



# Fiscal Year 2007 Highlights

## Compliance & Enforcement





*"A strong compliance and enforcement program is critical to achieving the mission of the Department of Environmental Protection. The assistance the program provides to businesses and government prevents pollution and promotes efficient environmental protection while our enforcement efforts ensure an even playing field for the regulated community and compliance with the high standards the public demands."*

~Commissioner Lisa P. Jackson



*"I am pleased to bring you another sampling of the varied work accomplished by the Department's compliance monitoring personnel in our third 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. This year we have added a new section, Natural and Historic Resources which highlights the efforts of the Bureau of Dam Safety and Flood Control, Fish and Wildlife's Bureau of Law Enforcement and Parks and Forestry's Forest Fire Service. We've also added a new section that I am especially proud of called Joint Operations highlighting the combined enforcement efforts of multiple programs throughout the Department in conjunction with Federal, State, and Local Agencies. We now have 21 different programs within the Department represented in this report. 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 2007 Compliance & Enforcement Highlights

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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:

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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	Environmental Permitting Dashboard	Division of Water Supply
Ambient Water Quality	Incidents/Complaints*	Site Remediation
Certified Laboratories	NJPDES Permitting Program	What’s New
Community Access	Pesticide Control Program	Pending Permit Progress Reports

Compliance & Enforcement\* Radiologic Technologists

DEP General Environmental Reports

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

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

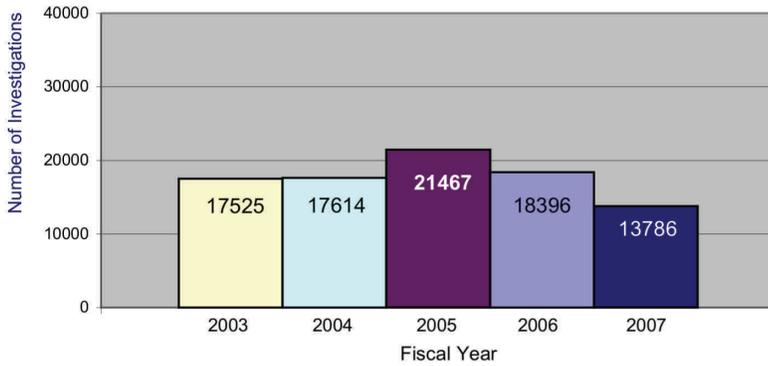
Acronyms used in this report:

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

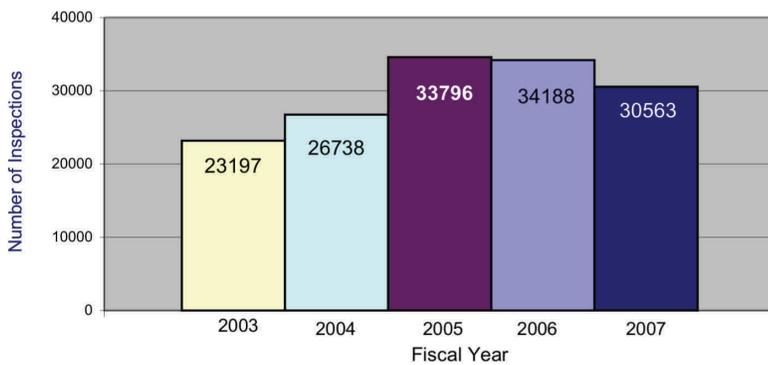


Summary of Investigations, Site Inspections, and Enforcement Actions - Fiscal Years 2003 to 2007

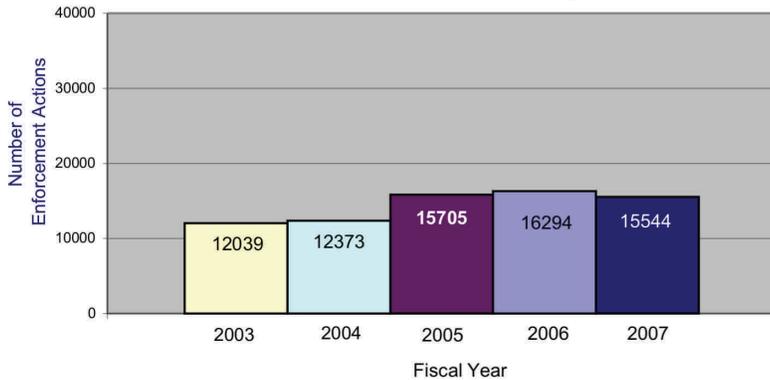
**Number of Investigations Completed by Fiscal Year**



**Site Inspections Completed by Fiscal Year**



**Total Enforcement Actions Issued by Fiscal Year**

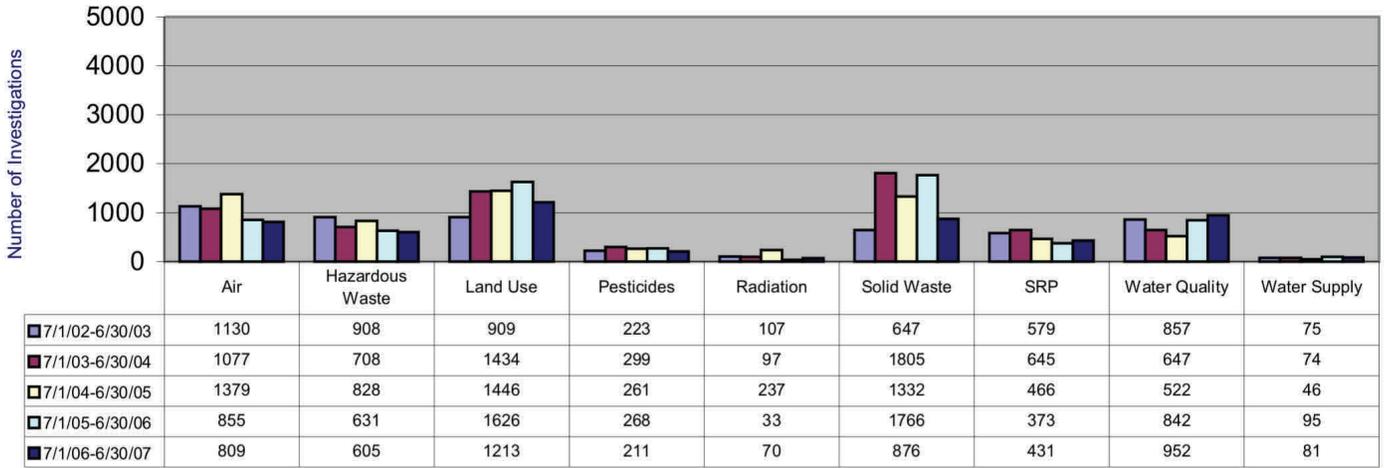


The following programs are included in the totals for each chart:

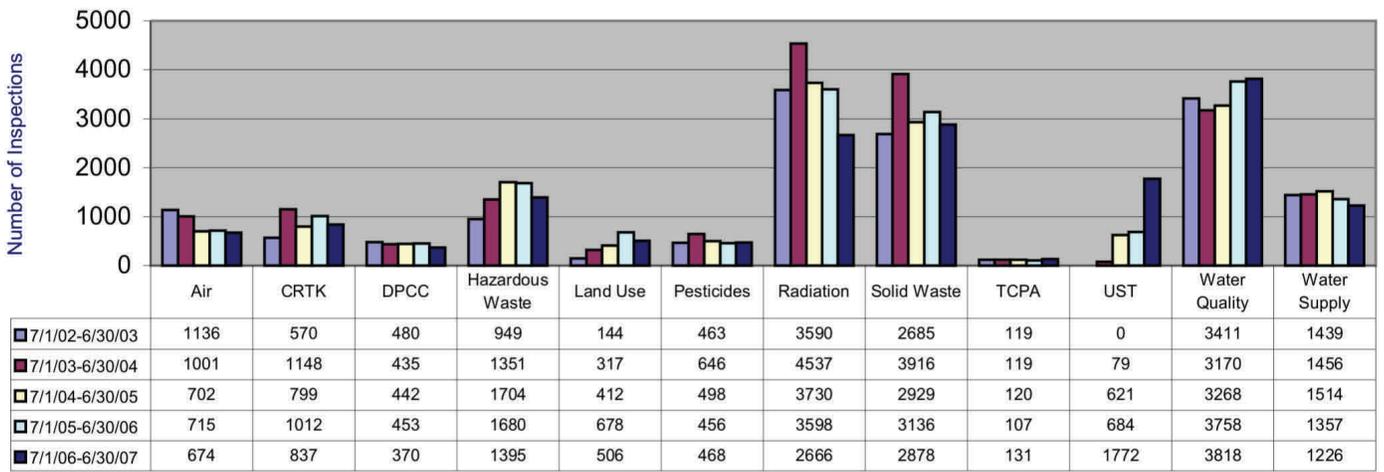
- Air
- Community Right to Know (CRTK)
- County Environmental Health Act (CEHA) Program
- Discharge Prevention, Containment and Countermeasures (DPCC)
- Hazardous Waste
- Land Use
- Pesticide Control
- Radiation Protection
- Site Remediation Program (SRP)
- Solid Waste
- Toxic Catastrophe Protection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



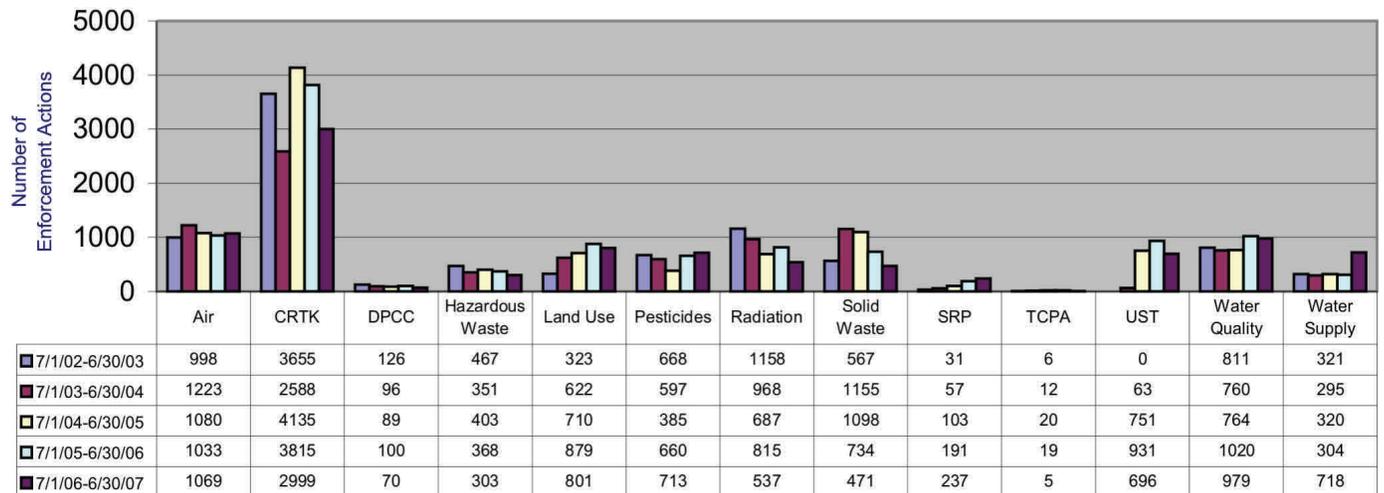
### Investigations Completed by Fiscal Year



### Inspections Completed by Fiscal Year



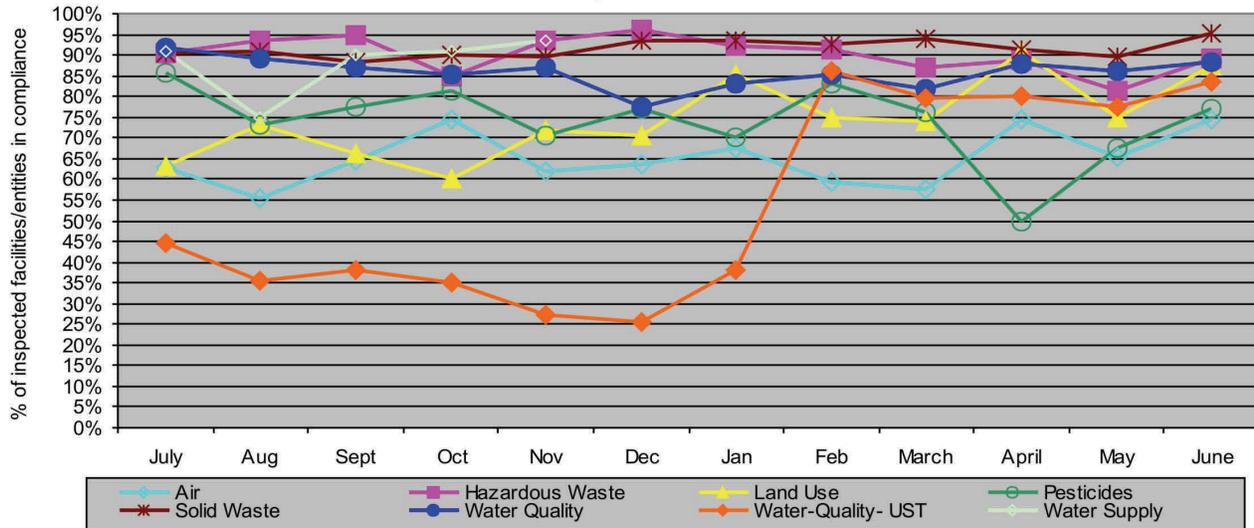
### Enforcement Actions Issued by Fiscal Year



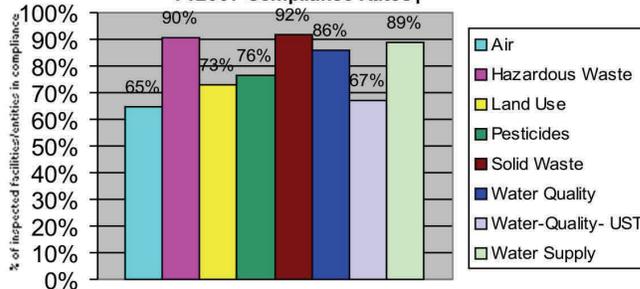
# FY2007 Inspection-Based, Facility Compliance Rates

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 August 21, 2007.

