark River Island. All of the individuals were observed treading and digging clams in the pitch dark and placing them into both a tote and a bucket. COs Dravis and Soell waited on the Island while Captain Chicketano continued to observe their activities. At 02:30 am all three clammers slowly worked their way back to the Island carrying their load of clams. The officers apprehended the individuals as they returned to their vehicle. All three were charged with clamming in polluted waters, clamming at night and clamming on Sunday. One of the individuals was also charged with clamming without a license. Approximately 450 cherrystone and chowder sized clams were returned to the Shark River.



#### **Northern Region**

COs of the Northern Region have taken a lead in Black Bear Feeding Enforcement Sweeps conducted in Northern New Jersey to combat a growing black bear problem through non-lethal means. The Northern Region continues to conduct Black Bear Feeding Enforcement Sweeps with the help of COs from the Central Region Office. To date, six sweeps have been conducted reaching 1295 households in 12 communities in Sussex County, resulting in nine verbal warnings.

Additionally, the Northern Region has handled 46 bear feeding complaints in fiscal year 08, issuing 9 written warnings and 1 summons. Four black bear shootings have been investigated by COs of the Northern region, with appropriate complaints filed against five individuals involved.



#### **Central Region**

COs from the Central Region received a number of complaints of illegal ATV activity on WMA s interfering with hunting activities. With the help of sportsmen and women, Officers Mutone, Tonnesen and Szulecki apprehended eighteen ATV riders on the Colliers Mills and Turkey Swamp Wildlife Management Areas during one weekend. One particular incident occurred when two ATV riders ignored the officer's instruction to stop, and fled the scene. After tracking the two riders for over a mile, the officers found the suspects ATVs hidden in a swamp and the two riders hiding at the nearby home of a friend. The two twenty-five year old riders exited the home and the appropriate complaints were signed.

#### **Southern Region**

CO Stites from the Southern Region Office led an investigation involving the use of dogs to hunt deer in Winslow Twp., Camden County. CO Stites assigned Lt. Honachefsky, CO Risher, and CO Batten to positions at various locations in about 500 acres of mixed woodland, and agricultural farm land. The officers arrived at the patrol in the pre dawn dark-

ness and waited until approximately 9:00 AM. CO Batten watched two hunters attempt to start their hounds on a bait pile. Other officers watched hunters take up stands in the surrounding woods and fields. At about 11:30 AM the CO's decided to attempt to round up the hunters. In total four hunters were apprehended. The charges filed included hunting without a license, failure to wear orange, hunting deer closed season, possession of illegal missiles, pursuing deer with dogs, and uncased firearms in a motor vehicle. The hunters charged were part of a group that had generated complaints from legal hunters for years. CO Stites believes that 2 of the hunters apprehended were the ringleaders in these other deer hunts.

## NJ Forest Fire Service Division of Parks & Forestry

Violations were assessed totaling \$10,761.25 to be returned to the agency for wildfire suppression reimbursement costs. An additional \$321,198.35 was received and deposited during this period for the Warren Grove Wildfire Incident of May 2007.



Forest Fire Service scent tracking dogs assisted in 5 wildfire investigations, 3 lost person searches and 108 wildfire prevention and information programs with over 8,000 contacts.



## Pollution Prevention & Right to Know

Melissa Miller of the Office of Pollution Prevention and Right to Know (P2RTK) conducted a pollution prevention audit/Community Right to Know inspection at Kop-Coat, Inc., of Rockaway, New Jersey. The audit revealed that through the implementation of pollution prevention measures, the facility was able to reduce their annual use of the hazardous substance dichloromethane by 28,941 pounds over a four year period. Also, the facility is investigating other pollution prevention options such as dedicated mixing tanks to reduce cleaning with solvents between batches, and alternatives to reduce methyl isobutyl ketone and xylene use.

P2RTK staff gave a presentation to hazardous waste inspectors on May 8th, 2008. The presentation included an overview of the information collected on

the Pollution Prevention Plan Summary and Release and Pollution Prevention Report, and gave examples of reports that can be generated using that data. The presentation also included a review of resources facilities can use to identify ways to reduce their generation of hazardous waste.

The Office of Pollution Prevention and Right to Know conducted two workshops for the regulated universe on the completion of the Community Right to Know Survey and one on the completion of the Release and Pollution Prevention Report and Pollution Prevention Plan Summary. These workshops also included an in-depth review of the Department's new online reporting system.



