

Compliance & Enforcement

Fiscal Year 2009 Highlights



In Memory of Andrew Lesser



On December 10, 2009, NJDEP employee Andrew Lesser passed away at the age of 28 after a courageous battle with esophageal cancer. Andrew worked as an inspector in the Underground Storage Tank (UST) Enforcement Unit in the Northern Bureau of Water Compliance and Enforcement since 2004. Andrew, a lifelong resident of Dumont, graduated Dumont High School in 1999 and Ramapo College in 2003.

Andrew was an extremely hard working conscientious employee and dedicated to the environment. Even during his time of illness, he continued to work at home and did as much as he possibly could. Andrew was professional and thorough in his work. He loved his job with the DEP and was respected and admired by everyone there. Andrew made a tremendous contribution during his five (5) years of service by bringing numerous UST facilities in compliance with the Underground Storage of Hazardous Substance Act. In 2008 he issued an Administrative Order for 58 violations of state requirements for certification of firms and individuals that monitor and service underground storage tanks. This was the first enforcement case of its kind by the Department.

Andrew's death is a great loss to the Department. He will be greatly missed by his colleagues, friends and family.



Welcome to our 5th edition of the New Jersey Department of Environmental Protection's Fiscal Year 2009 Compliance and Enforcement Highlights Report. In the report each enforcement program continues to highlight a sampling of their major enforcement actions and settlements. Also highlighted are samplings of the many initiatives the various programs have taken to provide compliance assistance. Compliance & Enforcement's Strategic Plan Goal 2 seeks to: "Effectively balance compliance assistance, enforcement and education to achieve compliance and move the regulated community and the public towards environmental stewardship." We continue to seek opportunities to better educate and assist our regulated community towards maintaining compliance with the State and Federal regulations.

We also hope future reports bring better information to help you gauge the effectiveness of the Department's Compliance and Enforcement programs. In this report as well as past reports we have provided summaries identifying the number of inspections and investigations conducted. We have also provided the number of enforcement actions taken over the years. Finally we have provided compliance rates by program area for the last 5 years. The question we ask ourselves: "Are these effective measures of program performance?" We don't think so. So our goal for future editions of this report is to develop more meaningful measures so you the reader can better determine environmental compliance in New Jersey.

Finally, this edition of our Annual Highlight report is dedicated to the memory of one of our young Underground Storage Tank inspectors who recently passed away after losing the battle with cancer. Our hearts and well wishes continue to go out to the Lesser Family. The New Jersey Department of Environmental Protection's greatest asset is the many employees who work tirelessly to ensure that New Jersey residents have a safe and healthy environment for today and future generations.

~Assistant Commissioner Wolfgang Skacel

Fiscal Year 2009 Compliance & Enforcement Highlights

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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>:

2008 Permit Extension Act	Compliance & Enforcement*	NJPDES Permitting Program
Air Quality Permitting and Reporting	Exams & Licensing	Pending Permit Progress Reports
Ambient Water Quality	General Environmental Reports	Permitting Dashboard
Certified Laboratories	Incidents/Complaints*	Pesticide Control Program
Community Access	Mandatory Diesel Retrofit Program	Radiological Health

Site Remediation
Stewardship

Volunteer & Watershed Ambassador
Water Supply

Ambient Water Quality
What's New

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

Air
Community Right to Know
DPCC
Hazardous Waste

Land Use
Pesticides
Radiation**
Site Remediation***

Solid Waste
TCPA
Water Supply
Water Quality***

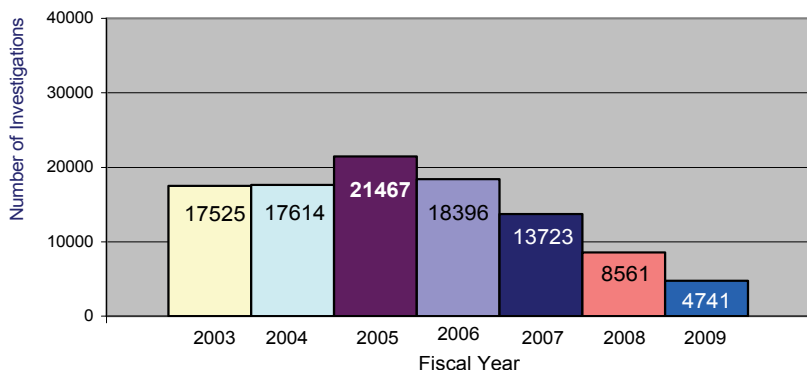
**Limited Site Inspection data is available for the Radiation programs

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

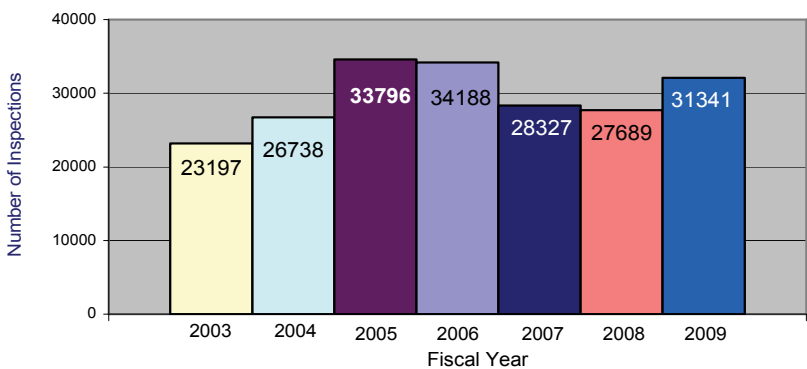
ACO	Administrative Consent Order	LOI	Letter of Interpretation
AFSP	Administrative and Fiscal Support Program	MTBE	Methyl Tertiary Butyl Ether
AO	Administrative Order	NELAC	National Environmental Laboratory Accreditation Conference
AONOCAPA	Administrative Order and Notice of Civil Administrative Penalty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

Summary of Investigations, Site Inspections, and Enforcement Actions - Fiscal Years 2003 to 2009

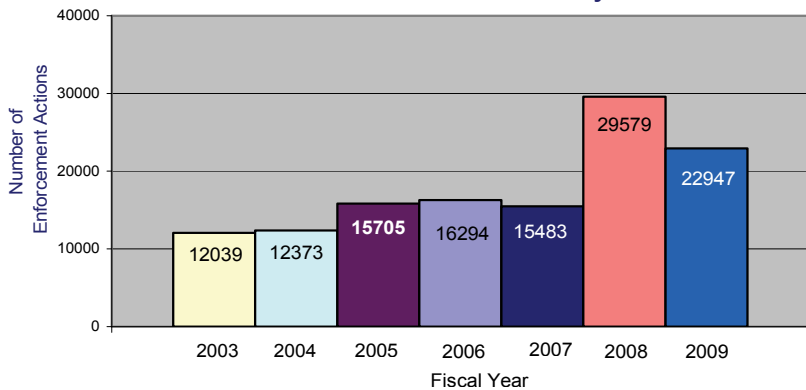
Number of Investigations Completed by Fiscal Year