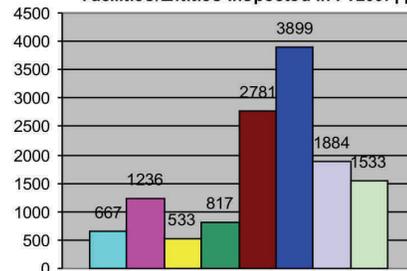
**FY2007 Monthly Compliance Rate Trends**



**FY2007 Compliance Rates†**



**Facilities/Entities Inspected in FY2007††**



Compliance Rate	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	March	April	May	June	Entire year†
<a href="#">Air</a>	62.7%	55.3%	64.5%	74.6%	61.8%	63.5%	67.7%	59.5%	57.4%	74.4%	65.4%	74.6%	64.8%
<a href="#">Hazardous Waste</a>	90.6%	93.7%	95.0%	84.7%	93.4%	95.9%	92.0%	91.4%	87.1%	88.9%	81.6%	89.1%	90.3%
<a href="#">Land Use</a>	63.2%	73.0%	66.3%	60.0%	72.0%	70.6%	85.4%	75.0%	74.1%	90.9%	75.0%	87.5%	73.0%
<a href="#">Pesticides</a>	85.7%	73.3%	77.6%	81.3%	70.4%	77.2%	70.0%	83.0%	76.1%	50.0%	67.6%	77.2%	76.4%
<a href="#">Solid Waste</a>	90.5%	90.7%	88.4%	90.2%	89.8%	93.5%	93.7%	92.8%	93.9%	91.4%	89.4%	95.4%	91.5%
<a href="#">Water Quality</a>	91.8%	89.0%	86.9%	85.1%	87.0%	77.5%	83.0%	85.2%	81.7%	87.7%	86.3%	88.3%	85.9%
<a href="#">Water-Quality- UST</a>	44.4%	35.5%	37.9%	35.1%	27.4%	25.5%	38.3%	86.3%	79.6%	80.3%	77.3%	83.5%	67.1%
<a href="#">Water Supply</a>	91.1%	75.0%	90.0%	90.8%	93.3%	87.5%	91.5%	93.0%	90.3%	87.0%	86.2%	87.9%	88.6%
Facilities Inspected	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	March	April	May	June	Entire year††
<a href="#">Air</a>	52	94	62	59	34	52	65	37	54	43	52	63	667
<a href="#">Hazardous Waste</a>	64	143	101	111	106	98	87	105	132	81	98	110	1236
<a href="#">Land Use*</a>	57	111	98	30	25	17	48	20	54	33	16	24	533
<a href="#">Pesticides</a>	63	38	49	48	54	57	50	88	71	140	102	57	817
<a href="#">Solid Waste</a>	241	257	242	244	235	214	255	195	245	221	236	196	2781
<a href="#">Water Quality</a>	208	426	343	328	208	276	294	209	334	310	527	436	3899
<a href="#">Water-Quality- UST**</a>	81	107	87	94	73	51	81	234	211	249	379	237	1884
<a href="#">Water Supply</a>	79	96	140	141	104	72	117	114	134	169	210	157	1533
<b>Totals</b>	<b>845</b>	<b>1272</b>	<b>1122</b>	<b>1055</b>	<b>839</b>	<b>837</b>	<b>997</b>	<b>1002</b>	<b>1235</b>	<b>1246</b>	<b>1620</b>	<b>1280</b>	<b>13350</b>

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

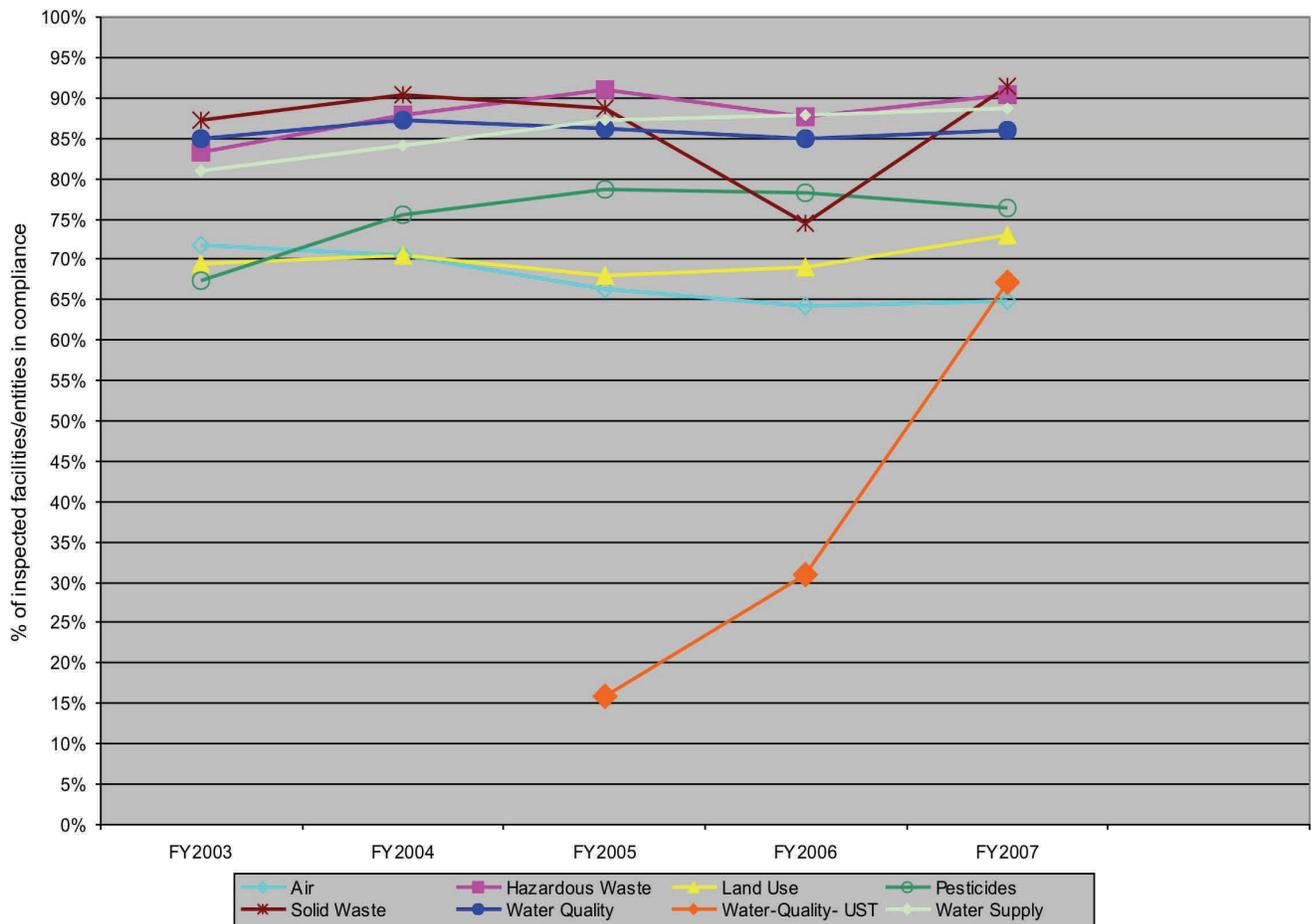
† Compliance Rates for the entire year will be lower than average monthly rates because of repeat visits to some facilities.

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

# FY2003 - FY2007 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 August 21, 2007.

**FY2003 - FY2007 Yearly Compliance Rate Trends**



Compliance Rates FY2003 -FY2007

Compliance Rates	FY2003	FY2004	FY2005	FY2006	FY2007
<a href="#">Air</a>	71.8%	70.5%	66.3%	64.2%	64.8%
<a href="#">Hazardous Waste</a>	83.2%	87.8%	91.1%	87.6%	90.3%
<a href="#">Land Use</a>	69.4%	70.5%	67.9%	69.1%	73.0%
<a href="#">Pesticides</a>	67.3%	75.6%	78.7%	78.2%	76.4%
<a href="#">Solid Waste</a>	87.2%	90.3%	88.7%	74.4%	91.5%
<a href="#">Water Quality</a>	85.0%	87.3%	86.1%	84.9%	85.9%
<a href="#">Water-Quality- UST</a>			15.9%	31.0%	67.1%
<a href="#">Water Supply</a>	81.0%	84.1%	87.3%	87.9%	88.6%

Facilities Inspected FY2003 - FY2007

Facilities Inspected	FY2003	FY2004	FY2005	FY2006	FY2007
<a href="#">Air</a>	1140	1037	700	725	667
<a href="#">Hazardous Waste</a>	768	1291	1562	1503	1236
<a href="#">Land Use</a>	183	312	483	691	533
<a href="#">Pesticides</a>	675	677	832	1002	817
<a href="#">Solid Waste</a>	2499	3574	2852	2884	2781
<a href="#">Water Quality</a>	3156	3139	3777	3777	3899
<a href="#">Water-Quality- UST</a>			615	689	1884
<a href="#">Water Supply</a>	1376	1482	1830	1607	1533

# Strategic Plan

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

The following values will be demonstrated through our business operations:

## ▪Integrity

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

## ▪Environmental Dedication

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

## ▪Responsiveness and Effectiveness

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

## ▪Clarity of Communication and Accountability

C&E will continually strive to improve our relationship with all of our stakeholders by expanding our outreach to the various constituents. We will 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 developed and strategies discussed for the first two goal areas.

# Connecting the Dots

Compliance and Enforcement 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 for the first time compliance rates are presented in this report (pgs. vii-viii). Looking at the trends over time, compliance rates have increased in all areas except air where a seven percent decrease is seen. What does this mean? The decrease is due to a shift in inspection efforts from inspecting major facilities that have had no compliance issues to inspecting synthetic minor facilities where we have discovered numerous compliance issues. Helping to resolve the compliance issues and thus improving our air quality is a more efficient use of resources. We will continue to identify where greater enforcement, assistance or education can have a bigger impact.

The Department's Geographic Information System (GIS) staff completed a project in February 2007 in which aerial photographs from 1995 and 2002 were compared for changes in land use/land cover. New Jersey loses approximately 50 acres per day to development with the most significant change being seen in disturbed wetlands specifically marginal wetlands or transition areas being consumed. In April 2007, Valuing New Jersey's Natural Capital—An Assess-

ment of the State's Natural Resources was released. This is the final report of a two-year study and first statewide study ever, whose purpose was to estimate the economic value of goods and services provided by our natural resources. The value provided by our resources was assessed at \$26 billion annually with wetlands ecosystems providing the highest dollar value. Both the GIS study and the Natural Resources study will enable new considerations about priorities for C&E and its role in providing maximum protection of these sensitive areas. Our enforcement activities this fiscal year led to the restoration, enhancement and preservation of approximately 94.75 total acres of wetlands with an ecosystem value of \$1.09 million annually and the development of Greenway Areas along the Pompton (pg 15) and Rahway Rivers (pg 12).

On February 13, 2007, Governor Jon S. Corzine signed Executive Order #54 to adopt proactive and ambitious goals for the reduction of greenhouse gas emissions in New Jersey. The order specifically 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 one of the first states in the nation to adopt such aggressive goals.

Last year, C&E undertook focused enforcement on the illegal idling of diesel trucks and buses in an effort to reduce soot and other pollutants. This fiscal year, as part of the actions in pursuit of clean air goals, we expanded our focus to gasoline powered vehicles through the "**Idling Stinks**" advertising campaign to educate drivers about the state's three-minute idling regulation for both diesel and gasoline vehicles (page 4). It may seem trivial to worry about and enforce how long a car runs idle but the fact is that there are 6 million drivers traveling 73 billion vehicle miles each year in New Jersey. By reducing the idling of your car five minutes/day we can save 6-12 billion gallons of gasoline and 0.7-1.3 million tons CO<sub>2</sub> emissions each year (ranges based on small vehicles to SUVs). These numbers are far



from trivial.

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

#### **PSEG Fossil LLC**

On behalf of the New Jersey Department of Environmental Protection (Department) and the Environmental Protection Agency (EPA), the US Department of Justice, executed an amendment to the 2002 Federal Consent Decree with PSEG Fossil LLC on November 30, 2006. The amendment achieves significant air pollution reductions from three large coal-fired electric generating units (Hudson Unit 2 plant, located in Jersey City, and PSEG's Mercer Units 1 and 2 plants, located in Hamilton Township), as well as two smaller oil-fired units at the facility in Kearny. PSEG is required to install air pollution controls for carbon monoxide, sulfur dioxide, nitrogen oxides, particulate matter, and mercury, under various deadlines not exceeding December 31, 2010, for the Hudson and Mercer plants. Should PSEG elect not to install the controls at the Hudson plant, they must switch to ultra-low sulfur coal until a shutdown date of December 31, 2008. PSEG also agreed to finance \$3.25 million for an environmental mitigation project to reduce particulate matter from diesel engines within the New Jersey air shed region and pay a penalty to both the Department and EPA.

#### **Camden Waterfront South-Georgia Pacific Gypsum LLC**

Air C&E's Southern Regional Office (SRO) cited Georgia Pacific Gypsum (GP Gypsum) for operating the Raymond Mills and Landblaster above the maximum permitted throughput rates. The facility entered into an Administrative Consent Order (ACO) allowing operational flexibility until such time a permit modification could be obtained to reflect higher throughput levels, without increasing emission rates. In order to address the potential

penalty liability that would have been assessed for continuing non compliance until the permit modification is approved, the facility agreed to a supplemental environmental project to reduce particulate emissions from the operation of the Caterpillar 950G bucket wheel loader used on site. GP Gypsum will retrofit this equipment with EPA or California Air Resource Board verified Diesel Particulate Filter Technology by December 20, 2007.

The modification of this equipment will assist in potentially reducing particulate and carbon monoxide emissions by up to 90 percent and hydrocarbon emissions by 95 percent in the Camden Waterfront South area which is designated as an Environmental Justice Community.

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

Camden County Municipal Utilities Authority (CCMUA) is a facility which is also located in the Waterfront South section of Camden. During an inspection by Air C&E's SRO and Air Permitting staff on December 11, 2006, unpermitted equipment including two natural gas fired engines (one operating), two waste oil heaters and two cold, open-top degreasers were discovered. The hour meters from the engines indicated the engines had been in place for at least nine years. The existence of these engines now classifies the facility as a major source, thus requiring the submittal of a Title V permit application, emission fees, and emission statements. It was also discovered that as part of an agreement with PSE&G, the facility receives monetary compensation (approximately \$500,000 per year) for using these engines in lieu of utilizing



energy off the power grid. It's estimated, based on AP42 calculations, these engines account for 200 tons per year (tpy) carbon monoxide and 130 tpy nitrogen oxide emissions. These emission levels exceed the 100 tpy and 25 tpy major thresholds for carbon monoxide and nitrogen oxide, respectively. The Department has ordered CCMUA to obtain permits for the degreasers, waste oil heaters, and engines and to perform a stack test by July 22, 2007.

### **Gloucester Terminals LLC Gloucester City, NJ**

Prompted by an Air C&E initiative for ports, an inspection was performed at Gloucester Terminals LLC on May 7, 2007, to determine compliance with the air regulations. During the inspection, 27 (1 diesel engine and 26 propane heaters) unpermitted pieces of equipment were discovered .

### **"Idling Stinks" Advertising Campaign**

The Diesel Risk Reduction Program, in conjunction with Air C&E, began an outreach effort to educate drivers about the state's three-minute idling regulation for both diesel and gasoline vehicles. Past years' efforts focused on outreach to reduce idling of diesel vehicles including school buses, trucks and buses. To date, over 4,000 No Idling signs have been sold and posted in New Jersey. This year the Department implemented an advertising campaign directed at the general public titled "Idling Stinks and it's against the law!", showing exhaust from a car and featuring the message "Stop Pollution, Save Money, Save Lives". The campaign included billboards, bus and rail ads, newspaper inserts and ads at baseball stadiums.



### **Efficiency Improvements**

#### **Presentation to the US Department of Justice**

Robert Heil of Air C&E's Northern Regional Office (NRO) was invited to speak to federal prosecutors at the US Dept. of Justice's "Environmental Crimes

Seminar" in Columbia South Carolina in May 2007. The presentation was on enforcement of the Clean Air Act and provided an understanding of the science behind building an environmental case.



#### **Subchapter 5 Odor Enforcement Training**

Jeff Meyer of Air C&E's NRO and Elizabeth Stochak of Air C&E's Central Regional Office (CRO) were instructors at the Rutgers sponsored Odor Field Enforcement course provided to Department and County Environmental Health Act (CEHA) personnel on March 14, 2007. N.J.A.C. 7:27-5.2(a), referred to as Subchapter 5, provides for the regulation of odor released to the outdoor atmosphere by one or more sources of air contaminants. Fundamentals of odor perception and measurement, investigation procedures, enforcement and penalty procedures, odor control technologies, legal aspects, significant case studies and field techniques were presented.

#### **Forest Fire Service Open Burning Training**

The Department's Forest Fire Service requested a presenter for their annual Fire Warden Training Program to review NJAC 7:27- Subchapter 2, Open Burning. Elizabeth Stochak of Air C&E's CRO, made a presentation on how Air C&E handles and reviews open burning cases. In order to develop a consistent enforcement approach to be utilized by these two Department bureaus in enforcing the same regulation, a discussion followed the presentation in which issues, problems and potential inconsistencies were identified .

### **Case Highlights**

#### **Infineum USA**

##### **Linden, Union County**

Infineum USA, located within the Conoco Phillips Petroleum Refinery, manufactures specialty motor oils . From 2003 through 2006 this facility experienced malfunctions of the thermal oxidizer 8F-101, which led to numerous instances of volatile organic compounds (VOC) emissions by-passing air

pollution controls. On August 8, 2006, the Department executed an ACO in which Infineum USA was required to control emissions from emission unit #6 (chlorination/acidification reactors), reduce emissions by an additional 25 tpy VOC through additional source control, and conduct a fugitive VOC emission study on their product transfer equipment in gaseous and liquid service and the external control devices that serve those systems, using an Infra-red ("IR") Camera system. Infineum USA has installed a new thermal oxidizer (U16), has achieved an emission reduction of 25 tpy VOC through source control, and has successfully completed a facility wide IR audit.