The Small Business Assistance Program (SBAP) in cooperation with the NJ Gasoline C-Store-Automotive Association held four evening seminars for fueling station owners and operators, attracting over 140 participants. The seminars focused on the Stage I & II inspector checklist, the SBAP's Gasoline Vapor Recovery Compliance Calendar, as well underground storage tank and Community Right to Know requirements.

how facilities can reduce emissions from dry cleaning equipment by implementing best management practices outlined in the SBAP's Dry Cleaner Checklist and on alternatives to perchloroethylene dry cleaning.

In fiscal year 2008, the SBAP, comprised of two individuals, conducted 320 separate on-site compliance assistance visits.

The SBAP staffed an information booth at the National Cleaners Association's annual Dry Cleaning Expo. Over 1,000 people attended the 2-day event. The SBAP distributed Dry Cleaning Compliance Calendars and Air Permit Notification Stickers for dry cleaning machines. The Expo included topics on

## Office of Quality Assurance

The Office of Quality Assurance (OQA) has responsibility for leading the department's activities related to establishing and maintaining effective quality systems and for assuring the quality of analytical data used by the department, industry, local government, municipal authorities and private citizens. As part of its activities the OQA certifies businesses conducting environmental analyses.



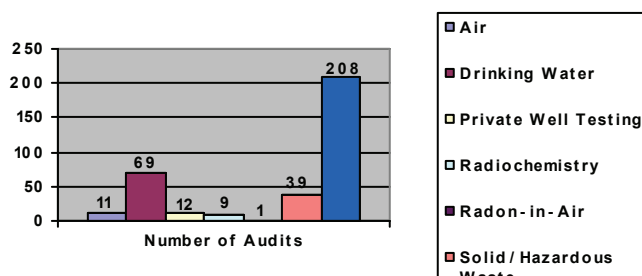
Businesses can either be certified using standards generated by the State of New Jersey or accredited using standards generated through the National Environmental Laboratory Accreditation

These businesses are located throughout the United States, Canada, Europe and Asia. New Jersey has one of the most analytically complex programs in the nation and grants certifications/



accreditations to businesses that analyze drinking water, wastewater, ambient water, soils, solid/hazardous waste, sludge and air samples for microbiological, inorganic, organic, radiochemical, radon and biological properties. To become certified/accredited, and to maintain this status, businesses are required to conduct a variety of activities. These include Performance Test (PT) Samples and On-Site Audits to demonstrate compliance. Following are the Fiscal Year 2007 numbers relating to these two activities:

On-Site Audits



Conference (NELAC). New Jersey is one of twelve states in the United States approved as a Recognized Accrediting Authority in the National Environmental Laboratory Accreditation Program

(NELAP); and able to grant businesses national status as a NELAP Accredited laboratory. Over 125,000 certifications/accreditations are granted each year to over 800 businesses.

### Performance Test Samples

	Total Analyzed	Total Found Unacceptable
Drinking Water	8,109	246
Radiochemistry	75	1
Radon-in-air	12	0
Solid/Hazardous Waste	7,980	362
Water Pollution	14,551	698

### On-Site Audits/Performance Test Samples

Laboratories are found to have an “unacceptable” result for either failing to submit a PT Sample result or for submitting a PT Sample result that is outside of a passing range. In either case, an “unacceptable” result is an indication of a laboratory’s inability to provide reliable analytical data. Laboratories submitting “unacceptable” results are required to analyze repeat samples, assessed a monetary penalty and/or suspended from participation in the Environmental Laboratory Certification Program. Only laboratories with “acceptable” PT Sample results can be found eligible for certification/accreditation status.

### ACCURATE ANALYTICAL LABORATORIES, LLC

#### ANDOVER TOWNSHIP, SUSSEX COUNTY

Accurate Analytical Laboratories, LLC ("Accurate Analytical Labs") operated a laboratory which was certified by the Department under NJ Certification #19004, located at 3 Maple Street, Andover Township, Sussex County, New Jersey. On June 19 through 21, 2007 and March 4 and 5, 2008, OQA conducted an on-site audit of Accurate Analytical Labs. During the time of the audit, it was discovered that Accurate Analytical Labs was not complying with Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., which includes the Private Well Testing Act ("PWTA") found at N.J.S.A. 58:12A-26 et seq., and the Regulations Governing the Certification of Laboratories and Environmental Measurements found at N.J.A.C. 7:18-1 et seq. The on-site audits revealed among other things, that Accurate Analytical Labs submitted falsified reports to the clients that requested the analysis from the laboratory and reported false data to the

Department. On July 15, 2008, the Department issued a Notice of Civil Administrative Penalty Assessment ("NOCAPA") to the lab manager Peter Dominski and Accurate Analytical Labs.