Site Inspections Completed by Fiscal Year



Total Enforcement Actions Issued by Fiscal Year

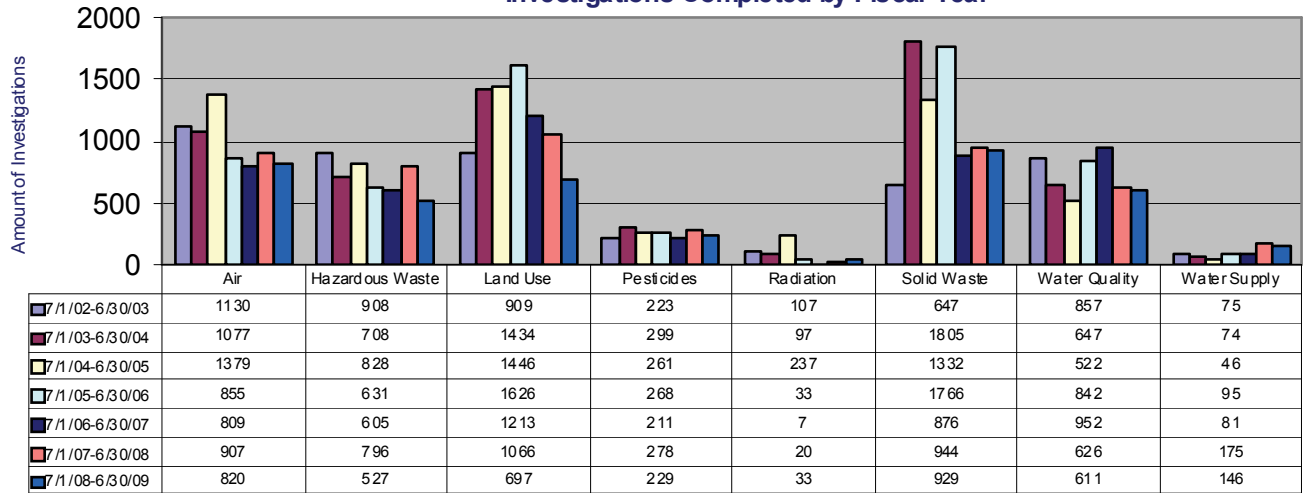


The following programs are included in the totals for each chart:

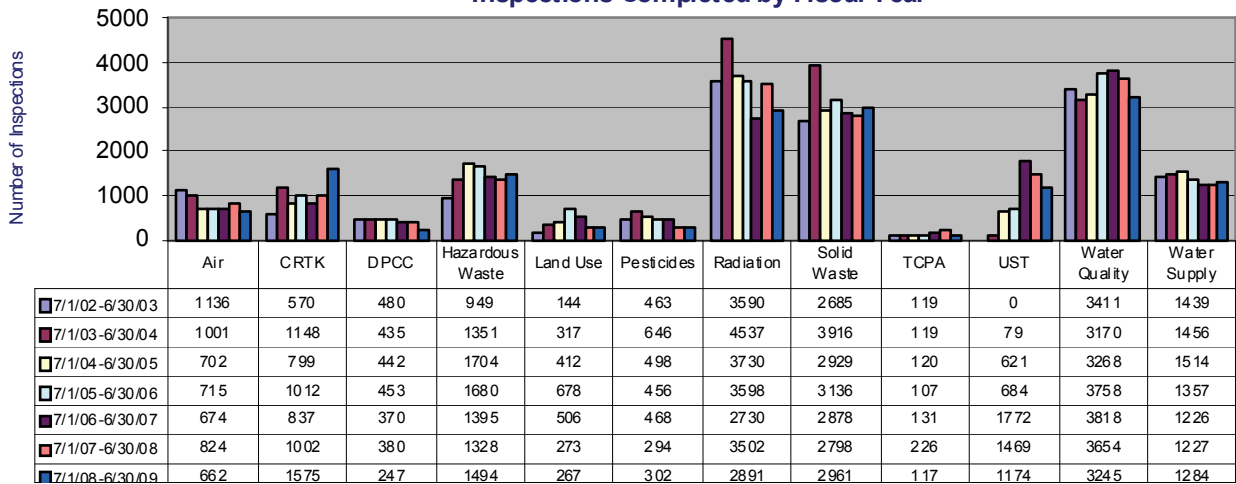
- Air
- Community Right to Know (CRTK)
- County Environmental Health Act (CEHA) Program
- Discharge Prevention, Containment and Countermeasures (DPCC)
- Hazardous Waste
- Land Use
- Pesticide Control
- Radiation Protection
- Site Remediation Program (SRP)
- Solid Waste
- Toxic Catastrophe Protection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