### **Chart Corporation Paterson, Passaic County**

Chart Corporation extracts flavors from natural botanicals. This previously unpermitted company had been emitting approximately 300 uncontrolled tons of methanol into the outdoor atmosphere for years. Methanol is on the EPA list of Hazardous Air Pollutants (HAPS). Chart replaced methanol in March 2007 with ethanol (non-HAP) and is currently installing a chiller. To further reduce emissions, they will also triple-water-rinse the spent botanical waste (marque) and place the waste marque in a closed dumpster. Through settlement of the enforcement action and the permitting process, the facility could reduce its emissions below 25 tpy.

### **Colorite Specialty Resins Burlington, NJ**

Air C&E's SRO has been participating with EPA and the US Department of Justice in on-going global settlement discussions with Colorite for its numerous air, water and waste violations. Tentatively, Colorite has agreed to reducing the

limit for the dispersion operations, enhanced sampling of reactor opening losses and residual vinyl chloride, a third party audit, the elimination of the potential to emit for emission points associated with fugitive emissions from five compressor engines, installing continuous emission monitors (CEMS) to monitor vinyl acetate and vinyl chloride emissions, reducing by 50 percent potential to emit (PTE) limits in its Title V permit for 19 emission points, reducing by 90 percent the PTE from the wastewater treatment plant, and supplemental environmental projects to include dispersion and suspension monomer recovery improvement, and the establishment of a predictive maintenance procedure/program to determine seal replacement frequency for the compressor engines. It's anticipated that the global settlement will be signed by participating parties by the Fall of 2007.

### **Pollution Control Financing Authority of Warren Co./Warren Co. District Landfill Oxford Township, Warren County**

On February 8, 2007, the Department finalized an ACO with the Pollution Control Financing Authority (PCFA) of Warren County/Warren County Landfill. The ACO required the installation of a sulfur scrubbing system to reduce the sulfur dioxide (SO<sub>2</sub>) emissions to the atmosphere by up to 350 tpy. The system became operational in November 2006 at which time the facility also began operating a landfill gas to energy plant. In addition to installing the sulfur scrubbing system the ACO also required the PCFA to institute a hydrogen sulfide monitoring system to attempt to reduce air pollution complaints from citizens. The ACO also requires PCFA to collect and report SO<sub>2</sub> ambient air emissions data for specific areas within Warren County as part of the monitoring plan in the Warren County Air Monitoring Project.

## **Office of Local Environmental Management**

The Office of Local Environmental Management (OLEM) oversees the administration of the CEHA

program, the State's Noise Control program, and Greenstart, which is the Department's voluntary compliance assistance program. OLEM oversees the activities of 21 county health agencies, which employ over 200 environmental staff to conduct work delegated by the Department.



### CEHA Activities & Performance

The Department relies heavily upon county health agencies to perform a variety of environmental activities. County health agencies are especially effective at addressing emerging issues where a quick local response is needed. 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.

Priorities over the fiscal year have included inspecting dry cleaning establishments, particularly where the facility is located adjacent to residences or childcare facilities, sampling of drinking water wells at small commercial establishments and schools to ensure that the water is safe and inspecting solid waste trucks, which has already resulted in an increase of truck violations.

### Special Environmental Projects

Each county health agency is encouraged to participate in additional departmental projects, and may tailor a new environmental project specific to the needs of their community. One example of an effective project has been the Monmouth County stormwater management outreach program to municipalities to educate them about their regulatory obligations and how to maintain compliance with the stormwater regulations.

### Compliance Assistance Initiatives

OLEM is responsible for overseeing and administering Greenstart, the Department's voluntary compliance assistance program created to help small businesses and municipalities comply with their

regulatory requirements. OLEM has found that sector-based compliance assistance is an effective mechanism to foster greater environmental responsibility and awareness. Sectors are chosen to include facilities that may have existing or potential environmental issues, which are usually due to a lack of on-site environmental expertise.

OLEM's present project is the school chemical management pilot, which has expanded to include four other CEHA agencies in fiscal year 2007. Over 400 schools have received cost-free inspections and have been educated on best management practices about chemical safety, inventory reduction, and all applicable regulations that apply to generation, transport and the proper disposal of hazardous wastes. The school project is OLEM's third sector-based compliance assistance project.

### Noise Control

OLEM is responsible for the coordination of noise investigations by counties and municipalities. In fiscal year 2007, OLEM responded to over 150 noise inquiries. Municipal noise ordinances are also reviewed by OLEM and approved or disapproved. 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 training. Rutgers certifies an average of 50 CEHA personnel each year.

The Department has adopted a new rule in its noise control regulations to address noise from idling train locomotives and rail car coupling. Adoption of these amendments allow county health officials to enforce the existing Federal noise standards for these activities.

## Hazardous Waste

### Initiatives

#### A-901 Licensing Enforcement

Prime contractors, subcontractors and brokers engaged in the business of solid or hazardous waste transportation or disposal are required to register

with the Department and after an integrity review, receive a license (commonly referred to as an "A-901" license). The Bureau of Hazardous Waste Enforcement and Transportation Oversight Unit (TOU) undertook an initiative to identify waste brokers engaged in the



business of hazardous waste management. As a result of this initiative more than a dozen previously unlicensed brokers were brought into compliance with the A-901 licensing regulations.

### **Efficiency Improvements**

Whenever regulations are revised or new ones adopted, data in the New Jersey Environmental Management System (NJEMS) must also be revised. This is a time consuming process that cannot be possible without the cooperation and hard work of staff from both Solid and Hazardous Waste Enforcement and the Bureau of Enforcement and Compliance Services. In fiscal year 2007 significant updates were made to NJEMS to account for major revisions of the Manifest Regulations, changes to the Universal Waste Regulations, and the adoption of the Mercury Switch Rule.

Approximately 45 checklists were revised in NJEMS to add 30 new regulations, and to revise/delete nearly 30 other regulations in response to the revisions of the Manifest Regulations. Checklists data was also revised to add new regulations and to revise/delete regulations in response to Universal Waste changes. The State of New Jersey also adopted the Mercury Switch Rule, which required to creation of a new checklist.

In the spring of 2006, representatives from the Bureau of Solid and Hazardous Waste Regulation and Bureau of Solid Waste C&E's Special Investigations and Support Services Section initiated a contract to design a Manifest data entry screen in NJEMS to reflect the recent changes to the Uniform Hazardous Waste Manifest form. The detailed design and testing of this screen were conducted in late 2006, training of staff in January 2007, and implementation occurred in February 2007. In preparation of the implementation of the Manifest Data Entry screen in NJEMS, approximately 87,000 records were data converted into Site Masterfile. These records contained hazardous waste generators, hazardous waste transporters and hazardous waste treatment, storage, or disposal facilities (TSDF) that either are located in New Jersey or are transporting or sending their waste into the State of New Jersey for treatment, storage or disposal or fa-

cilities to which hazardous waste that is generated in New Jersey is being sent for treatment, storage or disposal. This data conversion process was a tremendous effort undertaken by the Office of Information Resources Management with the assistance of the Bureau of Manifests and Bureau of Solid Waste C&E. With the addition of these records, the Bureau of Hazardous Waste C&E is now able to issue it's annual Hazardous Waste Compliance Monitoring Fee invoices through NJEMS, as well as use this data for inspection targeting. In addition, the manifest processing fee will be processed through NJEMS around October 2007 and will make reporting on the amount of fees assessed and collected in this area easier. On the horizon, New Jersey, along with Michigan, Minnesota and Massachusetts, is involved in a grant to pilot an e-Manifest program. This pilot plans to involve stakeholders from the hazardous waste industry, along with State and EPA representatives, in the building of a portable system to track the manifest data electronically and in "real-time". The system will be similar to those instruments used by UPS, and other deliveries companies, to track packages and obtain signatures when the package is received. The data collected will be received by a centralized system in EPA. This data, along with manifest data that is received by hard copy, will then be transmitted to the appropriate State systems by using the Exchange Network.

### **Compliance Assistance**

#### **Hazardous Waste Handler Seminars**

For many years the regulated community has been requesting the Department to institute a training program emphasizing basic RCRA regulations. This became a goal in the C&E's Strategic Plan and more than 300 individuals have participated in this program since it was implemented in March 2006. The Department hosted two free hazardous waste handler seminars in fiscal year 2007. The seminars were open to all handlers of hazardous waste and used oils. It provided an overview of State and Federal regulations as they apply to large, small and conditionally exempt generators of hazardous waste and used oils, transporters of hazardous wastes and used oils and handlers of universal waste. In fiscal



year 2007 most program registrations were handled utilizing the Web, which increased the efficiency of the process. Future events may include some of the more complex areas of RCRA such as waste classification.

### **Advisories**



In July 2006 the program issued an updated compliance advisory warning regarding the use of fluorescent bulb crushing machines. The proper operation of bulb crushing machines and disposal of mercury containing bulbs/lamps is extremely important to help reduce public exposure to harmful mercury emissions. Improper disposal of mercury containing lamps can release the mercury to the environment, potentially causing adverse health effects. Bulb crushers constitute "Treatment". Generators who treat their own lamps may do so, but when they do the lamps lose their "Universal Waste" status and are considered fully-regulated hazardous waste, subject to numerous more stringent federal and state standards than universal wastes. Bulb Crushers also require air permits.



In August 2006, the program issued a compliance advisory alert regarding changes to the Uniform Hazardous Waste Manifest regulations, the manifest form, and continuation sheet forms used to track hazardous waste from a generator's site to the site of its disposition. The rule adopted new procedures for tracking hazardous wastes that destination facilities reject, wastes consisting of residues from non-empty hazardous waste containers, and wastes entering or leaving the United States. The rule also standardized the content and appearance of the manifest form. The new standardized Federal manifest form contains six copies as opposed to the current manifest form the Department uses that contains eight copies.

### **Case Highlights**

#### **Miza Pharmaceuticals**

##### **Fairfield Twp, Cumberland County**

Miza Pharmaceuticals manufactured generic eye-wash and cleaning solutions for contact eyewear. Hazardous waste was generated as a result of their manufacturing process. Miza Pharmaceuticals

ceased operations sometime in 2003 and filed for Chapter 11 bankruptcy protection on May 23, 2003. The facility was subsequently purchased by 40 MAIN STREET, LLC. An inspection conducted by Hazardous Waste C&E on May 19, 2005, prior to 40 MAIN ST, LLC taking control of the property, revealed containers labeled as hazardous waste denoting the D001 and F003 codes as well as numerous laboratory chemicals. Responsibility for disposing of the U.S. Food & Drug Administration (FDA) regulated wastes and hazardous wastes on site was assumed by the new owner 40 MAIN ST, LLC. Over 1,700 pounds of hazardous waste was removed from the property and disposed of on July 11, 2006. However, an inspection conducted on August 16, 2006 revealed that approximately 200 pounds of hazardous waste and FDA waste remained on site. The Department contacted the FDA representative in charge of the case to correspond the disposal of the FDA regulated waste with the remaining hazardous waste on site. A subsequent inspection, on April 3, 2007, found additional unidentified wastes hidden behind boxes. On June 04, 2007, 40 MAIN STREET, LLC and the Department began negotiating an Administrative Consent Order to facilitate the disposal of not only the remaining hazardous waste, but all of the FDA regulated waste as well. On June 26, 2007, all of the hazardous waste was disposed of and arrangements are currently being made to dispose of approximately 400 pallettes of FDA regulated waste.

#### **Zenith Dye/REO Fairfield**

On December 8, 2003, Hazardous Waste C&E entered the Zenith Dyeing and Finishing Corp. building as part of the Paterson Sweep Initiative and found over 140 old and rusted 55-gallon drums and laboratory bottles of corrosives, caustics, powders, petroleum wastes and other unknown chemicals in open containers and spilled throughout the facility. Passaic County Hazmat Team, and Sheriff's Department, along with Paterson Fire Department, Fire Prevention and Police, assisted the Department in performing an emergency response entry to the site. Dangling electrical wires and an inadequate fire suppressant system, determined this site constituted a serious

health and fire risk to the local residents. On December 8, 2003, Hazardous Waste C&E immediately issued a Notice of Violation to the financial institution which had purchased the property. In March 3, 2004, the DEP issued an Administrative Order, which ordered the property owner to remove the hazardous waste from the site. By April 2004, all the hazardous wastes and materials were removed. The Department issued a Notice of Civil Administrative Penalty Assessment (NOCAPA) which required REO Fairfield, LLC, to pay an administrative penalty. In June 2007, on the verge of trial, the Department negotiated a penalty settlement with REO Fairfield, LLC for maintaining the site in a manner that was detrimental to the environment and public health of the community. This case is important because it identifies that financial institutions have responsibility and liability for environmental issues at sites that they purchase.

**Supreme Computer Recycling, Inc  
Lakewood, Ocean County**

On March 21, 2007, there was a lithium battery fire at Supreme Computer Recycling, Inc. Supreme Computer Recycling is Class D Commercial Handler of Universal Hazardous Waste. The container, which held several thousand expired lithium batteries from laptop computers, was located in a Quonset building in the parking lot of the new Supreme facility. The lithium batteries continued to re-ignite during the night, but were brought under control by the next morning. Some of the water used to control the fire ran off-site and entered storm drains leading the South Branch of the Metedeconk River. Notices of Violation (NOVs) were issued on May 9, 2007, for failure to minimize the possibility of fire, explosion of releases of hazardous waste, and for the discharge of a hazardous substance. In response, Supreme Computer Recycling has contracted the services of a consultant to evaluate and possibly take over the handling of their lithium battery storage. The Department will maintain strict oversight until the new operating procedures are submitted, reviewed by the Department and implemented by Supreme or its contractor.

**Amspec Chemical Corporation  
Gloucester City, Gloucester County**

In November 2006, several inspections were conducted at Amspec Chemical Corporation. The property had been acquired by Gloucester City through eminent domain in December 2005 and Amspec Chemical is currently leasing the property from Gloucester City. The integrity of facility's electrical system (panels, outlets, wiring, etc.) appeared to be compromised due to age and water exposure. A large portion of the property was heavily flooded (up to 6 inches deep), thus limiting access to several areas within the plant, including one of rooms containing the main electrical switching panels. Large gaps in the facility's fence were observed and many of the doors allowing entry to the plant were unlocked or missing. Approximately 750 to 1,000 containers of various lab reagents were located within the lab, lab supply closet and several adjoining rooms. Many of the reagents appeared to be characteristic hazardous wastes. Approximately 650 containers of various known and unknown chemicals and hazardous substances were being stored within the warehouse. Some of this material had been stored on site prior to 2003. There were vessels in the production areas that still contained hazardous substances; two 200-gallon tanks and approximately 300 feet of piping containing sodium residue, which is highly reactive with water and a process tank containing approximately 3,000-gallons of sodium methylate, a highly flammable substance. Representatives of the Department contacted representatives of Gloucester City and their environmental consultants to notify them that the facility was unsecured and that there were many highly dangerous hazardous substances on site that were stored in unsafe conditions. On December 11, 2006, Amspec agreed to enter into an ACO to properly dispose of all the hazardous materials and waste on site. Gloucester City agreed to submit the ACO to the Superior Court Trust Fund Unit in order to release funds for waste disposal. The first money was released by the Court on May 31, 2007, contracts for disposal have been signed and disposal begun. The sodium has been removed from all vessels. Disposal activities continue and expected to be completed by the end of August, 2007. Since it appears that greater than 90 percent of manufacturing

has ceased at the site for a period of greater than two years, this case was referred to the Department's Industrial Site Recovery Act (ISRA) program.

### **EI Dupont De Nemours Chambers Works Pennsville Twp., Salem County**

EI Dupont De Nemours Chambers Works is a permitted commercial TSDF of hazardous waste. The facility is authorized to operate a hazardous waste disposal facility, Secure C Landfill that is used to dispose of sludge filter cake generated by the onsite wastewater treatment plant and other various types of bulk hazardous and nonhazardous waste from onsite and offsite. From November 11, 2004, through October 15, 2005, DuPont had nine

violations of New Jersey's Discharge Pollution Prevention Control (DPPC) Act resulting from spills of a hazardous substance and eight violations of New Jersey's Hazardous Waste Regulations resulting from discharges of hazardous wastes and various violations of their permit to operate a hazardous waste TSDF. On June 22, 2006, DuPont entered into an ACO with the Department and agreed to take steps to upgrade the facility and operating procedures to minimize discharges in the future and pay a penalty. Dupont completed all tasks associated with the ACO on March 6, 2007.