### VAL ASSOCIATES LABORATORY, INC. ("Val") CHERRY HILL TOWNSHIP, CAMDEN COUNTY

An audit conducted by OQA in April, 2006 revealed numerous, serious deficiencies by this laboratory regarding its analytical procedures for testing regulatory samples in the Safe Drinking Water, Water Pollution and Solid/Hazardous Waste programs. As a result, in June 2007 the Department issued an AONOCAPA addressing violations in all three programs.

An additional investigation by the Department revealed that Val failed to submit acceptable analytical results on performance evaluation testing for the Drinking Water parameters Bromate and Chloromethane. Based on this information, the Department issued an AO and Notice of Certification Suspension to Val in January 2007, suspending their New Jersey laboratory certification for these Drinking Water parameters. Another investigation in August 2007 revealed that Val failed to submit acceptable analytical results on performance evaluation testing for the Drinking Water parameter Heterotrophic Plate Count in January and July 2007. A follow-up audit of Val in October 2007 confirmed that Val had implemented measures to correct the deficiencies cited June 2007 Order and Penalty, it had passed subsequent proficiency testing for Chloromethane, and agreed to serve a suspension for its certification for Bromate and Heterotrophic Plant Count. On February 1, 2008, the Department and Val executed an SA with a penalty, resolving all of the cited Drinking Water, Water Pollution and Solid/Hazardous Waste violations.

Significant improvements were made regarding analytical testing procedures by this laboratory for the Safe Drinking Water, Water Pollution and Solid Waste programs.

# Radiation

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## Initiatives

### **X-ray Inspections**

The Bureau of Radiological Health (BRH) inspected 3,030 facilities and evaluated compliance of 6,144 x-ray machines in fiscal year 2008. These inspections resulted in the issuance of 704 enforcement documents (NOVs, AOs & Notices of Penalty (NOPs)) of which 32 percent contained penalty assessments. Of the 895 violations cited, 250 (28 percent) were for failure to conduct various quality control tests, 123 (14 percent) for failure to have an annual medical physicist's survey performed, 85 (9.5 percent) for equipment performance issues, 72 (8 percent) for failure to pay registration fees, and 52 (6 percent) for failure to perform or submit radiation safety surveys. In addition, 240 mammography facilities were inspected by the BRH as part of a contractual agreement with the US Food and Drug Administration.

### **2008 Meeting with NJ Medical Physicists**

On March 8, 2008, the BRH held its third meeting with New Jersey certified medical physicists. Over 30 medical physicists attended the half day meeting and were presented with data and findings on 6 medical radiologic topics of interest. On topic was the presentation of data on New Jersey's patient dose trends for Computed Tomography (CT) medical examinations. Through the combined efforts of the BRH and the Certified Medical Physicists, patient radiation dose has been able to be optimized to deliver high imaging quality while keeping patient radiation dose below nationally recommended guidelines.

### **Organized and Held the Annual Radiation Protection Conference of the Mid-Atlantic States Radiation Control Programs**

The BRH secured a sponsor and location for the sixth annual meeting of the Mid-Atlantic States Radiation Control Programs. The Mid-Atlantic States Radiation Control Programs is comprised of the radiation protection programs of New Jersey, Delaware, Maryland and Pennsylvania and its mission is

to enhance communication and provide educational opportunities to its members and workers in radiation services fields. Each year, the annual meeting is hosted by one of the member states. The 2007 meeting featured two days of presentations on emerging medical radiologic technologies, significant enforcement cases in radiologic technology, radioactive materials, MQSA, radon and non-ionizing radiation disciplines. Twenty-nine presentations were offered and more than 80 participants attended each day of the two-day event, making it the most highly attended Mid-Atlantic Conference to date.



## Efficiency Improvements

### **Computer Programming Enhancements**

The BRH completed major enhancements to its examination and licensing database with the assistance of its computer vendor. These enhancements improved the Bureau's ability to process examination and license applications, automated the issuing of application deficiency notices and automated the application denial process for applicants that fail to respond to deficiency notice in a timely manner. In addition, the new programming enhanced the Bureau's internal controls of all payment receipts.



# Release Prevention

The Bureau of Release Prevention constitutes two programs, the Discharge Prevention program, and the Toxic Catastrophe Prevention Act (TCPA) program. The Discharge Prevention program provides assistance to New Jersey facilities that are required under the Spill Compensation and Control Act, to develop Discharge Prevention, Containment and Countermeasure (DPCC) and Discharge Cleanup and Removal (DCR) plans. The purpose of these plans is to ensure that major facilities utilize equipment and procedures to prevent the discharge of petroleum or other hazardous substances to the environment, and that they have a plan and equipment in place to be used if a discharge does occur. The TCPA program assists and supports owners or operators that handle, use, manufacture, store or have the capability of generating a toxic, flammable, or reactive extraordinarily hazardous substance at or above specified threshold quantities in a process. The program verifies that these facilities comply with state and federal accidental release prevention requirements.