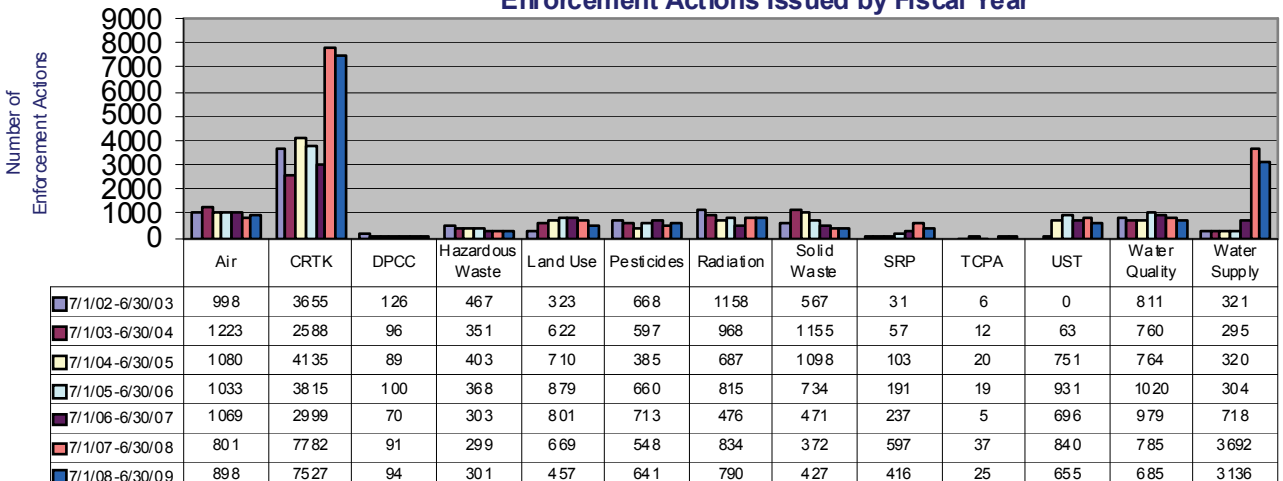
Investigations Completed by Fiscal Year



Inspections Completed by Fiscal Year



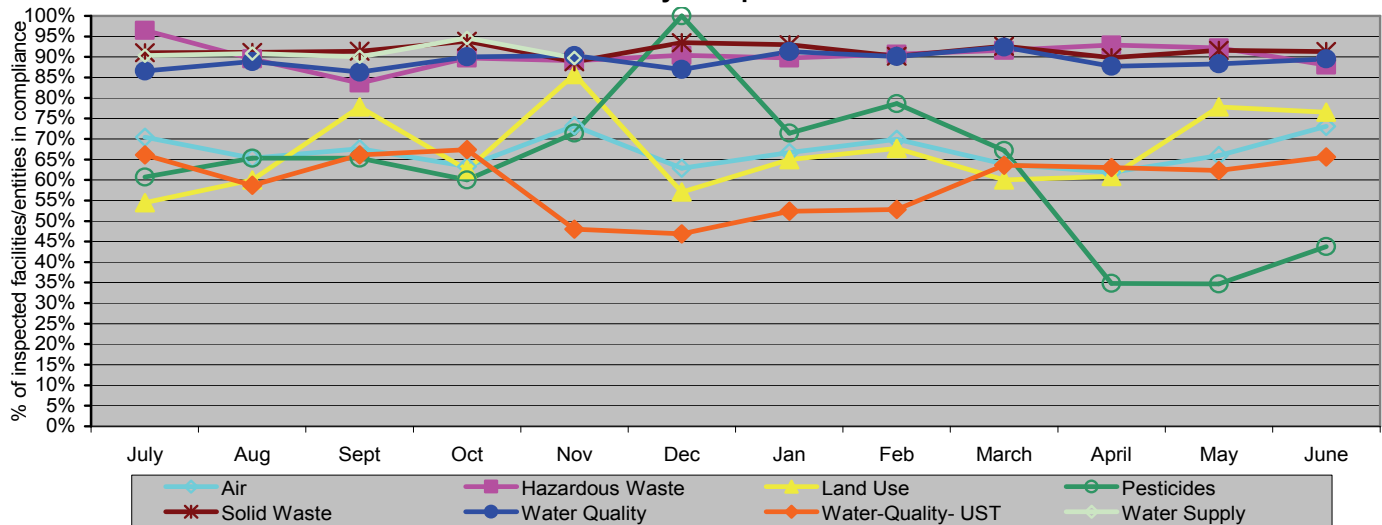
Enforcement Actions Issued by Fiscal Year



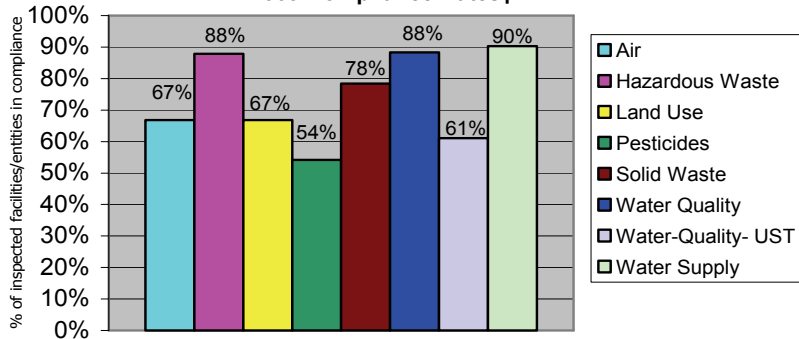
FY2009 Inspection-Based, Facility Compliance Rates

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 October 16, 2009.

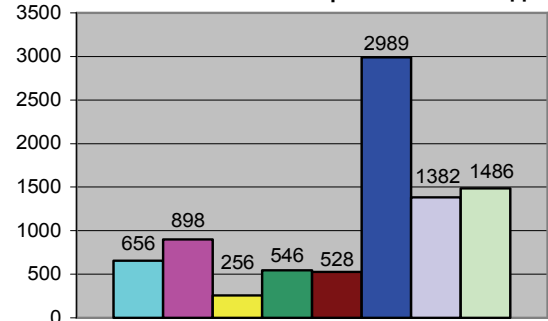
FY2009 Monthly Compliance Rate Trends



FY2009 Compliance Rates†



Facilities/Entities Inspected in FY2009††



Compliance Rate	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	March	April	May	June	Entire year†
Air	70.4%	65.3%	67.6%	63.3%	73.2%	62.9%	66.7%	69.9%	63.9%	61.9%	66.0%	73.1%	66.8%
Hazardous Waste	96.5%	89.5%	83.6%	89.7%	89.1%	90.4%	89.7%	90.7%	91.6%	92.9%	92.2%	88.0%	87.8%
Land Use	54.5%	60.0%	77.8%	62.5%	85.7%	57.1%	65.0%	67.7%	60.0%	60.9%	77.8%	76.5%	66.8%
Pesticides	60.7%	65.3%	65.3%	60.0%	71.4%	100.0%	71.4%	78.6%	67.2%	34.8%	34.7%	43.8%	54.2%
Solid Waste	91.0%	91.1%	91.4%	93.8%	88.8%	93.5%	93.0%	90.2%	92.6%	89.8%	91.6%	91.3%	78.4%
Water Quality	86.6%	88.9%	86.3%	90.0%	90.3%	86.9%	91.3%	90.1%	92.4%	87.7%	88.3%	89.5%	88.3%
Water-Quality- UST	66.1%	58.7%	66.1%	67.4%	48.0%	46.9%	52.4%	52.8%	63.6%	63.0%	62.3%	65.6%	61.1%
Water Supply	90.3%	90.8%	90.0%	94.6%	89.7%	94.1%	77.5%	89.6%	88.0%	93.5%	92.4%	91.8%	90.3%
Facilities Inspected	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	March	April	May	June	Entire year††
Air	81	75	34	49	41	35	54	73	61	63	47	52	656
Hazardous Waste	86	105	116	97	92	94	116	107	155	98	115	111	898
Land Use*	22	30	63	8	7	7	20	31	25	23	9	17	256
Pesticides	61	49	49	30	7	14	21	28	58	46	75	121	546
Solid Waste	233	225	244	242	215	262	243	244	271	206	203	207	528
Water Quality	239	305	329	319	185	191	195	233	289	260	343	333	2989
Water-Quality- UST**	171	167	118	89	75	64	63	72	151	165	122	157	1382
Water Supply	103	119	140	112	78	101	102	106	184	154	145	158	1486
Totals	996	1075	1093	946	700	768	814	894	1194	1015	1059	1156	8741