## Solid Waste

### Initiatives

#### **Major Tire Site Cleanups**

During 2006 there was significant progress made in cleaning up the 17 large (greater than 20,000 tires) tire pile sites by initiating new enforcement actions, following-through with existing actions, and using funds available from the tire grant\*. Over the past fiscal year the following five sites have been remediated:



- Meszaros Auto Wrecking
- Blewett Auto Salvage Yard Incorporated
- Magnum Management & Acquisitions, LLC (Tinton Falls Tire Pile)
- Estate of James Brown
- One Stop Auto Salvage.

\*The tire grant is a \$2.3 million annual fund generated by a \$1.50 per tire fee on the sale of new motor vehicle tires, including tires sold as a component part of a new motor vehicle either sold or leased in New Jersey.

#### **Solid Waste Grace Period Rule**

The program updated the current penalty tables that identify violations of the Solid Waste Rules and the Solid Waste Utility Regulations as either minor or non-minor for the purpose of providing grace periods in accordance with the Grace Period Law. In addition, the program updated the Solid Waste rules penalty tables by adding a new section that will list penalties for violations of N.J.A.C. 7:26-2D, Requirements on Rail Carriers that Transfer Containerized or Noncontainerized Solid Waste to or from Rail Cars, which was adopted on November 15, 2004. Further, the program also set base penalties in the Solid Waste rules for violations for which base penalties had not previously been established. Specifically, the program set base penalties for violations of the Intermodal container facility rules to make these penalty amounts equivalent to the same or similar violations found in the hazardous waste rules and established a \$3,000 base penalty for violations of the provisions regarding compliance with district solid waste management plans based on the bottom value of the penalty matrix for moderate conduct and minor damage



### **Hauler Registration Support**

The TOU had the opportunity to work with the Department's Transporter Registration Group to help establish and further limit the ability of transporter registrants who are engaged in the industry from obtaining exempt registrations. This mutual achievement was accomplished by careful examination of all applicable environmental, Division of Motor Vehicle and Division of Consumer Affairs regulations. Transporters seeking exempt registrations rank as the single-most frequent abuse of the A-901 licensing requirements in order to avoid a standard background check performed by the New Jersey State Police and personal history disclosure review performed by the Attorney General Office. These investigations and reviews are necessary to ensure the reliability, expertise and competency of transporters whom wish to engage in the solid waste industry for commercial purposes.

### **Efficiency Improvements**

#### **CEHA Training**

At the request of the OLEM, the TOU provided solid waste transporter training to the majority of authorized CEHA agencies in fiscal year 2007. This on-site training provided CEHA Inspectors the knowledge to distinguish a solid waste transporter who requires A-901 licensing from those whom only require an exempt registration from the Department; in addition to other commonly identifiable solid waste transporter regulations they could expect to encounter on a daily basis. Having additional trained county inspectors throughout the State will help ensure the states highways and neighborhoods have qualified solid waste haulers with equipment that is in good condition traveling our roadways.

### **Case Highlights**

#### **Railroads – On the Right Track**

In 2004, the Department tried to control railroad open-air transfer station operations through adoption of regulations which held these transfer stations to the same standards as traditional transfer

stations. These requirements include conducting such transfer within an enclosed building and control water and air pollution associated with such operations. Failure of the railroads to comply with these fundamental regulations forced the Department to issue an enforcement action to the largest violator. The railroad refused to abide by such action and sued the Department in Federal Court arguing the Interstate Commerce Commission Termination Act of 1995” (ICCTA) preempted such regulation. ICCTA was intended to improve the economic viability of rail transportation by preempting regulation by state and local governments. The court concurred with this position as stated in an opinion issued in February 2007.



The Department is appealing this decision. It is important to note that the notoriety attracted by this lawsuit prompted the railroad to enclose all of its operations within buildings and install rudimentary air and water pollution controls. More recently several rail transfer facilities have decided to seek permits from the Department for their operations rather than claim the federal preemption established by ICCTA. Such permits will require these facilities to install State of the Art technologies to address pollution associated with such operations. The legal battle begun by New Jersey has caught the attention of the United States Senate. In July 2007 the Senate Appropriations Committee unanimously approved an amendment sponsored by Sen. Frank R. Lautenberg (D-NJ) which directs the Surface Transportation Board to stop preventing states and localities from regulating rail solid waste processing activities.



### **Eastern Organic Resources Springfield Twp., Burlington Co.**

Eastern Organic Resources composted food waste, leaves and other vegetative wastes. After numerous odor and water runoff problems, the facility was ordered to cease accepting any material other than leaves. The facility is currently processing all remaining accumulated compost and “odors” have abated.

### **Moorestown Farms Moorestown, Burlington Co.**

Moorestown Farms allegedly accepted contaminated soil from a New Jersey Department of Transportation project. An AONOCAPA was issued to Moorestown Farms, Haas Sand & Gravel as the transporter and Neshaminy Constructors as the generator. Neshaminy Constructors paid for the clean-up of the material.

### **City of Linden Landfill Linden, Union County**

On April 25, 2007, the City of Linden signed an ACO with the Department that governs the proper closure of the former Linden municipal sanitary landfill. This ACO serves to resolve various violations involving Solid Waste, Air, Water and Land Use issues surrounding the landfill and airport that were previously unresolved for many years. The ACO requires the enhancement of approximately 50 acres of degraded wetlands located between the landfill and the Rahway River as mitigation for the combined 9± acres of wetlands impacted at the landfill and airport. The ACO also requires \$1 million to be pledged by the City of Linden in an escrow account, toward establishment of a Rahway River Greenway and for eventually providing public access facilities.

## **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 7,168 OPRA requests and issued 86 new Certificates of

Public  
Convenience  
and Necessity to  
licensed  
transporters.



### **Registrations**

Fiscal year 2007 added 1,007 new solid and hazardous waste transporters. This included a total of 116 newly approved A-901 licensed transporters. In April 2007, the Licensing and Registration Unit mailed renewals to all 11,480 solid and hazardous waste active transporters. As of June 30, 2007, nearly 4,000 companies have been issued a total of 92,839 new decals. These decals will be displayed on all registered equipment for this new biennial registration period, which runs from July 1, 2007- June 30, 2009.

### **Efficiency Improvements**

#### **Transporter Decals**

The transporter decal contract was awarded to Rydin Decal of Wood Dale, Illinois. Rydin

produced the 167,200 decals needed to process transporter renewals at a cost of .1189 cents per decal. This was the lowest production cost to date.

### Forms

Transporter registrations forms have been updated and are now available to download from the program website. This will help reduce mailing costs.

## Pesticides

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### Initiatives

#### **Nursing Homes/Assisted Living Facilities**

Assessing risks from pesticide use on sensitive populations is a program priority. During February 2007, inspectors from the Pesticide Control Program inspected 45 nursing homes/assisted living facilities throughout New Jersey. The primary focus was to determine if pesticides were being used either by commercial contractors or by facility staff. Often, when employers require staff to apply pesticides as part of their jobs, it is done without the proper training and license. Each visit included a visual survey of the facility, evaluations of conditions which could promote pest populations, and an inspection of storage areas to determine if pesticide products which require a license to apply were present. When violations were identified, a follow-up inspection was also conducted at the pesticide applicator business (contractor) location. Only one of the facilities inspected had an unlicensed pesticide applicator performing pesticide applications. Minor violations involved pesticide application records, notification, and postings. This initiative was a success, in that pesticide exposure in this particular population is now better understood. It appears from this assessment of a significant number facilities that licensed pesticide applicators are the norm, and risks from pesticide misuse are appropriately low. Of all the facilities inspected, no pesticide related issues were found to be a threat to the health or well-being of the residents. While the results are encouraging, it is recognized that this initiative may not reflect the

### **EPA**

The Hazardous Waste Report Unit is continuing to work with the EPA to update the report books for the upcoming reporting cycle. This modification will help to make hazardous waste reporting more efficient for all parties involved.

condition at all remaining uninspected facilities. Thus, a similar initiative will be performed in the future to assess this sensitive population on an ongoing basis.

### **School IPM**

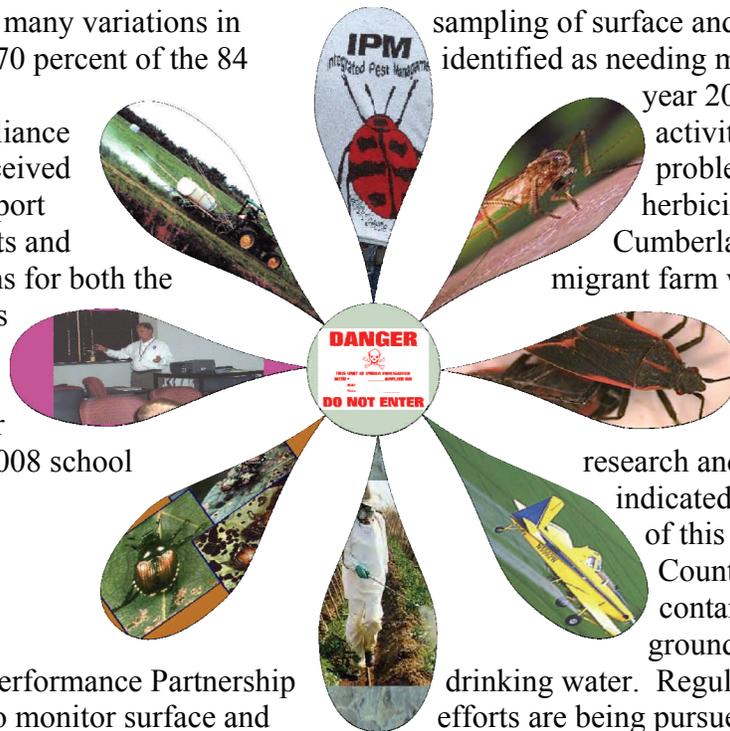
The Pesticide Control Program conducted a "School Integrated Pest Management (IPM)" enforcement initiative in April and May of 2007. Since June of 2004, New Jersey schools (grades pre-K through 12) have been required to follow the mandates of the "School Integrated Pest Management Act" that requires schools to use practical techniques to control pests and thus avoid pesticide use and the potential risks to school children that may result. Twelve inspectors performed inspections at 84 New Jersey public, private and charter schools within the Counties of Salem, Monmouth and Essex, and the City of Camden. The School IPM Act makes school boards, principals or administrators, and their "School IPM Coordinator" responsible for pest prevention and pesticide use at their school and for compliance with the School IPM Act. The IPM Coordinator is a person named by the school principal, district or school board as the person to oversee all pest management activities at the school. The principles of IPM require schools to use preventive methods for pest control that include monitoring for pests, proper sanitation, building maintenance and other techniques, and the use of pesticides only when necessary. School compliance ranged from effective IPM programs in place, to no



program in place yet, and many variations in between. Approximately 70 percent of the 84 schools were found to be substantially out of compliance with the IPM law, and received one or more NOVs. A report that summarizes the results and recommends future actions for both the schools and Department is expected to be published in the Fall of 2007 so that schools may use it to their benefit during the 2007/2008 school year.

### **Water Monitoring for Pesticides**

One of the Department's commitments under the Performance Partnership Agreement with EPA is to monitor surface and ground water for contamination from the routine use of pesticides. The Bureau of Pesticide Operations performs this function with routine sampling of its shallow well network and targeted



sampling of surface and drinking water in areas identified as needing more attention. In fiscal year 2007, this monitoring activity detected a potential problem with the use of the herbicide Dacthal in Cumberland County. A number of migrant farm worker camps were found to have levels of Dacthal far above the health advisory level for the pesticide. Further research and monitoring strongly indicated that the routine, local use of this herbicide in Cumberland County was resulting in contamination of surface and ground water, including drinking water. Regulatory and educational efforts are being pursued to address this issue, along with working with local and county officials to communicate awareness of this potential drinking water contamination problem.

## **Land Use**

### **Case Highlights**

#### **Plescica**

#### **Old Tappan, Bergen County**

In 1994 Plescica obtained a wetlands Letter of Interpretation (LOI) from the Department, and in 1999 he received a flood plain permit to construct a home. In August 2004, Land Use C&E discovered that Plescica had cleared a 1/2-acre area of wetlands and wetland transition area to build a private baseball field and an AONOCAPA was issued. An ACO was finalized with Plescica requiring the restoration of the regulated areas affected by removing the baseball field and re-planting with native vegetation, and the payment of a penalty.

#### **Inglese/Happy Trails Forever**

#### **Alexandria Township, Hunterdon County**

In 1997, a previous property owner received a land use permit to construct a road crossing across wet-



lands and the Nishisackawick Creek. Investigations revealed that the crossing had not been constructed in compliance with the permit requirements. In 2004, Land Use C&E met with the new owner, Inglese, to discuss the requirements to bring the crossing into compliance. A subsequent inspection revealed a recent unauthorized expansion of the driveway width, further encroaching into regulated areas. The inspection also revealed that a serious obstruction to the Creek's flood plain flow had been created by the construction of stone walls along the driveway edge. An AONOCAPA was issued in March 2007 requiring the submission of a restoration proposal and assessing a penalty.

**Cappiello Contractors/various owners;  
Kingwood Township, Hunterdon County**

Between 1997 and 2001, Cappiello was the developer of three adjacent lots, containing areas of wetlands and wetland transition areas. The last home constructed received a certificate of occupancy from Kinwood Township in 2002. An investigation in 2006 revealed that the destruction of up to three acres of regulated areas had occurred during the development of the three lots. In February 2007, an AONOCAPA was issued requiring an after-the-fact LOI, a mitigation proposal, and penalty.

**Commerce Bank/North  
Hanover & Pequannock Townships, Morris  
County**

An ACO was finalized in April 2007 with Commerce Bank, settling violations which occurred during construction of its Hanover Township bank branch. Commerce undertook and completed construction prior to receiving a wetlands permit and transition area waiver from the Department, which was later denied. Settlement includes the implementation of a planting plan at the Hanover site and certain enhancement activities at a 10+/- acre site behind Commerce's Pequannock branch. The Pequannock site is entirely within the Pompton River flood plain and for many years was used as a golf driving range, having been subject to artificial sub-surface drainage and mowing. The enhancement work required of Commerce includes the removal of an extensive underdrain system, soil decompaction and replanting, with the hope that a portion of the site will acquire the hydrology necessary for wetlands to form. Upon meeting certain milestones, Commerce will convey the property to the Township of Pequannock as part of a greenway along the River.

**denHollander Greenhouses  
Lincoln Park, Morris County**

An AONOCAPA was issued in March 2007, to denHollander, after it was revealed that denHollander had illegally expanded their greenhouse operation. The expansion was found to have encroached into forested wetlands and wetland transition area. denHollander was ordered to submit a restoration plan and was assessed a penalty.

**Culvermere Alliance LLC  
Frankford Township, Sussex County**

In February 2007, a Stipulation of Settlement was finalized with Culvermere involving wetland and transition area incursions. These violations occurred within a heavily forested 857-acre tract known as Bear Swamp, which contains numerous threatened and endangered species. In 2005, the owners abandoned plans to develop the site and sold the entire tract to the Division of Fish and Wildlife for inclusion in the now 2,907-acre Bear Swamp Wildlife Management Area. The Stipulation of Settlement required restoration of wetlands and required payment of a penalty.

**Newton Twp. Water Filtration Plant  
Newton Twp., Sussex Co.**

As a result of a compliance inspection, on March 8, 2006, Land Use C&E issued an NOV to the Town of Newton for its failure to comply with certain conditions of its Individual Permit (IP) to construct a water filtration plant. Included in the violations were the failure to file a Department approved conservation easement, placing excess rip rap in a scour-hole, placing an unauthorized outfall in a regulated area and placing gravel fill on mono-slab pavers meant to allow ground water to filter back into the earth. In settlement, Newton agreed to make a large transfer of deed restricted land which includes one acre of uplands and nearly 3 acres of transition area. The site is one of the few areas remaining in Newton that is not developed. Newton is also required to seek permit modifications or remove the unpermitted work that was cited in the NOV.