The Bureau's website at <http://www.nj.gov/dep/rpp/brp/> contains information on news, the lists of regulated substances, rules, and guidance documents.

## COMPLIANCE INITIATIVE

The two programs administered by the Bureau regulate based on lists of covered substances. There is overlap between the substances regulated under these programs. Therefore, a facility that handles a hazardous substance that is regulated under both programs may be covered by TCPA and Discharge Prevention. Currently, there are 90 facilities that are registered under the TCPA Program rules, N.J.A.C. 7:31, and 334 facilities that have DPCC and DCR plans under the Discharges of Petroleum and Other Hazardous Substances (DPHS) rules, N.J.A.C. 7:1E. Fifty-five of the facilities that are registered under the TCPA rules are also covered under the DPHS rules.

During the 2008 fiscal year, the Bureau completed an effort to verify whether or not any of the 36

TCPA facilities that did not submit DPCC/DCR plans are covered under DPHS rules, and any of the 271 facilities

that are not registered with the TCPA program are covered under TCPA rules. From this investigation, the Bureau found and issued appropriate enforcement actions to five facilities that failed to register with the Department under the TCPA rules and one facility that failed to submit a DPCC/DCR plan under the DPHS rules.



## **DPHS Program**

Owners or operators of facilities that store 20,000 gallons or more of hazardous substances other than petroleum or petroleum products, or 200,000 gallons or more of hazardous substances of all kinds are regulated under the DPHS rules. The DPHS program inspects regulated facilities to evaluate implementation of their discharge prevention program as well as to evaluate physical conditions. Site visits are also conducted for technical review of operations during initial plan approval or existing plan renewal. Bureau staff perform comprehensive inspections and reviews of facilities. Inspections are conducted unannounced each year except during plan renewal. Technical site visits are conducted every three years during the DPCC/DCR plan renewal process. During inspection a field Notice of Violation is issued for out of compliance items found. Non-minor violations are elevated to an AONOCAPA.

Currently, there are 334 sites covered by the DPHS rule. The Bureau conducted inspections at 203 facilities and technical site visits at 126 facilities in fiscal year 2008.

The DPHS program established a stakeholder workgroup in April 2008 in an attempt to address the issue of de minimus concentration of hazardous substances in mixtures. Participation in the workgroup is open to the public and stakeholders from industry and environmental organizations attended the kick-

off meeting. Several possible approaches to addressing the de minimus concentration issue were discussed and are awaiting legal review of the various options.

### TCPA PROGRAM

The TCPA program performs inspections and audits of covered facilities to monitor and evaluate implementation of their risk management programs to verify compliance with the TCPA Act and rules to minimize the risk of a catastrophic accidental EHS release to the environment and the public. A risk management program includes elements such as process safety information, standard operating procedures, operator training, mechanical integrity/preventive maintenance, process hazard analysis with risk assessment, management of change to operations/equipment, safety review, and emergency response. Program staff review annual reports submitted by facilities which summarize risk management program activities over the previous year. Staff also review submitted risk management plans, which include registration information and data on worst case releases from the facility.

Inspections and audits conducted by the TCPA program's chemical safety engineers cover the management system for the facility's risk management program including the procedures, records and reports, and tracking systems, along with an inspection of the equipment and controls of the covered process. If the TCPA program finds material deficiencies, which are inadequacies or omissions of an owner's or operator's risk management program that reduces the effectiveness of the risk management program, a consent agreement, which includes the description of the finding and a corrective action, is issued.

Currently, there are 90 sites covered by the TCPA rule. The Bureau completed inspections or audits of 68 sites last year. Consent Agreements were issued to one new stationary source, and 22 Consent Agreement Addenda were issued for existing facilities. Forty-four sites received letters stating that no violations or material deficiencies were found.

In May 2008, new rules became effective for the TCPA Program, N.J.A.C. 7:31, to expand the

requirements for inherently safer technology (IST) reviews. Under the newly adopted rules, all TCPA facilities must submit an initial IST review report to the Department by September 2, 2008. The newly adopted rules require owners or operators of all TCPA covered processes to complete an initial IST review and to update the IST review at least every five years. In the IST review, the following strategies must be analyzed: 1) reducing the amount of EHS material that potentially may be released; 2) substituting less hazardous materials; 3) using EHSs in the least hazardous process conditions or form; and 4) designing equipment and processes to minimize the potential for equipment failure and human error. Provisions are proposed for facilities to document the review, determine the feasibility of recommendations, submit the IST review report to the Department, update the review, and associated penalties. The Bureau held a free workshop in June 2007 to explain the provisions of the IST rules attended by approximately 120 people comprised of members of the regulated community, environmental and labor groups, safety professionals, staff of the Federal Occupational Safety and Health Administration and the Environmental Protection Agency, and the Department of Homeland Security.