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

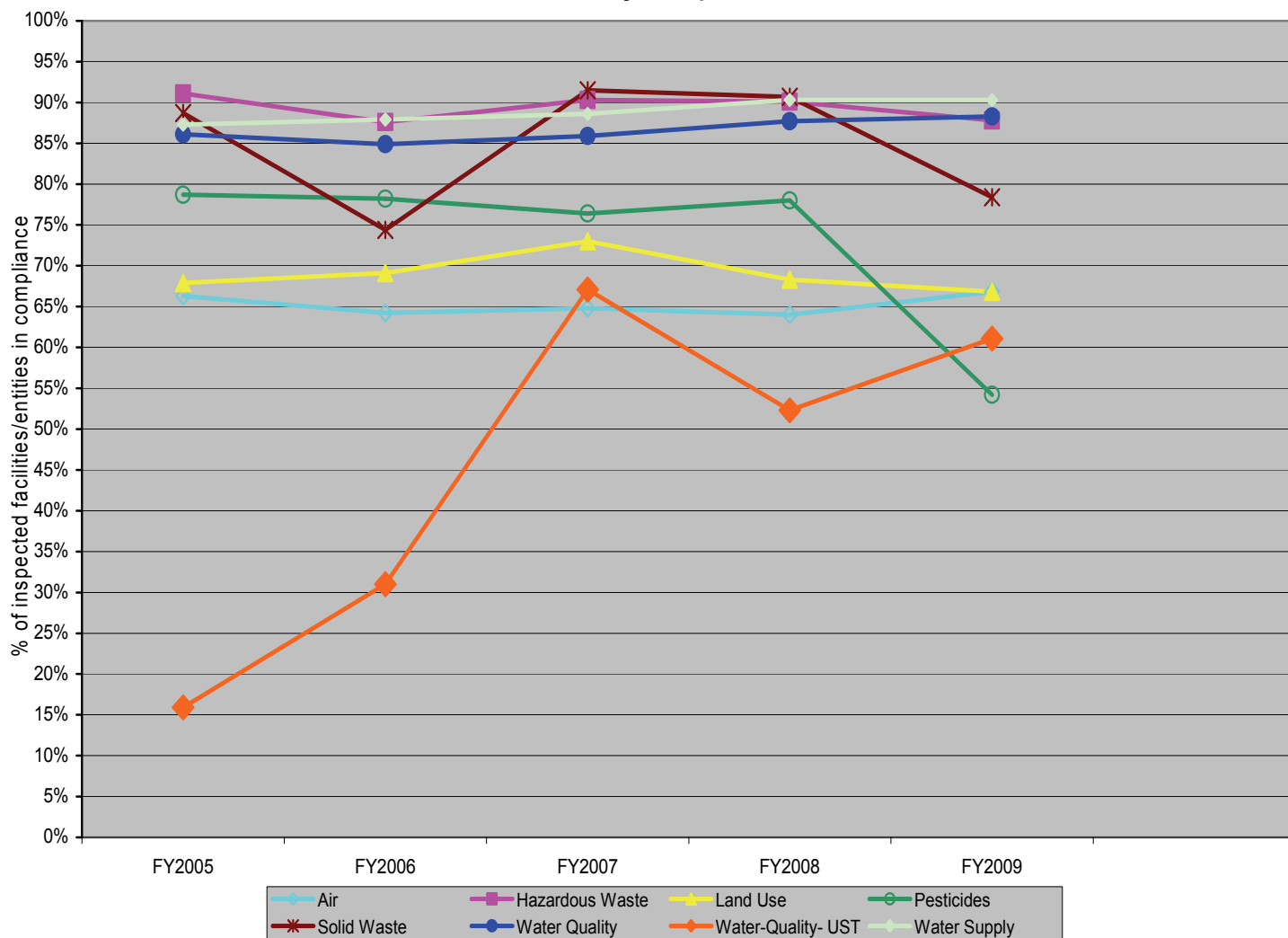
† Compliance Rates for the entire year will be lower than average monthly rates because of repeat visits to some facilities.

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

FY2005 - FY2009 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 October 16, 2009.

FY2005 - FY2009 Yearly Compliance Rate Trends



Compliance Rates FY2005 -FY2009

Compliance Rates	FY2005	FY2006	FY2007	FY2008	FY2009
Air	66.3%	64.2%	64.8%	64.0%	66.8%
Hazardous Waste	91.1%	87.6%	90.3%	90.1%	87.8%
Land Use	67.9%	69.1%	73.0%	68.3%	66.8%
Pesticides	78.7%	78.2%	76.4%	78.0%	54.2%
Solid Waste	88.7%	74.4%	91.5%	90.7%	78.4%
Water Quality	86.1%	84.9%	85.9%	87.7%	88.3%
Water-Quality- UST	15.9%	31.0%	67.1%	52.3%	61.1%
Water Supply	87.3%	87.9%	88.6%	90.3%	90.3%

Facilities Inspected FY2005 - FY2009

Facilities Inspected	FY2005	FY2006	FY2007	FY2008	FY2009
Air	700	725	667	833	656
Hazardous Waste	1562	1503	1236	1147	898
Land Use	483	691	533	271	256
Pesticides	832	1002	817	546	546
Solid Waste	2852	2884	2781	2676	528
Water Quality	3777	3777	3899	3656	2989
Water-Quality- UST	615	689	1884	1481	1382
Water Supply	1830	1607	1553	1511	1486

Strategic Plan

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

The following values will be demonstrated through our business operations:

▪Integrity

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

▪Environmental Dedication

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

▪Responsiveness and Effectiveness

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

▪Clarity of Communication and Accountability

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

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

▪Continuous Improvement and Innovation

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

▪Fair and Just

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

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

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

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

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

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

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

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

Training and Development

Over the past fiscal year, the workgroup completed a C&E Training Plan. This plan contains standard operating procedures, inspector core skills, core training requirements both general and program specific, a qualifications package containing spe-

cific tasks to be mastered, and a career mentoring handbook. The module for Trainee Inspector was completed in February 2009. Modules for Senior and Principal Inspectors and Support Staff are currently being developed.

Stewardship

The greatest advancement of C&E's strategic plan came in the development and implementation of an Environmental Stewardship Program. C&E has a well established and highly effective enforcement program which routinely inspects over 1,000 facilities a month. An overall inspection-based compliance rate around 80 percent is due to the vigilance and effectiveness of our well trained staff. While we continue to focus on compliance with existing

regulations, it was decided that a new approach was needed to recognize those facilities that go beyond merely complying with their permits and regulations. Everyone appreciates a pat on the back for going above and beyond what's expected. The Department took its existing workforce and infrastructure to initiate this new program simply by taking a unique approach and expanding our enforcement role by making stewardship evaluations a component of routine inspections of facilities.

In fiscal year 2009, there were 158 new facilities added to the Stewardship Program for a total of 372 participating facilities. What is especially encouraging is that 30 facilities that were already part of the program added additional categories of qualification.

Air

Initiatives

Air C&E Central Regional Office (CRO) presented information on the FLIR Systems GasFindIR camera. The GasFindIR camera can "see" a gas cloud if (1) the apparent temperature of the gas cloud is different from the apparent temperature of the background, (2) the gas cloud is moving relative to the background, and (3) the gas cloud absorbs infrared energy in the wave band that the GasFindIR is sensitive to. The camera can "see" methane, propane, butane, ethylene, xylene (i.e., gasoline vapors), and other gases when the three previous conditions are met. The C&E program continues to use the camera at various facilities as a compliance assistance tool; not for enforcement purposes at this time.



For example, gasoline vapor leaks were "seen" by the camera during vehicle refueling at a gas station, from large fuel storage tank vents, and from bulk distribution overhead fuel lines at different facilities. The leak from a duct tape repair on a flexible fuel line used to fill tanker trucks with gasoline at a



bulk fuel distribution terminal was "seen" by the camera and resulted in repair of the line which reduced the uncontrolled gasoline emissions.

Methane was "seen" by the camera coming from beneath the sidewalk at a sewage treatment plant that was experiencing odor complaints from some nearby residents. Ultimately, the facility found a leaking pipe under the sidewalk and it was quickly repaired. At a solid waste landfill, leaks at several methane gas collection vent system manholes were "seen" by the camera and also resulted in immediate repair. In both of these instances, unknown and uncontrolled emissions were reduced.