**Weaber Lumber  
Mendham Borough, Morris County**

Weaber Lumber is one of the largest timber harvesting/processing companies in the northeastern U.S. Weaber solicited their harvesting services to St. John the Baptist Church and conducted a 4-5 acre tree harvest in the summer of 2004. A forestry management plan for the site indicated that no harvesting would occur in any wetlands. An inspection in response to a Land Use Regulation referral indicated that approximately 1.42 acres of wetlands and

1.42 acres of transition area were nearly clear cut and that the excess timber and brush were chipped, then spread throughout regulated areas. An AONO-CAPA was issued, followed by an ACO that involved the planting of 48 trees and the payment of a penalty. The plantings were completed in the fall of 2006 and the site is now in a monitoring phase in accordance with the effective ACO.

### **James and Frances English**

#### **Howell, Township, Monmouth County**

An inspection on June 16, 2006, identified just over 1 acre of regulated area disturbed by clearing, filling and grading. An NOV was issued on September 20, 2006. During the course of restoration, a transect of the area was taken using a backhoe, which identified almost the entire area that was cleared as freshwater wetlands for a total 6.5 acres of wetlands and transition area. Land Use C&E provided compliance assistance, guidance, and encouragement to the owner to restore the wetland to a more productive state than before the violation. The restoration area includes an open ponded area with emergent wetlands surrounded by undisturbed wooded wetlands providing habitat for migratory waterfowl, much needed in this area.

### **Seegers**

#### **Eagleswood Township, Ocean County**

In late 2005, a verified complaint was filed against Mr. Seegers for the filling of 6,000 square feet of mapped regulated coastal wetlands. Mr. Seegers later constructed two large shed structures upon the illegal fill. The matter proceeded to a Superior Court hearing in 2007. Seegers attorney challenged historically resolved issues regarding the original filing of the coastal wetland maps per the Wetland Act of 1970. The Superior Court judge affirmed the validity and regulatory authority of the promulgated Coastal Wetland maps as decisive in regulating development activities in the Coastal Zone and ordered the restoration of the wetlands and payment of a penalty.



### **Woodmont Freehold, LLC**

In December of 2005 an NOV was issued to Woodmont Freehold LLC for the omission of important historic information on their application for freshwater wetlands permits to construct four office buildings and parking on a privately owned portion of the Monmouth Battlefield National Historic District. Although the township and the state park had asked for mitigating efforts to protect the viewshed of the state park, the Developer had not made changes to their plan. The Department's State Historic Preservation Office (SHPO) found that although the project is on private property, it would be taking place in the historic district, and that any construction or soil movement created an effect on the neighboring historic property that required avoidance, minimization or mitigation. The Developer subsequently provided all studies required and has addressed all impacts to the Battlefield State Park to protect viewshed and other aspects of the project and can now develop the site. This case is one of several managed this year which have highlighted for the regulated community the consequences of falsifying application documents. These cases also empower the SHPO in their protection of important historic and archeological resources.

### **Freehold Marketplace**

In January 2006, Land use C&E issued an NOV for falsification of applications to Land Use Regulation Program as important historic information was omitted from the application. The historic resource was the foundation and surrounding setting of the first house burnt by the British on the way to the Battle of Monmouth which when rebuilt was the site for patriot meetings of the Society of Cincinnati. The developer has negotiated with the Land Use C&E and SHPO and is conducting historic studies on the site as well as preserving over an acre surrounding the foundation. Land Use C&E facilitated negotiations with the Township for acceptance of a donation to memorialize the history of the site and for alterations to the zoning exemptions necessary for the modification of the development plan.

**Stephen Parry**  
**Frankford, Sussex County**

On May 6, 2005, a complaint regarding the disturbance and filling of wetlands was verified on the site. Stephen Parry, a local builder had cleared and filled 0.65 acres of exceptional value wetlands and transition area in order to construct a single family home. Mr. Parry was issued a AONOCAPA. Mr. Parry paid a penalty, removed the fill, received a transition area waiver and constructed a home on the site legally.

**Whitesbog**  
**Pemberton Twp. Burlington Co.**

This enforcement case involves the renovation of approximately 10 acres of cranberry bogs to make them more productive by removing vegetation, leveling, and manipulating the water control structures. These bogs are part of a larger historic cranberry operation located within Lebanon State Forest and have been out of production for a significant period of time. The Department has determined that the bogs had been inactive long enough for the farmland exemption that allows continued farming of freshwater wetland areas to expire. This case affirms that farms and areas under cultivation must comply with the land use regulations of the State.

The exemption denial is presently being appealed.



**Borough of Seaside Heights**  
**Seaside Heights, Ocean County**

An AONOCAPA was issued to the Borough of Seaside Heights in August, 2005, for placing asphalt millings, fencing and telephones poles to create a parking lot at Hierarchy Avenue. They were advised at that time that a Coastal Areas Facility Review Act (CAFRA) permit is required and they were advised that improvements to that area were subject to approval from the Department's Green Acres Program which provided funding for the land acquisition to the Borough. The deed for the property specifically identifies a Green Acres encumbrance for the site and places restrictions that any development that would

become a storm hazard is prohibited on the site and requires prior approval from the Department. On November 6, 2006, an AONOCAPA was issued to the Borough for various beach and dune activities including the construction of an approximately 100 foot long retaining wall along a dune, the excavation of the dune at Hierarchy Avenue, and the stockpiling of sand within an area measuring approximately 15 feet by 80 feet by 5 feet high in and near the high water line of the Atlantic Ocean. The sand had been excavated from areas near and under the adjacent boardwalk and moved to the water line. The Borough of Seaside Heights did not have a valid CAFRA permit to conduct any beach or dune maintenance activities. On June 18, 2007, a third AONOCAPA was issued to the Borough of Seaside Heights for compounding violations on an ocean-front parking lot, excavating an adjacent dune and raking an area of beach within a documented sea beach amaranth protective zone (a federally listed threatened and state listed endangered plant species). A CAFRA permit application is currently under review for the parking lot site and the AONOCAPA's are under appeal in the Office of Administrative Law.

**Southwinds Marina**  
**Lacey Township, Ocean County**

A Waterfront Development permit was issued for a large pier outshore of the Southwinds Marina along the existing channel of the Forked River. During construction, the Department received complaints from the boating public indicating that the structure was a navigational hazard. While the pier was built consistent with the approved plan, the construction commenced prior to the receipt of the necessary Tidelands instrument and Land Use C&E was able to halt construction in order to address the navigation concerns. In a cooperative settlement agreement between the permittee, Land Use Regulation and Land Use C&E, the outside end slips and mooring piles were removed and the remaining end of structure was illuminated. The ultimate resolution was satisfactory for all involved parties.

### **Cifelli Associates**

#### **Old Bridge Township, Middlesex County**

A February 8, 2001, initial inspection conducted by Land Use C&E revealed construction of an access road and general clearing activities affecting approximately 0.42 acres of freshwater wetlands and wetland transition areas. An NOV was issued for these activities on June 28, 2001, and re-issued on July 12, 2001. Follow-up inspections revealed expansion of the initial violation and the discovery of an approximate 4.7 acre CAFRA violation resulting from site preparation work for a planned industrial development at the site. Additional NOV's were issued on December 15, 2003, and June 13, 2005, followed by an AONOCAPA that was issued on January 19, 2007. Since the property has recently been listed for sale Land use C&E sent a request to the County Clerk's Office to have the AONOCAPA attached to the property deed.

#### **K. Hovnanian North Jersey/Hudson Pointe North Bergen Township/Guttenberg Township, Hudson County**

An inspection on November 6, 2006, found that approximately 180 linear feet of Hudson River shoreline had been filled with large rock riprap and stone filled gabion baskets to about 10 feet out-shore of the mean high waterline. An NOV was issued on November 17, 2006. Land Use C&E participated in a joint site meeting with Land Use Regulation and K. Hovnanian representatives on March 9, 2007, to resolve this and other issues raised by the site inspections and NOV. As a result, approximately 1,800 feet of unauthorized riprap and stone filled gabion baskets have been removed from out-shore of the Hudson River mean high waterline.

#### **Palisades Interstate Park / Monte's Marina Englewood Cliffs Borough, Bergen County**

Inspections throughout the spring and summer of 2006 found that Monte's, which had a Department approved permit authorizing the bi-annual maintenance dredging of its marina area, by hydraulic means only, had used a clamshell while conducting the dredging. The permit required the dredge material to be pumped into approved existing on-site confined dewatering basins. At the same time that Monte's was observed using the clamshell for dredging, they were also observed using the clam-

shell to deposit the dredge material out-shore of the marina breakwater, into the Hudson River and not into the dewatering basin. Monte's had also constructed an unauthorized new boatlift in upland and out-shore waterfront areas and a new floating dock. A follow up NOV, summing up all of the violations, was issued on January 5, 2007. After site meetings and negotiations, Monte's has removed the dredge material, which had been placed outside the marina breakwater (also cited by the Army Corps of Engineers), has applied for a Waterfront Development permit authorizing the boat lift, obtained a modified Waterfront dredge permit allowing annual dredging and larger dewatering basins, and, removed the old fixed docks, thereby making the new dock a replacement in-kind.

### **Education and Outreach Highlights**

A number of outreach seminars were carried out by Bureau staff during the reporting period. The sessions provided an overview of NJ land use regulations, with an emphasis on the regulations specific to coastal and southern NJ, including Freshwater Wetlands, Coastal Wetlands, CAFRA, Waterfront Development, Tidelands, and Flood Hazard Area Control. Attendees learned about the enforcement process, the basics of how to identify potential violations and who to report them to, contact information for key Department personnel and offices, and what information to require as part of the local planning/zoning board applications to meet applicable regulations to prevent violations.

On October 13, 2006, Bureau staff met with staff of the Salem County Health Department to discuss the review of proposed septic systems within areas possibly under the regulatory purview of the DEP land use statutes. Computer mapping programs with New Jersey regulatory layers were discussed as a means to identify environmentally sensitive areas and prevent possible violations of the land use statutes.

On December 18, 2006, Bureau staff met with representatives of the West Long Branch Environmental Commission to provide guidance concerning freshwater wetlands, stream encroachment and CAFRA rules.



On February 13, 2007, Bureau staff met with representatives of the Department's Division of Parks and Forestry to discuss Forestry Management Plans and how they pertain to wetlands and flood hazard areas.

On February 22, March 20, 22 and 29, 2007, training sessions were held in cooperation with the NJ Farm Bureau in Salem, Atlantic, Cumberland and Burlington Counties. These sessions were tailored to land use issues related to farming practices.



## Water

### Initiatives

On April 19, 2007, Richard Ambrosio of Water C&E's CRO attended the New Jersey Builders Association Convention in Atlantic City as one of the panelists to inform conventioners of the current and expanding State and Federal stormwater management regulatory requirements. The consultants and project managers in attendance were the on-site people that most needed to be informed on the subject separate from any outreach that goes to the higher corporate levels of industry.

### Case Highlights

#### **Griffin Pipe Products, Inc.**

Griffin Pipe Products Co., Inc. (Griffin) was issued a New Jersey Pollutant Discharge Elimination System (NJPDES) Permit, effective June 1, 1999, requiring no discharges of process or stormwater from the facility. Inspections by Water C&E staff in 2003 and 2004 confirmed frequent failures of earthen berms at the site, resulting in discharges of contaminated stormwater to the Delaware River. An AONOCAPA was issued on April 19, 2004, requiring compliance with the NJPDES Permit, including its No Discharge requirement. Following issuance of the AONOCAPA and in response to requests by the Department, Griffin and its parent company at the time, Amsted Industries, Inc (Amsted), conducted an engineering evaluation of the site. This evaluation determined that Griffin would be unable to comply with the NJPDES Permit's No Discharge requirement, and that extensive changes were required at the site. On November 17, 2006, the Department, Griffin and Amstead executed an ACO to establish a compliance schedule



by which required improvements at the site would be completed. Under the ACO, Griffin and Amsted were required to re-grade the site to allow stormwater to discharge via two monitored outfall locations and they must discharge through those outfalls only in compliance with monitoring requirements and effluent limitations in the ACO. They were also required to develop Best Management Practices (BMPs) for the site to ensure compliance with the effluent limitations, and many of the BMPs are now in place. Griffin continues to develop and improve its BMPs to minimize pollutant discharges, and is also completing construction on a stormwater retention pond and sand filter to further enhance control of stormwater runoff from the site.

#### **Rahway Valley Sewerage Authority**

Rahway Valley Sewerage Authority (RSVA) owns and operates a wastewater treatment plant and collection system which serves 12 municipalities in Union and Middlesex Counties. Under the requirements of an ACO signed in 2001, RVSA is spending approximately \$225 million dollars to improve their wastewater treatment system. When finished they will eliminate two sewage overflow points that allowed excess sewage to flow into the Rahway River during major storm events. The Authority is on schedule to complete the upgrades in late 2008. When done, there will be a significant improvement in the water quality of both Rahway River and the Arthur Kill.

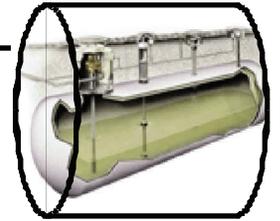
# Underground Storage Tanks

During the fiscal year, additional Underground Storage Tank (UST) inspectors were hired by the Department in order to achieve the federal mandate in the Energy Policy Act of 2005, requiring each UST facility must be inspected at least once every 3 years. Efforts in the first half of the fiscal year concentrated on inspecting facilities with heating oil tanks. This was the Department's first inspection effort that targeted this subset of USTs and therefore inspectors were instructed to focus upon and deliver compliance assistance, with less emphasis on penalty actions. From February 2007 through the end of the fiscal year the emphasis was to inspect a priority list of 1,399 sites in accordance with the Energy Policy Act of 2005. State and County Inspectors conducted at least 2,611 total Standard Compliance Inspections (SCIs).

## Case Highlights

**HP Delta/Rob's Service Center, PI# 001463:** Central Region UST Inspector Mike Hollis received a referral on August 8, 2006, from the Site Remediation Program regarding potable well contamination (including the constituents of gasoline) in the Colonia section of Woodbridge Township. Initially five homeowner wells were affected along Morningside Rd., Lancaster Rd., and Jordan Ave. These homes are all down-gradient, within a quarter of a

mile of the HP Delta Gas Station. An SCI conducted on August 8, 2006, found the station was without overfill protection. Also, an environmental survey of the site found gross soil and groundwater contamination throughout the tank field, including all tank field monitoring wells and open electrical conduit. In addition, the property owner disclosed witnessing the tanks being overfilled by the operator. Staining was witnessed on the pavement around the vents, as well as dead grass behind the vents. A Cease Use and Delivery Ban were implemented upon inspection completion, including an order to empty the USTs within 48 hours, in response to the suspected ongoing discharge. The station was required to install functional overfill protection, test all containment, and submit an environmental report outlining the source of the contamination. Inspector Hollis returned to the facility the next day to meet the facility's contractor and ascertain further information. During this visit, it was learned that the facility's vapor recovery system was failing, and the pressure-vacuum valves on the vents were faulty. The Cease Use remained in effect until December 21, 2006, when a technical report was received by the Site Remediation Program. A Publicly Funded remediation project is now ongoing, as the responsible parties declined to sign an ACO with the Site Remediation Program. An AONOCAPA was issued on May 2, 2007 from Water C&E's CRO for the failure to provide overfill protection.



# 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 the department.

## Initiatives

AFSP participated in ongoing workgroup discussions advancing the fair and productive work envi-



ronment goal area of the C&E's strategic plan.

## Efficiency Improvements

Database design members produced a state of the art procurement and inventory database systems and reports which have been instrumental in short and long term budget planning and allocation of resources resulting in the best use of limited state monies. Other databases with reporting capability were developed for storage and management of employee training records.