# Site Remediation Waste Management

## Initiatives

### **Biennial Certifications**

This initiative targeted a significant area of non-compliance for SRP - a requirement that is a critical basis for our program, that is, the long term monitoring that is required when we allow parties to leave contamination on site at levels above the unrestricted use remediation standards. The initiative resulted in a 60 percent improvement in compliance during the amnesty period, and an 80 percent compliance improvement to date.

Parties responsible for conducting remediation may implement a remedial action that includes leaving contamination on site at levels above the unrestricted use remediation standard provided institutional and/or engineering controls remain in place to guarantee the ongoing protectiveness of the remedy. These parties and subsequent property owners are obligated to submit biennial reports to the Department certifying that the remedy remains protective. In acknowledgement that many parties had failed to comply with their long-term monitoring obligations, in March 2007, the Department sent letters to all parties that were responsible for monitoring the effectiveness of a remedial action that includes an engineering and/or institutional control, notifying them of their obligation. The letter specified an amnesty period during which compliance could be achieved and no penalty would be assessed. In September 2007, the Department issued an Enforcement Alert to notify the same parties that, beginning in October 2007, the Department would issue enforcement actions to those parties that failed to meet their obligations. Pursuant to the Grace Period rule, N.J.A.C. 7:26C-10, these are non-minor violations subject to \$8000/day in penalties for every day out of compliance for the institutional and engineering control violations.

The Department sent 2100 letters to responsible parties identified as out of compliance in March

2007. A total of 1260 responsible parties submitted biennial certification reports and obtained compliance during the amnesty period.



Beginning in October 2007, the Department has issued Administrative Orders with penalty assessments to those parties yet to comply, and penalty assessments to those parties that complied subsequent to September 30, 2007. Penalty assessments have been issued for up to \$56,000 per violation. Between October 1, 2007 and June 30, 2008 an additional 435 responsible parties submitted biennial certification reports and obtained compliance, leaving 405 responsible parties out of compliance as of June 30, 2008. Enforcement efforts continue.

## Case Highlights

### **Bermuda Islander Delaware Bay (Money Island Area) Cumberland County**

On April 26, 2006 the Department, the US Coast Guard and Delaware DEP responded to an incident in the Delaware Bay involving a linear oil slick that covered approximately 11.54 miles. Through information provided by the River Pilot, the release was attributed to the Bermuda Islander, a 320 ft. container ship, which purposefully discharged bilge water contaminated with oil into the Delaware Bay. The US Coast Guard flew to Bermuda to sample the bilge of the ship. Analysis revealed that the oil was a match to that found in the Delaware Bay. Although the majority of the oil affected the Delaware coast line, the Department subsequently issued a Notice of Civil Administrative Penalty in the to J.R. Ship Management, the owners of the ship.



On July 17, 2007, the Department executed a Settlement Agreement with J.R.Ship Management. The significance of this penalty action is that it demonstrates that the Department is willing to take action against any responsible party, whether they are located in state, outside New Jersey, or outside the United States, when necessary to protect the natural resources of our State.

### **PJP Landfill Jersey City**

On July 13, 2008, after many months of negotiations, the Department facilitated an agreement between Waste Management of New Jersey Inc. and AMB Properties LP concerning the remediation, redevelopment and preservation of a 52 acre portion of the PJP Landfill Superfund Site. AMB Properties, LP purchased the property and executed an Administrative Consent Order with the Department, committing to take over the remedial requirements for this portion of the landfill, 5 acres of which will remain as open space along the Hackensack River. In addition, the ACO requires AMB Properties, LP to establish a remediation funding source to guarantee the completion of the remediation. Upon completion of the remediation, which includes the con-

struction of an 870,000 sq.ft. high-cube warehouse, the landfill cap on the remainder of the property will be maintained and monitored by AMB. Waste Management will maintain the responsibility for capping and maintaining the remaining acres not conveyed to AMB, as previously approved by the Department. This settlement brings to final closure an 87 acre abandoned land fill and Superfund site. This closure and redevelopment will bring tax revenues and jobs to the Jersey City community and will ensure the proper closure and long-term maintenance of the landfill cap. In addition, there will be 5 acres of open space left along the river.