Case Highlights

Sunoco Inc. R&M Eagle Point Facility

Sunoco R&M owns and operates a petroleum refining, storage and distribution facility located at Route 130 and I-295, Borough of Westville, County of Gloucester, State of New Jersey.

The Department has cited Sunoco R&M for violations of the New Jersey Air Pollution Control Act,

the federal Clean Air Act, State and federal regulations and Title V at the refinery during calendar years 2004, 2005, 2006 and 2007 that included stack test failures and air contaminant emission exceedances. In addition, Sunoco R&M also reported to the Department numerous



violations in its Title V Operating Permit submittal requirements for the same time frame as mentioned above. Sunoco R&M entered into an Administrative Consent Order (ACO) with the Department which included a penalty; of this penalty amount, 75 percent was designated for a Supplemental Environmental Project (SEP) in the form of a Solar Panel (photovoltaic system) project for a township, municipal or school building located in the County of Camden or Gloucester, New Jersey

Office of Local Environmental Management

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

CEHA Activities & Performance

The Department relies heavily upon its partners, the certified county health agencies, to perform a variety of environmental activities.

Thirteen CEHA agencies conducted more than 880 pesticide inspections at schools, multi-family residences, golf courses, stores, and landscaping operations. In spring 2008, the counties in conjunction with state pesticide inspectors, conducted a landscaper sweep to ensure only licensed companies and applicators were applying pesticides.

Seven counties conducted over 760 underground storage tank inspections at gas stations; over 400 violations were identified. Additionally, Camden & Bergen counties assist homeowners who have entered into a Memorandum of Agreement with the Department to remediate their property at which

there is a known or suspected leaking underground storage tank containing home heating oil.

Eight CEHA agencies conducted 400 compliance monitoring investigations of employers to determine whether the employer is in compliance with filing the annual CRTK surveys.



Cooperative Coastal Monitoring Program

A total of 188 ocean stations and 76 bay stations are sampled each week by the four coastal counties as part of this program. Each of these 264 stations represent either an historic, present day or prospective bathing beach or an environmental area where nonpoint sources of pollution may be impacting the water body.

Ambient Surface Water Sampling

Thirteen counties took a total of 415 samples of surface water at 83 sites throughout the state. Five samples are to be taken at each location evenly spaced over any 30-day period, from May 1 through September 30.

Junkyard Compliance Assistance Inspections:

Monmouth, Cumberland, Bergen, & Somerset counties each conducted 10 multi media compliance assistance visits at junkyards to ensure best management practices for, solid and hazardous waste management, and air pollution, and to minimize contact



between source materials and storm water.

School Chemical Management:

In 2008, 12 counties conducted ten cost-free compliance assistance visits at schools to educate school districts on applicable regulations and best management practices regarding chemical safety, inventory reduction, and the proper disposal of waste materials. During these site visits inspectors frequently found that schools have excessive inventory, outdated chemicals, and chemicals are not being stored properly.



Solid & Hazardous Waste

Permitting of Rail Carrier Solid Waste Transfer Facilities

With enactment of the Interstate Commerce Commission Termination Act of 1995 (Pub. L. No. 104-88, 109 Stat. 803, codified at 49 U.S.C. §10101 *et seq.*) (the “Act”), the Department was preempted from requiring public safety and environmental controls on railroad owned waste transload facilities through its permitting process. In response to this Act, in 2004 the Department adopted minimum baseline criteria for construction and operation of such facilities, commonly known as the “2D regulations.” These regulations established environmental, health and safety standards applicable to railroad owned and operated facilities and were designed to guard against harmful releases to air, land and water resources and to ensure public health and safety. As of June 2005, there were seven active railroad facilities which transferred waste from vehicles to rail cars in New Jersey. Despite the environmental standards of the 2D regulations, only one of these facilities conducted such transfer within a building; virtually all were



Noise Control

OLEM is responsible for the coordination of noise control activities by counties and municipalities. In fiscal year 2009, OLEM responded to over 324 noise inquiries from residents and local officials. OLEM has been working with the NJ Noise Control Council to update the Model Noise Ordinance and a new ordinance to address noise from off road vehicles. A grant provided through OLEM helps fund the Rutgers Noise Technical Assistance Center, providing CEHA personnel and other local officials throughout the State with Noise Enforcement Certification and refresher training.

open dumps. To engender compliance with the 2D regulations, the Department fined five railroad waste transload facilities for



environmental violations. The Department’s enforcement action was immediately challenged and precipitated the Department’s legal efforts to address the serious environmental and public health issues continuing at railroad waste transload facilities. Such legal efforts continued for over five years with the Department and the New Jersey Meadowlands Commission NJMC embroiled in numerous lawsuits and legal proceedings before the federal Surface Transportation Board and the courts in multiple jurisdictions to defend the State’s authority to regulate solid waste activities undertaken by or in conjunction with rail carriers. During this time, the decisions rendered in these proceedings were inconsistent, confusing and did little to resolve the issue; railroad waste transload facilities proliferated in the state. It became apparent that for the Department to regulate and hold railroad waste transload facilities accountable to environmental standards, a

legislative solution was necessary.

On October 15, 2008, the sought after legislative solution was achieved. Sponsored by Senators Frank Lautenberg and Robert Menendez and U.S. Representative Frank Pallone, President Bush signed into law the Federal Railroad Safety Improvement Act of 2008 (“Railroad Safety Act”), Pub. L. No. 110-432 which expressly authorized states to regulate and permit railroad waste transload facilities; it effectively ended the battle the Department and the NJMC had waged with rail carriers to protect the health and safety of New Jersey’s citizens and the environment.

To implement the provisions of the Railroad Safety Act, on November 17, 2008, the Department proposed rule amendments to require existing rail carrier transfer operations that handle non-containerized solid waste to come into compliance with the Department’s solid waste facility permitting, planning, and A-901 requirements within 180 days of the effective date of the amendments. This applies to the eight currently operating railroad waste transload facilities and the

seven proposed facilities that tip solid waste. The Department has already negotiated settlement agreements with a number of these facilities that will result in them becoming fully permitted for their solid waste transload operations and is working with the remaining facilities to develop a schedule for them to come in to compliance.



Pesticides

Bureau of Pesticide Operations

The bureau has been making great efforts to provide information to the regulated community, the public and other governmental agencies on pesticide regulatory issues and requirements via the Program’s web site, www.pcpnj.org. Now the bureau is moving towards increasing productivity by developing projects to allow the regulated community to do business over the internet via DEP Online. Five of the six licenses issued by the bureau can now be paid via DEP Online, using a credit card or an eCheck. All address & employer changes can also be done while paying for the license. Staff are able to review & edit all data changes made online prior to updating the license database, to ensure that database standards are still being met. The online payment process cuts 3 weeks off the

turnaround time for issuing a license, eliminates the paper invoice processing (which includes sorting, performing data entry of any data changes, & filing), & eliminates both US Postal Service mailing & interoffice mailing costs.