## 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 2007, 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. Over eighty percent of the respondents agreed that the advisories are timely and helpful with compliance issues. Positive outcomes that have occurred as a result of

### Training

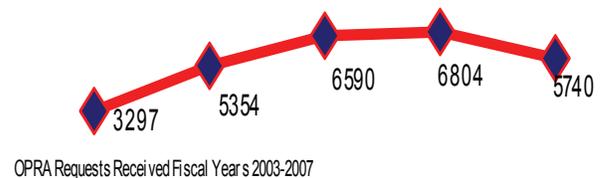
A total of 206 technical training requests were processed for C&E staff fiscal year 2007 as follows: 89 in the Air program, 27 in the Bureau of Hazardous Waste, 31 in the Bureau of Solid Waste, 5 in the Water program, 5 in the Bureau of Local Environmental Management, 9 in Bureau of Enforcement Compliance Services, 7 in the Pesticides Program and 33 in Coastal and Land Use Enforcement.

an advisory were an increase in awareness and information, a process or business practice was reviewed, the advisory was shared with staff or others, and training/guidance was provided to staff.



### OPRA

OPRA oversight is one of several core functions performed by BECS. The bureau managed the response to 5,740 requests in the year, a decrease of approximately 16 percent over the 6,804 in fiscal year 2006. The declining growth rate of requests is a hopeful sign that efforts to fine tune the request referral process along with the steady publication and promotion of on-line enforcement data are having a positive effect to stabilize the resource demands of this function.



## **Technology**

BECS continues to provide significant support in service of the data and technology needs of enforcement staff. In the 2007 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 2007 fiscal year.

- 989 support requests for data corrections, requirement library updates, de-bugging/troubleshooting and system enhancement designs
- 145 requests for new or modified Business Objects reports
- 202 new or modified system document templates
- 35 new functions, procedures, packages or views for use in document templates or reports
- 350 images posted on the image server and completion of the corresponding NJEMS spreadsheet
- 2,097 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 2007, 983 letters were issued.

## **Efficiency Improvements**

### **NJEMS/SDWIS State**

Under the Safe Drinking Water Act, states monitor the drinking water systems within their jurisdictions to ensure that each public water system meets state and EPA standards for safe drinking water. SDWIS/State (Safe Drinking Water Information System/State version), is a database designed by EPA and the states to help states (and EPA regions) run their drinking water programs and fulfill EPA reporting requirements. BECS piloted the design, testing and implementation of an interface between NJEMS and

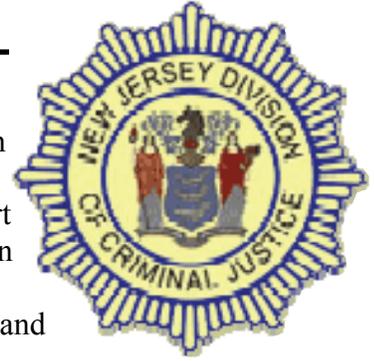
SDWIS State. This interface eliminates the need for double data entry into two databases. The interface transfers inspection, violation and enforcement action data to and from each database. There is also an automatic creation of an enforcement action within NJEMS from SDWIS reviewed violations which results in less lag time between violation discovery and enforcement action issuance. SDWIS Fed (EPA version of SDWIS) can also extract needed data from SDWIS State without the need for separate reports or manual extraction of the data. SDWIS State also sends data to the NJ Water Watch website.

### **NJEMS Checklists**

Due to major revisions of the Manifest Regulations, changes to the Universal Waste Regulations, and the adoption of the Mercury Switch Rule, BECS revised approximately 45 existing checklists and added one new checklist into NJEMS.

# 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. 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 Department, County Prosecutors 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 2007, the Division obtained 11 indictments and accusations, filed 3 criminal complaints and obtained 4 civil settlements.

## Urban Initiative

State v. Teta (Indictment No. 06-05-00077-S)  
Teta was charged with the unlawful release of toxic pollutants for dumping soil contaminated with lead and PCBs from a clean up site in Jersey City elsewhere in Jersey City. The Court sentenced Teta to probation and to pay a fine.

State v. Sherwin Hargrove (Indictment No. 06-06-00075-S)  
The State Grand Jury charged Hargrove with third degree unlawful disposal of solid waste, and fourth degree unlawful collection of solid waste, for unlawfully collecting and dumping demolition debris in Jersey City. The Court sentenced Hargrove to probation and to pay restitution.

State v. Coar (Indictment No. 05-06-00099-S)  
Coar pled guilty to fourth degree unlawful collec-

tion of solid waste for collecting demolition debris in Jersey City without the required license. The Court sentenced Coar to probation conditioned upon serving 149 days in the county jail and to pay restitution

State v. George Kooz (Accusation No. 807-06)  
The State filed a one count Accusation against Kooz charging him with unlawful disposal of a large truckload of debris in Jersey City. Kooz pled guilty to the charge and was sentenced to probation.

State v. Cuadrado (Indictment No. 04-05-00086-S)  
Cuadrado pled guilty to third degree unlawful collection of solid waste, third degree receiving stolen property, and third degree criminal mischief, for unlawfully collecting demolition debris from Hackensack and abandoning stolen trailers containing that debris.

## Hazardous/Solid Waste

State v. Dominick Galluzzo & Galluzzo Equipment & Excavating (Indictment No. 06-06-00062-S)  
The State Grand Jury charged both defendants with third degree criminal mischief and charged Dominick Galluzzo with fourth degree witness tampering in the abandoning of a large volume of solid waste in Saddle Brook. The Court sentenced Galluzzo Equipment and Excavating to pay restitution to the Bergen County Health Department and to pay a fine.

State v. William Baily (Indictment No. 03-12-00207-S)  
Baily pled guilty to third degree receiving stolen property and fourth degree criminal mischief for dumping a large quantity of old used tires at a site owned by CSX Transportation in Moonachie and using a stolen vehicle to do so. The Court sentenced Baily to probation.

State v. Glasshouse Village Properties Management (06-07-00-294-A-C)

A company handyman cleaned out and removed containers of hazardous wastes from a storage area that he later dumped when the landfill would not accept them. The State filed an Accusation against Glasshouse Village Property Management charging it with third degree unlawful abandonment of hazardous waste. Glasshouse Village pled guilty, arranged for the clean up of the dumped material, and was sentenced to pay a fine.

State v. Peter C. Rallis (Accusation No. 06-10-2439-A)

The State filed an Accusation against Rallis charging him with third degree unlawful collection of solid waste, in excess of 100 cubic yards for collecting demolition debris from a large construction site in Long Branch without the requisite A-901 license. Rallis pled guilty and was sentenced to three years probation and ordered to pay a fine.

State v. Brian Conover (Indictment No. 06-12-00141-S)

The State Grand Jury charged Conover with fourth degree unlawful abandonment of regulated medical waste for abandoning containers of used blood vials and syringes in the yard of a house he had rented. Conover pled guilty to the charge and is awaiting sentencing.

State v. 1573 Banasz Hardware (Accusation No. A-1215-04-07)

The State filed an Accusation against Banasz Hardware corporation for third degree criminal mischief for allowing old paint containers from the hardware store to be disposed of at Harleigh Cemetery in Camden. Banasz pled guilty to the charge and received a fine.

## **Water Pollution**

State v. AMIDI, Inc. (Accusation No. 07-06-1408)

The State filed an Accusation against Amidi, Inc. for a fourth degree violation of the Water Pollution Control Act for discharging restaurant wastewater into a storm sewer that leads to the Manalapan Creek. Amidi, Inc. pled guilty and the Court im-

posed a fine payable to the Monmouth County Health Department.

State v. Charles Evans (Accusation No. B06-12-0099A)

The State filed an accusation against Evans, a former health and environment supervisor for Ferro Corp. in Logan Township charging him with a fourth degree violation of the Water Pollution Control Act for causing Ferro to submit false information to the Department in monthly discharge monitoring reports. Evans pled guilty and the Court sentenced him to a probationary sentence and a fine.

State v. Baez (Summons/Complaint # S134811)

The State filed a complaint against Baez in Hudson County Superior Court for third degree violation of the Water Pollution Control Act for discharging oily water from a fuel oil tank into a storm drain.

State v. Chevron

The State entered into a stipulation of settlement with Chevron to resolve its criminal investigation relating to the February 13, 2006 leak of oil into the Arthur Kill from the Chevron Perth Amboy facility pipeline. Under the agreement, Chevron will pay \$1 Million to the NY/NJ Baykeeper for its oyster restoration program, or other marine/habitat programs in NY/NJ harbor.

State v. Esposito (Summons/Complaint S102852)

The State filed a summons complaint against Esposito for Criminal Mischief for causing a discharge of oil from an oil tank containment area to reach the Passaic River in February 2006. Esposito's company, Tilcon entered into a Stipulation of Settlement under which Tilcon will make payments to State, County and local officials relating to this oil spill incident.

## **Health & Safety**

State v. Terminex (Complaint Number S172043)

The State filed a criminal complaint against Terminex International for assault by negligently exposing its workers to methyl bromide gas during a fumigation of a Pennsauken warehouse that resulted in injuries to workers. Terminex pled guilty and was

ordered to pay \$300,000 to the School IPM Program, a legislatively mandated program to train those responsible for pest management in public and private schools across New Jersey to reduce or eliminate pesticide use.

State v. Griffin (Accusation No. 973-06)

The State filed an Accusation against Griffin charging him with third degree release of toxic pollutants for allowing bags of asbestos he was storing at a site he leased in Lakewood to discharge onto the ground. Griffin pled guilty to the Accusation and received a five year probationary sentence and is required to pay restitution.

State v. Marlowe (Accusation No. 955-06)

The State filed a one count Accusation against Marlowe charging him with unlawful abandonment of bags of asbestos in Jersey City. Marlowe pled guilty to the charge and received a three year probationary term and is required to pay restitution.

**Environmental Fraud**

State v. Frank and Maureen Selvage (Indictment No. 07-06-00075-S)

The State Grand Jury charged the Selvages with three counts of third degree uttering a forged document for submitting forged documents, including one from the Department, to Barnegat Township officials for a property they planned to develop.

State v. Medford, Alberta and Foley (Indictment No. 03-01-00005-S)

As a condition of Pre-Trial Intervention relating to third degree theft charges for misappropriating Small Business Administration (SBA) loans, Medford, Alberta and Foley are required to pay restitution to the SBA.

**Training/Outreach/Legislature Initiatives**

Local Police/Code Official Training

During fiscal year 2007, the Division, completed its Statewide environmental crimes training for local police officers and code officials. Started in late 2004, this training was designed to make local officials aware of the relevant laws and how to respond

to pollution incidents. The Division trained several hundred officers who will now be able to deal with smaller incidents and who will know to contact the Division about larger incidents.

DEP Training

During fiscal years 2006 and 2007, the Division provided environmental crimes awareness training to nearly all of the Department's C&E staff.

Legislative Initiatives

During fiscal year 2007, the Division prepared draft legislation to enhance freshwater wetlands penalties and to create penalties under CAFRA and the Waterfront Development Act. It also prepared draft legislation to create a new crime for filing false submissions under ISRA.

# Natural & Historic Resources

## Dam Safety & Flood Control

**Sterling Lake Dam, Wadsworth Lake Dam, West Milford Lake Dam, Kinnelon Lake Dam, Kenilworth Lake Dam, Willow Grove Lake Dam, Lost Lake Dam, Van Dal Lake Dam and Lake Wanda Dam**

The Office of Engineering and Construction has identified nine dams determined to be unsafe due to non-maintenance of the structure, inadequate design or due to damage resulting from storm events. The impoundments associated with the dams were ordered drained as the dams were considered to be unsafe. The breaching of the nine dams and/or lowering of the water level within the impoundments have made the dams safe until the structures are fixed or decommissioned. If the dams are fixed the dam owners will regain their recreation opportunities and property values. If the dams are decommissioned, the dam owner will be responsible for the stabilization of the lake bed and the restoration of the stream. This will create habitat for a wide variety of plants and animals. The dam owners at this time have either applied for a permit to decommission or have their dams repaired. With the ordered lowering of the water level within the impoundments, the Department is sending a clear message to dam owners that the Department will not allow unsafe dams to populate the State of New Jersey.



seq. These changes will aid the Bureau in obtaining compliance from the the owners of the States 1,713 dams regarding safety inspections, emergency action plans, dam repairs and security plans. Presently all enforcement action must go through the Attorney General's Office before the Department can force the owners to comply with the dam safety regulations. The changes will allow the Department to issue Administrative Orders to enforce the Safe Dam Act without the involvement of the Attorney General's Office. To enforce orders issued by the Bureau or to seek relief through the Superior Court during emergencies, the Attorney General's Office will continue to take the lead. The new regulations should be put into effect by March 2008.

## Bureau of Law Enforcement Division of Fish & Wildlife

Conservation Officers (COs) have served as the enforcement branch of the Division and stewards of New Jersey's wildlife since 1871. A CO's fundamental duty is to provide service to the public by enforcing the laws that protect and enhance our wildlife resources. COs must possess a Bachelor's degree in wildlife, fisheries science or a related field, attend an accredited police academy and meet all of the requirements of the Police Training Commission. Additionally, they must successfully complete the Bureau's 10 week pre-service training which prepares the officers to meet the variety of challenges that a career in wildlife law enforcement presents. A CO may receive a radio call for assistance that could lead to boarding a commercial vessel in rough seas, pursuing a deer poacher at midnight, making an undercover purchase of an endangered species from an international smuggler, or assisting in the capture of waterfowl injured due to a massive oil spill. Although their work takes place under difficult and often dan-



## Rule Changes

The Bureau of Dam Safety and Flood Control is working with the Office of Legal Affairs to change the Dam Safety Standards rules which are used to implement the Safe Dam Act, N.J.S.A. 58:4-1 et

gerous circumstances, COs are rewarded with the opportunity to assist in providing a stable and healthy wildlife legacy for future generations.

**New Jersey Conservation Officer of the Year**  
Scott Risher, New Jersey Conservation Officer of the Year for 2006 for his accomplishments spanning his 14-year career as a New Jersey State CO. In particular, CO Risher stands out as the primary officer to combat the illegal take and sale of Asian “Thumbnail” Clams from prohibited waters in South Jersey. Scott has arrested over 100 illegal clambers and prevented thousands of pounds of potentially harmful clams from going to market. His investigations have exposed a nationwide problem that involves local urban residents taking clams from states as far away as South Carolina and transporting them into the Philadelphia and New York City areas to sell.



Philadelphia and New York City areas to sell.

## **Case Highlights**

### **Marine Region**

Fish and Wildlife COs routinely work with the US Coast Guard to protect our marine resources. Such activity can include vessel inspections off the state's shoreline. One recent operation involved two Atlantic City party boats, the Miss Atlantic City and the Captain Collet. The vessels were boarded and several violations were discovered, resulting in a total of 37 summonses issued to 28 different patrons. Officers discovered and seized 400 sea bass and 26 tautog. The offenses included possession of short fish (under the legal size limit) and possession above the legal creel limit. Additionally, two warnings for interference were issued.



### **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. To date, there have been four major sweeps conducted in five counties involving nine communities. There have been two smaller sweeps conducted in Sussex County involving two additional communities. Staff from Solid Waste C&E and BECS have assisted with the sweeps, which involve contacting all households in a specific geographic area regarding trash handling, bird feeding and issues which have a direct effect on black bear incidents. The community outreach effort has reached 2,687 households with 73 verbal and 7 written warnings issued. Additionally, COs have personally contacted 28 summer resident camps in northern New Jersey regarding trash and bear related problems to insure the safety of its patrons. COs have also investigated over 20 reports of black bear feeding thus far this season with one complaint being signed as a result. COs are also conducting inspections of commercial establishments in their patrol areas.



### **Central Region**

CO's Mike Szalaj and Tom O'Rourke received information regarding an individual in Willingboro, New Jersey who was collecting turtles from the wild as well as collecting road killed animals. After compiling all the information, CO Szalaj was able to obtain a search warrant for the residence. CO's Szalaj, O'Rourke, Martiak, McManus and Mutone and Lt. Lacroix executed the search warrant on March 21, 2007. The evidence seized included: 2 white-tailed deer heads, 1 mounted Canada goose, 1 mounted wild turkey, 9 live Eastern box turtles, 14 dead Eastern box turtles and 4 live spotted turtles. Also seized was approximately 45 pounds of illegal fireworks. The live turtles were all transferred to a licensed rehabilitator and found to be in very poor health. The individual was charged with possession and collection of non-game species, possession of

game species, animal cruelty and criminal possession of fireworks and pled guilty to the fish and wildlife charges and was fined. The criminal charges were dismissed.