Bureau of Pesticide Compliance

Ag-Mart

Ag-Mart Produce employs approximately 700 people throughout 17 farm locations in New Jersey. Ag-Mart also owns and operates other produce farms in North Carolina, Florida and Mexico. In January 2009, the Pesticide Control Program cited Ag-Mart Produce Inc., headquartered in Cedarville, Cumberland County, with hundreds of

alleged violations that include denying state environmental inspectors access to facilities, losing track of a highly toxic insecticide, careless recordkeeping, failure to post important pesticide information for farm workers and failure to properly ventilate chlorine vapors in the tomato packing house. Also, on 17 occasions, Ag-Mart prematurely

harvested the tomato crop after spraying it with pesticides, which posed the risk of exposing consumers to illegal pesticide residues in the marketplace.

Land Use

Case Highlights

Woodhaven Village Inc.

The Bureau of Coastal and Land Use Compliance and Enforcement (CLUE) has recently finalized the negotiation of an amended ACO with Woodhaven Village Inc. that amends a 1994 ACO for a large tract of land in Old Bridge Township, Middlesex County. The amended ACO will reduce the development impacts to freshwater wetlands from ap-

proximately 324 acres that were not previously identified as wetlands and could have been developed under the 1994 agreement, to 54 acres. In addition, approximately 491 acres of freshwater wetlands and 131 acres of uplands on the site will be preserved from development in perpetuity.



Water

Case Highlights

Valley Road Sewerage Company - Pottersville Sewage Treatment Plant , Tewksbury Township, Hunterdon County

The Northern Bureau of Water Compliance and Enforcement executed an Administrative Consent Order (ACO) with New Jersey American Water Inc. (NJAWCI) fostering the transfer of the Pottersville Sewage Treatment Plant from receivership to a responsible water utility.

The transfer in ownership is significant because the plant was extremely dilapidated, out of compliance with Permit and water pollution regulations and beset with financial problems. All of which, made it extremely difficult to find a responsible entity willing to take ownership of the facility. The ACO, which was executed only after lengthy and extensive negotiations, sets forth a schedule for NJAWCI to

complete much needed upgrades (many of which have already been completed) of the facility which will result in dramatic improvements in plant performance and water quality.

The ACO was executed between the Department and New Jersey American Water, Inc. on August 25, 2008.



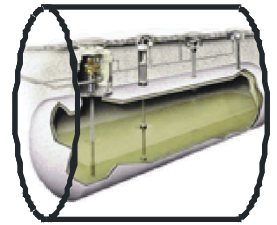
Underground Storage Tanks

In February of 2009 the UST Inspection program, in conjunction with our CEHA partners, assumed responsibility for conducting UST and air permit compliance inspections at all Gasoline Dispensing Facilities (GDFs) with Minor Source air pollution control permits for the operation of Stage I and/or Stage 2 Vapor Recovery equipment. NJDEP is the first state environmental agency in the nation to combine these functions. This combination results in the performance of two different program interest compliance inspections at the same time, reducing the number of NJDEP visits to each facility being inspected.

On May 5, 2009, personnel of the NJDEP's UST inspection unit conducted its first Compliance

Assistance program solely for the employees of a retail fuel merchant that owns and operates multiple (14) gas stations in New Jersey. The program was conducted at the request of ARFA Enterprises, Inc. and primarily addressed NJDEP's UST operational compliance requirements.

On May 14, 2009, personnel of the NJDEP's UST inspection unit conducted a Compliance Assistance program solely for municipalities located in Monmouth County. This program was sponsored by the Monmouth County Health Department and primarily addressed compliance with NJDEP's Minor Source Air Pollution Control regulations. Approximately forty municipalities attended this event.



Administrative & Fiscal Support

The Administrative and Fiscal Support Unit (AFSU) provides administrative guidance, fiscal, human resources, employee services and computer support to all programs within C&E. Issues addressed by AFSU 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. The AFSU team continually strives to provide effective customer service in meeting the current and future needs of C&E staff. There are currently six team members.

Efficiency Improvements

Database design members remain very busy monitoring and updating all AFSU databases to maintain accuracy of stored records. In addition, they purchased new computer hardware for C&E and coordinated deployment of these items to staff.

Training

Additional initiatives during 2009 included team member participation in ongoing workgroup discussions advancing the fair and productive work environment goal area of the division's strategic plan and completion of Volume I of the C&E Inspector Training Plan. Finally, a total of 436 technical training requests were processed for C&E staff during 2009 as follows: 121 in the Air program, 42 in the Bureau of Hazardous Waste, 51 in the Bureau of Solid Waste, 135 in the Water program, 5 in the Bureau of Enforcement Compliance Services, 26 in the Pesticides Program, 40 in Coastal and Land Use Enforcement, 11 in the Administrative and Fiscal Support Unit and 5 in the AC office. Meeting technical and all other training issues for the division continues on a daily basis and remains challenging as budgetary constraints are tighter than ever. Team members continue to support these and other new ventures on a daily basis.



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.

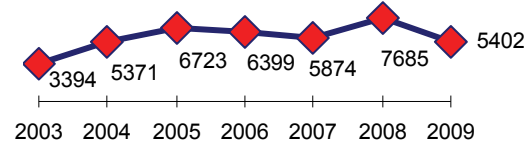
Outreach

BECS continues to be the lead on the highly successful Compliance Advisory system. During fiscal year 2009, 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 one and three advisories have been relevant to them. Ninety-two percent of the respondents agreed that the advisories are timely and helpful with compliance issues. Positive outcomes that have occurred as a result the advisories were an increase in awareness and information, a process or business practice was reviewed, the advisory was shared with staff or others, training/guidance was provided to staff and the reduction of emissions, pollutants, energy use or waste.

OPRA

OPRA oversight is one of several core functions performed by BECS. The bureau managed the response to 5,402 requests in the year, an decrease of approximately 42 percent over the 7,685 in fiscal year 2008.

C&E OPRA Requests Received
Fiscal Years 2003-2009



Technology

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

- 1,780 support requests for data corrections, requirement library updates, de-bugging/troubleshooting and system enhancement designs
- 288 requests for new or modified Business Objects reports
- 146 new or modified system document templates
- 63 new functions, procedures, packages or views for use in document templates or reports
- 2,800 images posted on the image server and completion of the corresponding NJEMS spreadsheet for 1350 activities
- 250 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 2009, 7,179 letters were issued.

Environmental Crimes

For over two decades, the Division of Criminal Justice has investigated and prosecuted violations of the State's water pollution, air pollution, hazardous waste and solid waste laws, as well as traditional crimes that have an impact on public health and safety and the environment. During fiscal year 2009, in addition to responding to pollution incidents statewide, the Division, working closely with the Department and local officials, focused its efforts on identifying and prosecuting those who illegally dispose of hazardous or solid waste in vulnerable urban areas, or who endanger surrounding communities and workers by the way they operate, or who submit false information to the Department. The Division also coordinates the criminal enforcement efforts of the County Prosecutors and the Department and the Marine Bureau of the State Police, and provides technical and legal assistance to the Prosecutors' Offices, as well as to local law enforcement. In fiscal year 2009, the Division obtained 16 indictments and accusations.

Urban Initiative

State v. John Yannuzzi and Yannuzzi and Sons, Inc. (Indictment No. 08-09-00223-S)

The State Grand Jury charged the defendants with third degree Unlawful Disposal of Solid Waste and third degree Criminal Mischief for causing a 45 foot trailer filled with solid waste to be abandoned on a Newark street. The Court admitted defendant into Pre-Trial Intervention (PTI) conditioned upon defendant paying the Department for monies expended for the clean up of the contents of the trailer.

State v. Carmen Marchitello (Accusation No. 08-09-1597)

The State filed an Accusation charging the defendant with fourth degree permitting hazardous waste to be transported without a hazardous waste manifest for giving hazardous waste to someone unlicensed to take it and remove it. The defendant pled guilty to the accusation and was sentenced to an 18 month suspended sentence and to pay restitution.

State v. Seymour Berkowitz (Indictment No. 07-07-00097)

The defendant pled guilty to two third degree Air Pollution crimes, causing malodorous odors to be emitted from his grease rendering plant in Newark and for refusing to allow DEP inspectors to conduct a site inspection. The Court ordered the defendant into PTI conditioned upon defendant paying a fine to the New Jersey Spill Compensation Fund.

State v. Granieri (Indictment No. 08-06-00111-S)
The defendant pled guilty to third degree Criminal Mischief and the Court ordered defendant into PTI conditioned upon paying restitution to the owner of the Jersey City site where he unlawfully brought and left fill material from a New York construction site.

State v. Ricky Stith (Accusation No. 08-10-1034-A)
The State filed an Accusation against the defendant charging him with fourth degree Criminal Mischief, for dumping cans of paint thinner on a lot in Paterson. The defendant pled guilty to the charge and the Court sentenced him to probation.

State v. Earl Henriquez - Gil (Accusation No. 09-02-0177)

The State filed an Accusation against the defendant charging him with third degree unlawful collection of solid waste for unlawful collection of demolition debris from a site in Newark. The defendant pled guilty to the charge.

Hazardous/ Solid Waste

State v. Arthur Fletcher (Accusation No. 08-12-0138A; Indictment No. 07-12-00123-S)

The Court sentenced the defendant to 180 days in the Passaic County jail for third degree unlawful discharge of hazardous waste and third degree Unlawful Collection of Solid Waste.



State v. DiNardi (Indictment No. 09-05-00100-S)
The State Grand Jury returned a three count indictment against the defendant charging him with fourth degree uttering a forged document for submitting forged Solid Waste application documents to the DEP.

Water Pollution

State v. McFarland (Indictment No. 08-11-00260-S)
The State obtained a two count indictment against the defendant charging him with third degree Unlawful Discharge of a Pollutant and third degree Unlawful Disposal of Medical Waste for dumping dental needles and waste into Townsend Inlet that then washed up on Avalon's beaches resulting in several beach closures.

State v. Peter Dominski and State v. Accurate Analytical Laboratories, Inc. (Accusation No. 08-12-00534 and Accusation No. 08-12-00535)
The State filed Accusations charging defendants with falsifying records, fourth degree, for submitting false laboratory report information to the DEP, as well as to community water systems and private well owners for Safe Drinking Water Act water quality testing. The Court sentenced defendant Dominski and defendant's corporation to pay a fine.

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

State v. Salem Packing Company (Indictment No. 09-02-00033-S)
The State Grand Jury returned a one count indictment against defendant charging it with a fourth degree violation of the Water Pollution Control Act for discharging bloody wastewater from its meat processing operation into a stream.

State v. Keith Rose (Indictment No. 08-10-00237-S)
The State Grand Jury returned a one count indictment against the defendant charging him with a fourth degree Negligent Unlawful Discharge of a Pollutant for causing the Susan II, a commercial fishing boat, to crash into the jetty at the Manasquan Inlet, causing a release of oil into the Atlantic Ocean.

State v. SWO, (Accusation Number 08-2867)
The State filed an accusation against defendant corporation for fourth degree water pollution for allowing members of the organization to dump several pails of waste oil from an old boiler into street sewers in Jersey City. The Court sentenced the defendant to pay restitution to the Passaic Valley Sewerage Authority and Jersey City Incinerator Authority

State v. James and Megen, Inc. (Indictment No. SGJ558-08-5)
The defendant corporation pled guilty to the indictment, fourth degree Water Pollution. The Court sentenced the defendant corporation to pay a fine for unlawfully discharging septic waste water from the Waterfront Café restaurant in Carlstadt into the Hackensack River.

State v. Christiansen (Indictment No. 08-06-00114)
The defendant pled guilty to third degree Water Pollution. The Court ordered defendant into PTI conditioned upon defendant paying a fine to the N.J. Spill Fund for the cost of cleaning out the oil he had discharged from a tanker truck into a storm drain.

State v. Ottens and Flegal (Indictment No. 06-06-00070-S)
Both defendants pled guilty to all counts of the indictment charging them with two counts of third degree tampering with public records and two counts of falsifying records. In 2005, defendants, former managers of United Water - Toms River skewed the Safe Drinking Water sampling of one of the Toms River facility's wells. The Court admitted defendants into PTI conditioned upon paying a fine.

Public Safety

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

An Accusation was filed against defendant, an unlicensed asbestos abatement contractor, charging him with second degree unlawful release of toxic pollutants. Defendant pled guilty to the Accusation which charges him with unlawfully and improperly releasing asbestos into the air in the basement of a church building in Paterson. The Court sentenced defendant to three years State Prison.

State v. McFadden (Indictment No. 08-09-002225)

The State Grand Jury charged defendant with a third degree Unlawful Release of a Toxic Pollutant and a third degree violation of the Asbestos Control and Licensing Act for using an unlicensed asbestos removal contractor who unsafely removed asbestos at Friendship Baptist Church in Paterson. The defendant pled guilty and received a probationary sentence.

State v. Kenneth Fox and Presto Pest Control (Indictment No. 09-05-00087-S)

The State Grand Jury returned a five count indictment against defendants charging them with three different violations of the Pesticides Control Act, third degree, one count of third degree tampering with public records, and one count of fourth degree falsifying records. The defendants are charged with misapplying outdoor pesticides in restaurants and in hotel rooms and falsifying DEP required records to conceal this conduct.

Environmental Fraud

State v. Albert Taylor (Indictment No. 09-04-0060-S)

The State Grand Jury returned a four count indictment against the defendant charging him with racketeering, second degree, and racketeering conspiracy, second degree, and theft, third degree (2 counts). The defendant is charged with defrauding clients who had hired him to provide services relating to determining the integrity of underground storage tanks.

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

The Court sentenced defendant to three years State Prison for submitting false documents that misrepresented that contaminated soil from a DOT project had been properly disposed of when it had in fact been brought to a farm site.

State v. Clyde (Accusation No. 08-06-0464)

The Court sentenced defendant to pay restitution to customers of Garden State Removal. The defendant had pled guilty to third degree Tampering with Public Records.

Natural & Historic Resources

Bureau of Law Enforcement Division of Fish & Wildlife

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



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

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

ATV, boat, foot and occasionally aircraft. They combat complex wildlife crimes and commercialization by the use of conventional patrol and covert operations.

The Bureau is comprised of the administrative element, which includes our special services section and four regional elements. The regional elements are staffed by a Captain (CO I), two Lieutenants (CO II), one Investigator (CO II), one Senior Communications Operator and eight to ten CO IIIs. Each region is divided into two districts. There are three inland and one marine regional element.