### **Southern Region**

A Folsom, Atlantic County man was recently indicted for the illegal sale of deer antlers. CO Honachefsky coordinated the case, which included Southern Region officers Captain Eisenhuth, Lt. Leonard, Lt. Cianciulli, COs Batten, Ely, Massey, Kille, Stites and Vazquez in addition to Special Agents Manera, Jordan and Sabia from the U.S. Fish and Wildlife Service. The suspect offered to sell his collection of whitetail deer antlers to Special Agent Jordan who was posing as a large antler dealer. After several telephone conversations the sale and the associated buy-bust operation were set in motion. Special Agent Jordan was equipped with a wire and went to the suspect's home while the remaining officers waited a short distance away. On Special Agent Jordan's signal the remaining officers converged on the home when the sale was completed. The suspect was taken into custody without incident. CO Honachefsky obtained a search warrant for the suspect's home and property. The search led to seizure of the 213 sets of antlers, deer

possession seals, hunting licenses, video tapes and venison from two freezers. The videos that were recovered from the home document a hunting and fishing trip made to Alaska. Evidence of illegal hunting and fishing charges will be passed along to the Alaska Fish and Wildlife Service. New Jersey's charges include criminal indictment for the commercialization wildlife and civil charges for the unlawful possession and transfer of the whitetail deer antlers and parts. The suspect has been convicted of several deer act violations in the past.



of

### **NJ Forest Fire Service Division of Parks & Forestry**

There was a total of 58 investigations of forest fires reported in fiscal year 2007. Reimbursement costs for wildfire suppression are assessed where a responsible party can be determined. In fiscal year 2007, reimbursement costs for the suppression of 22 fires were returned to the agency.

## **Pollution Prevention & Right to Know**

### **Initiatives**

The Office of Pollution Prevention and Right to Know held a successful seminar at Rutgers University on the Cook College Campus entitled "Complying with the NJ Pollution Prevention Act." There was a good amount of useful dialog between the presenters and the approximately 35 attendees. A highlight of the seminar was a presentation by industry, specifically The Trane Company, located in Hamilton Township, describing



their experience seeking to improve corrosion problems their products were



in

exhibiting in certain environments as a result of the copper tubing. When the company found that the problem was eliminated and costs were decreased by replacing the copper with aluminum, they also discovered that significant environmental and health benefits would be realized. The company is now also looking to reduce the use of their two other reportable materials, chromium and diisocyanates.

## Efficiency Improvements

The Office completed a project to enable Pollution Prevention (P2) inspections and violations to be tracked in NJEMS. As a result, the time required to issue violations has been greatly reduced and the tracking of these actions has improved. Additionally, the tracking of field inspections in NJEMS has improved the accessibility of this information to all interested parties and ensures that inspections are tracked in a consistent manner.

Overall processing time for Community Right Know (CRTK) Survey data continues to improve. All CRTK Surveys were imaged, and data re-ported for 2006 was loaded into the bureau's database by

the end of June. This is about a six-month improvement to the time required to process this data as compared to five years ago. Improvements are the result of the introduction of bar coding on the forms, improvements in the electronic survey submittal process, and a rule change that requires only users of hazardous substances above established thresholds to annually submit surveys. The improved turnaround time enables inspectors to identify facilities with reporting problems earlier in the year. It also enables the program to provide more timely data in an electronic format in response to external requests regarding homeland security and emergency response and enforcement concerns.

## 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



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

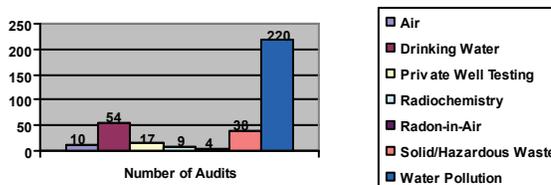
(NELAP); and able to grant businesses national status as a NELAP Accredited laboratory. Over 125,000 certifications/accreditations are granted each year to over 800 businesses.

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



**Performance Test Samples**

	Total Analyzed	Total Found Unacceptable
Drinking Water	8,853	535
Radiochemistry	79	3
Radon-in-air	12	0
Solid/Hazardous Waste	9,474	343
Water Pollution	13,393	499

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.

**On-Site Audits/Performance Test Samples**

Laboratories are found to have an “unacceptable” result for either failing to submit a PT Sample

# Radiation

**Initiatives**

**X-ray Inspections**

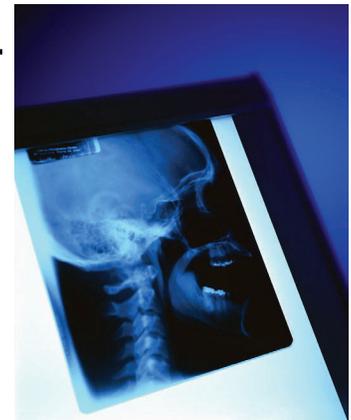
The Bureau inspected 2,318 facilities and evaluated compliance of 6,996 x-ray machines. These inspections resulted in the issuance of 525 enforcement documents of which only 19 percent contained penalty assessments. There were 986 violations of radiation protection codes of which 36 percent were violations of quality assurance regulations specifically failure to conduct various quality control tests and failure to have an annual medical physicist’s survey performed. The majority of violations in non-quality assurance categories were for equipment performance issues, failure to pay registration fees, and failure to perform or submit radiation safety surveys.

**Mammography Inspections**

The Bureau inspected 220 of the 240 federally certified New Jersey mammography facilities. The fiscal year 2007 Federal contract specified that the FDA would inspect the remaining 20 facilities. New Jersey mammography facility compliance rates improved from 79 percent to 80 percent from 2006 to 2007 and were higher than the national averages of 75 percent reported by the FDA.

**Radiologic Program Inspections**

In fiscal year 2007, the Technologist Certification Section dedicated significant resources towards performing on-site compliance inspections of ten limited radiologic technology programs. The inspections proved more involved and time consuming than originally planned. Four of the ten limited programs were inspected in the fiscal year. One site was inspected twice due to ongoing serious non-compliance issues. Violations were discovered at all four facilities. One facility received an NOV and quickly corrected its deficiencies, two facilities received Administrative Orders (AOs) with one of these programs having their accreditation status reduced to provisional, the other program’s accreditation status will be considered at the Board’s October 2007 meeting. One program was issued several enforcement documents including a civil penalty for egregious violations of Board standards and regulations. This program’s accreditation was withdrawn by the Board at the July 2007 meeting. These inspections resulted in improved educational programs based on the corrective actions initiated. Continued emphasis will be placed on these site inspections as part of the 2008 fiscal year work plan.



### **License Verification**

License verification activities discovered fifty individuals working without a license or with an expired license. These individuals were assessed civil penalties.

### **Dental Facility Outreach Results**

An outreach initiative was launched in May 2005 to encourage dental facilities to initiate steps to reduce patient radiation exposure during dental x-ray examinations. As part of the initiative, facilities were encouraged to switch to new technologies that require less radiation dose to obtain acceptable radiographic images. The initiative included sending a post inspection letter summarizing the findings regarding the facilities measured patient radiation dose for routine dental examinations. The letter also displays a histogram comparing the facilities exposure to that of all New Jersey facilities utilizing similar imaging systems. In fiscal year 2007, the Bureau conducted reinspections of 589 dental x-ray machines that were found to have extremely high patient radiation exposures at previously conducted inspections. These reinspections were performed as a method of evaluating the effectiveness of the post inspection letters. The Bureau determined that 77 percent (415) of the machines retested had lowered their patient radiation exposure levels by greater than 18 percent. An additional 47 machines with extremely high patient radiation measurements were taken out of service after the initial inspection. The Bureau will conduct more detailed inspections at those facilities that contain the 127 machines where no reductions were observed.

### **Nonionizing Radiation Inspections**

One of the more significant inspections of this fiscal year occurred in August of 2006, when it was discovered that steel workers were being shocked and burnt at the Xanadu construction site, near the Continental Area in East Rutherford, NJ. The burns were in part a result of a crane being located approximately 350 feet from the WEPN AM radio towers. The radio broadcasting antennas induced electrical charges on the crane, steel beams and other metallic objects and workers had not been consistently following safety

procedures. Section staff did a joint inspection with a radiofrequency radiation expert from OSHA's Salt Lake Technical Center. It was found that contact currents were well above safety limits, if proper precautions were not taken. The potential for injuries will remain a risk throughout the construction phase of the facility and Section staff will be monitoring the situation carefully.

### **Radioactive Materials Section**

The Radioactive Materials Section (RMS) is responsible for licensing and inspection for approximately 515 facilities in the state that possess, utilize, produce, transfer or receive radioactive material. RMS staff reviews applications to other New Jersey governmental agencies regarding the discharges to the environment of radioactive material to determine compliance with state regulations. In fiscal year 2007, approximately 100 licensed facilities were inspected resulting in the issuance of 5 NOV's and 7 Notices of Penalty (NOP's).

On May 23, 2006, Governor Corzine signed the [Letter of Intent](#) for New Jersey to become an Agreement State under the U. S. Nuclear Regulatory Commission (NRC). The Atomic Energy Act authorizes the NRC to enter Agreements that transfer regulatory authority over certain radioactive materials to the States. The draft application to become an Agreement State has been submitted to the NRC. It is anticipated that the NRC will transfer regulatory authority for an additional 300 radioactive material licenses to New Jersey by the end of 2009.

RMS staff performs an average of approximately 70 investigations of radiation incidents and allegations annually to determine possible radiation hazards. The majority of these incidents involve waste/trash that was contaminated with diagnostic or therapeutic radionuclides used in nuclear medicine procedures. Other categories of radiation incidents encountered include contaminated scrap metal, lost or stolen nuclear gauges/devices, and transportation incidents.

Members of the RMS are prepared to respond to any radiological emergency throughout the state.



In September 2006, the RMS participated in “Operation Intercept”, a regional exercise sponsored by United States Department of Homeland Security (DHS) Domestic Nuclear Detection Office (DNDO). The purpose of the exercise was to test the conductivity between local, State, and Federal resources to respond to a nuclear/radiological terrorism incident.

### **Radon Program Inspections**

The Bureau inspected ten mitigation businesses and eight measurement businesses. Investigations were conducted for six citizen complaints.

After the installation of a radon mitigation system, any New Jersey resident may contact the Radon Program and obtain free post-mitigation test kits. During fiscal year 2007, 60 devices were mailed out and 46 devices were returned for analysis for this program. When the radon concentration is 4 pCi/L or higher, the mitigation business is required to correct the problem. If they do not address the issue properly, an enforcement action will be issued.

The Bureau continues to make significant progress in its efforts to collect semi-annual fees from radon measurement and mitigation businesses. For the few businesses that repeatedly refuse to pay on time, NOPs are now issued. This results in 100 percent compliance and all fees paid in full.

### **Efficiency Improvements**

In August 2006 the Bureau took over the responsibilities of creating and issuing its own enforcement documents and performing case management activities from C&E’s Bureau of Enforcement Services. In its first year of handling such duties, the Bureau issued 477 enforcement documents utilizing the Department’s NJEMS database system; 332 AOs and 145 notices of prosecution with associated civil penalties were issued.

The Technologist Certification Section completed its latest bi-annual license renewal process and for the first time was able to offer replacement invoice renewal applications via its website for those who did not receive or misplaced the mailed invoice. In addition, licensees and employers were able to track the progress of their renewal application through website real-time license status reports. These two features enhanced the efficiency of the license renewal process.

### **Collection Of Past Due X-ray Machine Registration Fees**

In fiscal year 2007, the Bureau made significant progress in its efforts to collect past due registration fees. For facilities that have habitually ignored invoice billing as well as second and delinquent notices, the Bureau designed the following strategy to collect past due fees: an initial phone call was made to ascertain why fees were not paid and to advise that enforcement was imminent if the invoice remained unpaid. For those that failed to respond to the telephone inquiries, AOs were issued advising of non-compliance with registration requirements. For those that ignored the compliance date of the AO additional enforcement included assessment of late fees and civil penalties. The Bureau can report that these efforts have resulted in the collection 91 percent of the past due fees identified.

# Release Prevention

The Bureau of Release Prevention constitutes two programs, the Discharge Prevention program, and the Toxic Catastrophe Protection 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.

## Initiatives

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 91 facilities that are registered under N.J.A.C. 7:31 (TCPA rules), and 326 facilities that have DPCC and DCR plans under N.J.A.C. 7:1E (Discharge Prevention rules). Fifty-five of the facilities that are registered under the TCPA rules are also covered under the Discharge Prevention rules.

The Bureau has initiated an effort to verify whether or not any of the 36 TCPA facilities that did not submit DPCC/DCR plans are required to under the Discharge Prevention rules and whether or not any of the 271 facilities that submitted DPCC and DCR plans but are not currently registered with the TCPA

program are required to do so. Any facility that is determined to have failed to register with the Department under the TCPA rules or to submit DPCC/DCR plans under the Discharge Prevention rules will be subject to appropriate enforcement action.



## **Discharge Prevention Program**

The Discharge Prevention program continues to provide compliance assistance and compliance confirmation to its entire regulated community. Program staff performed compliance evaluations at all regulated major facilities. A total of more than 350 site visits were conducted.

Coordination with EPA Region 2 has continued during the past year. Staff members from the Discharge Prevention program have participated in seminars held by Region 2 on the Facility Response Plan (FRP) program. In New Jersey, the FRP and Discharge Prevention programs overlap. Also, continued revisions to the federal Spill Prevention regulations has increased the need to coordinate between that federal program and the State's Discharge Prevention program.

The Discharge Prevention regulations, N.J.A.C. 7:1E, were readopted with changes in February 2007. As part of the re Adoption, the aboveground storage tank integrity testing standards were rewritten to make them easier to understand and more applicable to the various types of tanks in use in the State. Other changes were also adopted. The Discharge Prevention program presented two seminars to the regulated community and the public on the changes to rules. The revised rules and guidance on them have been posted on the bureau's website at <http://www.nj.gov/dep/rpp/brp/index.htm>.

## TCPA Program

The TCPA program performs audits of covered facilities to monitor and evaluate implementation of their risk management programs to verify compliance with the TCPA Act and rule. 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.

The TCPA program's chemical safety engineers perform a comprehensive audit of 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 91 sites covered by the TCPA rule. The Bureau completed audits of 66 sites last year. Consent Agreements were issued to 4 new covered processes, and 34 Consent Agreement Addenda were issued for existing facilities. Thirty-four sites received letters stating that no violations or material deficiencies were found. In April 2007 the Department proposed amendments to the TCPA Program rules, N.J.A.C. 7:31, to expand the requirements for inherently safer technology (IST) reviews. Previously, the TCPA rule required an IST review to be performed only for Program 3 newly designed and constructed covered processes. The proposed amendments require owners or operators of all TCPA covered processes to complete an ini-

tial 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 extraordinarily hazardous substances (EHSs) 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 TCPA website at <http://www.nj.gov/dep/rpp/tcpa/> contains information on the list of EHSs and threshold quantities, rules, and guidance documents. The Bureau's implementation of the TCPA program will ensure that subject facilities implement effective risk management programs to minimize the risk of a catastrophic accidental EHS release to the environment and the public.



# Site Remediation Waste Management

## Initiatives

The SRWM Program is in transition, with many exciting initiatives underway. Recent enforcement initiatives, such as the establishment of the Bureau of Enforcement and Investigations and the adoption of the Grace Period Rule, signal the start of a more assertive stance in the face of noncompliance with remediation requirements. Specifically, fiscal year 2007 brought another dramatic increase in the number of enforcement actions issued. The number of ACOs executed, wherein parties agreed to conduct remediation, more than doubled. The SRWM program increased the number of Spill Act Directives issued by nearly 50 percent putting parties on notice of their obligation to conduct or pay for remediation.

### **Grace Period Outreach**

In September 2006 the Grace Period regulations became effective. These regulations identify non-minor and minor violations, specify a grace period for the correction of minor violations, and include base penalties for non-minor violations and minor violations that are not corrected within the grace period. SRWM managers have participated in numerous seminars and training courses about the impact of these new regulations and how their implementation will affect those responsible for conducting remediation. The SRWM web site includes a summary of the rule, and a description of implementation procedures, including changes to policy and procedures necessitated by the rule adoption. Most recently checklists of remediation requirements have been posted on the web site to assist those conducting remediation in achieving compliance.

### **Efficiency Improvements**

In order to implement the Grace Period Rule, the SRWM program is in the process of migrating to

full use of NJEMS which allows Case Managers to record violations and promptly issue enforcement actions.

Reports can also be generated and made available to the public via the Department's web site. Case Managers now issue Notices of Deficiency to advise those responsible for conducting remediation when their actions or proposals are inadequate, then issue NOVs as needed if deficiencies are not corrected. Management focus on enforcement, formalizing Notice of Deficiencies by issuing them consistently through NJEMS, and assigning the responsibility to issue NOVs to the Case Managers has empowered Case Managers to pursue compliance.

### **Summary of Actions**

As a result of the above initiatives and process improvements, SRP increased its issuance of NOVs by over 100 percent, issuing 114 NOVs. Other enforcement actions include 32 AONOCAPAs; 8 NOCAPAs; 2 Demands for Stipulated Penalties; and 22 Spill Act Directives. Sixteen ACOs were executed, committing the signing parties to complete remediation.

### **Case Highlights**

#### **Rob's Service Center/H P Delta, Inc.**

#### **Woodbridge Township, Middlesex County**

On August 18, 2006, the Department issued a Directive and Notice to Insurers to H.P. Delta, Inc., Robert Melecci, and Rob's Service Center to conduct an investigation and remediation of ground water contamination at and surrounding the site due to the discovery of Methyl Tertiary Butyl Ether (MTBE) contamination in potable wells in the residential area behind the site. The Directive also ordered them to install Point of Entry Treatment systems on residential wells that were found to be contaminated. The Respondents declined to enter into an ACO which would commit them to do the work.



The investigation and remediation is being conducted by the Department utilizing public funds. Issuance of the Directive allows the Department to pursue three times the cost of the remediation in a cost recovery action.

**Richter Road Groundwater Contamination/  
Joan's Cleaners**

**Tabernacle, Burlington County**

On June 26, 2007, the Department issued a Directive and Notice to Insurers to Joan's Cleaners, Kenwar and Chander Satija, and Haas Plaza, L.L.C. which directed them to reimburse the Department for costs incurred for ground water and soil gas sampling, potable well samples, and soil gas samples taken in order to evaluate the possibility of vapor intrusion. The continuing investigation being conducted by the Department is necessary due to the presence of tetrachloroethylene ("PCE") in several potable wells down gradient of the Joan's Cleaners site.

**Marmora Shell Texaco Service Station**

**Marmora, Cape May County**

On August 22, 2006, the Department issued a Directive and Notice to Insurers to Grace Oil Co. The Directive instructed Grace Oil Co. to fully delineate soil and ground water contamination and perform a receptor evaluation. In response to the Directive, Grace Oil Co. cooperatively entered into an ACO with the Department to investigate and remediate the site and posted a remediation funding source.

**William Hurley Industrial Complex/Frequency  
Engineering Laboratories**

**Howell Township, Monmouth County**

On January 14, 2007, Hurley Felds I, LLC entered into an ACO with the Department agreeing to complete the remediation at the site, reimburse the Department for past costs expended for investigation and remediation at the site, and post a remediation funding source. Prior to the execution of the ACO by Hurley Felds I, LLC, it was necessary for the Department to remediate the site using public funds due to the extent of the contamination and failure of the former owner and operator of the site to conduct the remediation.

**Shell Service Station**

**Ridgewood, Bergen County**

The Department issued an AONOCAPA to Shell Oil Company and Motiva Enterprises, Inc. on August 21, 2000, for failure to remediate the site. This site had contaminated three municipal wells and had significant off-site contamination. The case has been in litigation for the past seven years and has been brought to settlement. Shell and Motiva paid the Department a penalty for the groundwater contamination and for the economic benefit that Shell gained by not doing the required work at the site. In addition, Shell entered into an ACO and established a remediation funding source.

**Russo Service Stations**

**Ocean County**

On January 20, 2004, the Division of Law (DOL), on behalf of the Department, filed a complaint in Superior Court in regard to five service stations operated and/or owned by Robert Russo, Russo Fuels, and others for the failure to address the environmental conditions at any of the stations. One additional station, which was not included in the complaint, was already being remediated by the Department. Subsequently, all of the entities involved filed for bankruptcy. Working cooperatively with the Bankruptcy Court, the Department and DOL were able to recover all Department costs associated with the remediation activities to date on two of the sites and oversight costs to date for all of the sites. In addition, three of the sites named on the complaint, and one which was being remediated by the Department, were sold and the new owners executed ACOs and established remediation funding sources under each ACO. On the remaining Sites, the Department received court ordered access on one, and the remediation is being conducted by the Department. The remaining site was a leasehold by Russo, which is now the responsibility of the property owner

## JOINT OPERATIONS

### **Transweb, LLC**

#### **Vineland, Cumberland County**

This case is an example of efforts by multimedia enforcement (Air, Hazardous Waste and Water) along with Criminal Justice and the City of Vineland to cease an illegal discharge of a hazardous substance. On April 18, 2006, the Department received a complaint regarding strong solvent-like odors detected in several storm drains along West Forest Grove Road in Vineland, Cumberland County. Inspectors from the Department's Water and Hazardous Waste C&E Programs along with representatives from the City of Vineland and an investigator from the Division of Criminal Justice responded to the above location and determined the odors to be emanating from the TransWeb LLC facility. During the course of the investigation, the Department was able to link the source of the odors to a four-inch PVC pipe discharging to a retention basin located behind the TransWeb LLC facility. Investigators found that TransWeb LLC was discharging a dilute isopropyl alcohol solution from their manufacturing process to the four inch PVC pipe via a garden hose that was running through a small hole in the back wall. TransWeb LLC manufactures air filters generating waste rinsewater containing isopropyl alcohol. Specifically, Hazardous Waste C&E determined that TransWeb LLC allowed a discharge of a hazardous substance (isopropyl alcohol and water solution), failed to notify the Department of a hazardous substance discharge, and failed to allow Department inspectors immediate lawful entry and inspection. Air C&E determined that TransWeb LLC installed and operated a process heater without prior approval, failed to install and operate a continuous temperature recorder, failed to maintain the proper pressure drop of water across the scrubber, failed to maintain the pH of the scrubber solution, failed to install a flow rate monitor on the scrubber inlet, failed to record scrubber pressure drop readings monthly, failed to record daily the pH of the scrubber solution and failed to record monthly the scrubber flow rate. Water C&E found Transweb LLC intentionally installed the garden hose coming out of the facility creating an unpermitted discharge. On August 12,

2006, Cumberland County Superior Court found Kumar Ogale (Vice President of TransWeb LLC)



guilty of a fourth-degree crime requiring a fine. In December 2006, the Department negotiated a settlement with TransWeb LLC and Kumar Ogale (Vice President-TransWeb LLC) for civil penalties issued by the Department in May, August and October, 2006. The settlement agreement requires TransWeb LLC and Kumar Ogale to jointly pay a penalty which includes an economic benefit penalty.

### **Hair Systems Inc.**

#### **Englishtown Borough, Monmouth County**

This case is an example of efforts by Hazardous Waste C&E, Criminal Justice, Monmouth County Health Department, Monmouth County Prosecutor's Office and Englishtown Fire Department to settle hazardous-waste violations stemming from a series of fires likely sparked by improperly stored chemicals. Hair Systems uses potassium persulfate and sodium persulfate in the manufacture of bleaches, dyes, perm kits and other reactive hair-care products. Violations included failing to: mark containers and tanks as hazardous waste, ensure employee familiarity with proper waste handling and emergency procedures, use storage containers lined with materials that do not react with hazardous waste, properly close all stored hazardous-waste containers, failure to inspect container storage areas, and failure to minimize the possibility of fire, explosion or other event that might release hazardous waste and threaten public health or the environment. The Division of Criminal Justice, after conducting an investigation with the Monmouth County Prosecutor's Office, concluded there was no basis for criminal prosecution of Hair Systems Inc. However, as part of a settlement agreement with the Division of Criminal Justice, the company early this year agreed to take steps to reduce the number of fires at the facility. Those measures included hiring an environmental con-

sultant and retaining an engineer to fully assess climate-control issues within the facility. Further, the company agreed to pay \$25,000 to Englishtown Fire Company, which had responded repeatedly to fires at Hair Systems, for the purchase of new equipment.

### **American Rendering Corp., a/k/a Berkowitz Fat Co.**

#### **Newark**

During compliance inspections conducted from June 2005, to June 2007, continual violations, specifically discharges of petroleum, diesel, used oil from trucks, and blood



into unpaved areas of the facility's yard and noxious odors were observed. The Department filed a Complaint and Order to Show Cause on May 10, 2007. A Judicial Order filed May 11, 2007, ordered Berkowitz Fat to take certain remedial steps. Berkowitz



Fat was ordered to cease rendering operations in a Judicial Order filed June 8, 2007, until Berkowitz Fat no longer presented an imminent hazard to the public health and

safety or the environment. With the joint efforts of the Air, Water, and Solid and Hazardous Waste C&E, as well as the State Attorney General's Office, the Essex County Regional Health Commission, and the Newark City Health Department, the Department was successful in receiving an injunctive relief order from the Superior Court against this company. All meat processing operating at the plant have ceased, and a site cleanup, con-



ducted by the Department's Site Remediation program, is taking place.

### **CP Industries & Synthetic Surfaces Clifton, NJ**

CP Industries a manufacturer of water based adhesives and Synthetic Surfaces is a distributor of solvent based adhesives used for artificial turf and other sport flooring. Both facilities operated a lab located in Clifton, New Jersey. On June 20, 2005, a C&E Hazardous Waste inspector responded to a fire in a garbage truck in the parking lot of Cambridge Heights Townhouse Complex in Clifton. The garbage truck had just made its first pickup of the day at CP Industries and Synthetic Surfaces. The Clifton Fire Department responded along with local and county Hazardous Materials Teams. Upon extinguishing the fire, the inspector along with investigators from Criminal Justice and the Passaic County Sheriff's Department identified numerous containers of chemicals in the load of garbage. The discarded chemicals were traced back to CP Industries and Synthetic Surfaces. Both facilities were issued violations for failure to determine if waste is hazardous for the waste that was discarded in the companies' dumpster and for other waste that was being accumulated on



site, failure to have an EPA identification number before treating, storing, disposing of, transporting or offering for transportation, hazardous waste, failure to offer hazardous waste to a transporter that is properly licensed to transport hazardous waste, failure to prepare a manifest before offering hazardous waste for transportation, failure to

properly package hazardous waste for transportation, failure to properly label hazardous waste for transportation, failure to properly mark each package of hazardous waste for transportation, and failure to maintain and operate its facility in order to minimize the possibility of fire, explosion, or unplanned release of hazardous waste. The companies agreed to pay a settlement penalty and both companies properly disposed of all remaining lab chemicals and have ceased operation of the lab.

### **Child Care Initiative**

On January 1, 1994, Accutherm, Inc., a thermometer factory, ceased operations at its facility in Franklin Township, Gloucester County. The cessation of operations triggered the requirements of the Industrial Site Recovery Act, requiring the owners and operators of the site to conduct remediation. Accutherm, Inc. failed to comply with these requirements. The Department considered the site to be inactive for a number of years. On April 11, 2006, the Department discovered that the Accutherm facility had been converted into a childcare facility without the site first being remediated. On July 28, 2006, the Department received the preliminary results of indoor air sampling and immediately closed the childcare facility due to mercury contamination. The Department is currently conducting the remediation at the site. This incident triggered a number of actions. The New Jersey Legislature passed legislation that places specific requirements on childcare centers. These requirements are intended to assure that the facility is not operating on an unremediated hazardous site, has a source of clean drinking water, and is not impacted by indoor air contaminants. The Department of Children and Families (DCF) will issue licenses only to childcare facility operators who can demonstrate to the Department of Environmental Protection and the Department of Health and Human Services that their

facilities are safe. These requirements must be met in order to open such a facility and must be maintained to allow license renewal every three years. The Site Remediation Program is gearing up to process the nearly 4500 applications it expects to receive as existing and new facilities conduct environmental investigations and present the results to the Department. In addition to the legislative efforts, the Department took action to assure that no other child care facilities were the subject of impacts from known contaminated sites. The Department's data concerning site locations was compared with DCF's list of childcare facility locations. Seventeen inspectors from Water, Air and Hazardous Waste C&E conducted over 300 child care inspections from September 2006 to June 2007. ( SRWM had identified these child cares to be at or near some areas of environmental concern.) Additionally, SRWM Case Managers evaluated all sites with a classification exception area, an indicator of a ground water contaminant plume, within 400 feet of a childcare facility location. On those sites where the contaminant plume had the potential to impact the childcare facility (such as those with high levels of ground water contamination up gradient from the childcare facility), the person responsible for conducting the remediation was required to evaluate potential impacts to the childcare facility. If the person refused, a Spill Act Directive was issued and SRWM staff conducted the indoor air evaluation. Indoor air data is now routinely transmitted to the Department of Health and Human Services for a determination as to the safety of the facility. These efforts aimed at protecting childcare facilities have naturally expanded to include all potential receptors of contaminants, particularly for vapor hazards related to contaminated groundwater. If responsible parties failed to comply with the Department's requests to evaluate potential impacts, Spill Act Directives were issued to compel compliance. Of

the 22 Directives issued to responsible parties during the fiscal year, 11 required the immediate investigation of vapor impacts related to contaminated ground water. If the responsible parties were unwilling, or unable, to conduct the required investigation and remediation, the Department conducted the work to insure the health and safety of the children and other potentially affected receptors.

### **DEP/DCA Home Improvement Marine Contractor Initiative**

To maximize use of resources, the Department is partnering with other enforcement or prosecutorial agencies to share information, educate, warn, and deter the dock and bulkheaders operating in Ocean County from conducting regulated activities without the required permits, and if they obtain a permit, to comply with its terms and conditions. Land Use C&E is partnering with Division of Consumer Affairs (DCA), Ocean County Prosecutor's Office (OCPO), and Ocean County Consumer Affairs (OCCA) in order to utilize the Contractor's Registration Act, NJSA 56:8-136 et seq. to better regulate marine contractors who violate the Waterfront Development Act(Act). Construction/replacement/repair of piers and bulkheads are activities regulated under the Act provided there is an existing residential structure on the property. Activities on vacant properties or commercial sites do not fall under the Act. Through this cooperative venture, it was agreed that any waterfront violations where Land Use C&E is able to identify the contractor as a responsible party would result in a NOV issued to both the property owner and the contractor (both the individual and business) with copies of the NOVs to OCPO & OCCA. Any AONOCAPAs involving a marine contractor will be copied to DCA to be placed in the contractor's license file which may impact the contractor's license renewal. Land Use C&E will notify and provide evidence of regulated activity by unregistered contractors to both the State & the County so they can take appropriate action. OCCA has indicated that they will take action against any unregistered marine contractor.

### **James Durr**

#### **North Hanover, Burlington County**

This violation and enforcement action is one of several cases opened this year that are driving improved coordination between Forestry, Land Use Regulation and Land Use C&E for forestry exemptions of the permit requirements of the Freshwater Wetlands Protection Act Rules, as well as driving improved coordination and communication with the Department of Agriculture regarding permit exemptions for farmers. On February 7, 2006 Mr. Durr of Durr Wholesale Florist was issued an NOV for the clear cutting of four acres of wooded wetlands while conducting forestry and agricultural activities. Mr. Durr had not accomplished the requirements necessary for a forestry exemption, did not conduct the work according to exemption standards and had expanded his agricultural activities in the sensitive area. The near-stream and down-stream wetlands are habitat for a documented healthy colony of the state and federally endangered bog turtle. The clearing activities allowed substantial amounts of sediment to fill the turtles wetland habitat and may have destroyed the colony. The investigation continues into the effects on the colony and habitat. An AONOCAPA was issued November 2006 which requires restoration of the cleared wetland as well as restoration of the bog turtle wetland habitat. The Order is under appeal.

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