In fiscal year 2009, COs performed more than 82,981 hours of Bureau related activities. These hours can be further broken down to 10,405 fishing, 16,111 marine fishing, 10,031 deer hunting, 4,124 hunting, 4,544 WMA and 1,161 non-game endangered species. COs attended and conducted 7,595 hours of training. Additionally, they conducted 64,345 field inspections which resulted in 4,790 complaints signed, 22 criminal arrests and 374 written warnings.

Case Highlights

Northern Region

The Northern Region continues to conduct Black Bear Feeding Enforcement Sweeps with the help of COs from the Central Region Office. Commercial sweeps have been conducted reaching over 50 businesses. To date, COs have investigated 32 black bear feeding complaints and have issued 8 written warnings and 1 complaint.

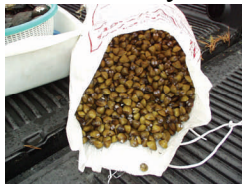
Southern Region

The Southern Region concluded a 2 season investigation into the unlawful harvest and sale of river herring in Atlantic County, specifically the Great Egg Harbor River. The river herring has been deemed a "species of concern" by Fish and Wildlife

agencies along the Atlantic Coast due to extremely low populations. During the course of the investigation two primary covert COs Kille and Stites accompanied herring harvesters while they fished. Uniformed and other plain clothes officers in unmarked cars also assisted during the investigation. Last year 8 people were charged without compromising the identity of the covert officers. This year an additional 8 persons were served with 32 additional complaints. Those complaints ranged from possession of herring over the limit, to unlawful sale and conspiracy to unlawfully sell wildlife. Three search warrants were executed on herring pens which were used to stock pile herring in excess of the legal limit. The covert officers did an excellent job infiltrating the illegal herring trade. Other officers who assisted in the investigation were Lieutenants Honachefsky, Massey and Tonnesen, COs Toppin, Batten, Ciraolo, Ely, Fox, Toppin and Vazquez. Other involved agencies who provided support were the Franklin Twp. Police Department, Cumberland County Drug Task Force, and the Texas Division of Parks and Wildlife. Lieutenant Honachefsky observed that the operation would have netted even more violators, but the herring run has become so diminished that the herring were simply not there to be harvested.

Marine Region

In February 2009, Marine Region COs assisted National Marine Fisheries Service Agents with the simultaneous service of four federal criminal Lacy Act Warrants, two in New Jersey and two in Delaware. The warrants were obtained in connection with an on-going investigation into the over-harvest and under-reporting of oysters taken during the "Direct Market Season" from the State seed beds in the Delaware Bay. The investigation was initiated and developed through New Jersey Marine Unit District 8 Officers' field investigations. The investigation is continuing in conjunction with NMFS agents as evidence obtained is processed. The case is currently under investigation by National Marine Fisheries Service.



On September 23, 2008 CO Petruccelli observed the FV Helen W. Smith offloading croakers at Cold Spring Fish Co. in Cape May. He learned that the vessel had landed its weekly limit of summer flounder under New Jersey regulations on the 22nd and boarded the vessel to inspect the vessel's paperwork. In the wheelhouse of the vessel, CO Petruccelli noticed that the Captain appeared uneasy. In addition, the crew hastily finished its offloading and closed the lid to the fish hold. Sensing that they were hiding something, CO Petruccelli insisted on inspecting the hold of the vessel. On initial inspection it appeared as if the bins only had ice in them. CO Petruccelli dug down below the top layer of ice, approximately two feet, and discovered a load of summer flounder which had not been offloaded. In addition to the fluke was not being listed on the vessel's Federal Fishing Vessel Trip Report; which is a federal violation, it was landed in excess of the NJ weekly limit. CO Petruccelli ordered that the vessel offload all of the concealed fluke. A total of 2,114 lb of fluke was removed from the vessel's hold. The captain stated that it was his intention to land the fluke in his home state of Virginia. CO Petruccelli documented the violations, issuing a state summons to the vessel for landing more than their trip limit of fluke and a federal warning for the failure to accurately complete its FVTR. Upon conviction the vessel faces a penalty and 60 day suspension of its New Jersey Fluke landing Permit.

Special Services Section

Captain Brown and Lieutenant Leonard conducted two six week Basic CO training classes for the eleven COs recently hired and stationed from Sussex County to Cape May. Topics of training included: All State and Federal Fish and Wildlife Law, Extensive instruction in evidence collection procedures, Bureau Policies and Procedures, Field inspection procedures and techniques, Handling of Non-game and Exotic species. The Officers were also given an overview of all Division related programs, presented by the various Bureau or Unit personnel.

Emergency Response to Black Bear related incidents is a necessary task performed by the Bureau of Law Enforcement to protect the citizens while supporting black bear management. The Bureau of Law Enforcement Training Section has offered 9 classes in Police Black Bear Emergency Response since 2007, with another three classes for fall 2009. Over 250 police officers from 21 departments have been trained to date. Officers are taught the proper response relative to incidents involving black bear emergencies. Class room training includes black bear management policies, black bear behavior and various forms of activity documentation. Range training includes hands-on response relative to category I & II black bear issues. Additionally, the Bureau of Law Enforcement is responsible for the firearms training of all Division Wildlife Services personnel as mandated by the Office of the State Attorney General. The Bureau of Law Enforcement conducts approximately 200 hours of training annually in the area of black bear emergency response.



New Jersey State Park Police

The New Jersey State Park Police patrol and protect the State's 54 Parks, Forests and Recreation Areas which encompass an excess of 434,000 acres and are visited by more than 18 million people each year.

The State Park Police are a diverse group of men and women dedicated to safeguarding New Jersey's resources through the prevention of crime, apprehension of criminals, enforcement of criminal and motor vehicle laws of the State and park regulations. They respond to public safety emergencies as well as environmental emergencies, through various methods of patrol, including but not limited to motor, foot, bike and boat.



Case Highlights

On January 23, 2009, officers stationed at Wharton State Forest were on motor patrol in the Carranza Road area located in Tabernacle Township. The Officers identified a large pile of trash, consisting of 14 trash bags, dumped on the side of the road. The investigation provided identification of four names and an address. Officers were able to contact only three of the individuals, as the fourth individual passed away a few weeks earlier. The bags contained trash of the deceased that was discarded by the three individuals. Charges are pending and all trash dumped has been properly disposed.

New Jersey Forest Fire Service

New Jersey Forest Fire Service reported that the agency will receive reimbursements for wildfire suppression on 22 fires where a responsible party was determined.

Fiscal year 2009, included fifty-seven enforcement actions: 5 summons, 2 criminal arson complaints, 11 warning notices, 19 open investigations and 20 administrative remedy actions. Of these, 13 were juvenile offenders.



Pollution Prevention & Right to Know

The Office of Pollution Prevention and Right to Know conducted two workshops on complying with CRTK reporting requirements and one on complying with Pollution Prevention and Release and Pollution Prevention Report requirements. At both Workshops, staff conducted training on the electronic reporting systems.

The Small Business Assistance Program (SBAP) worked closely with US EPA Region 2 on outreach for new Federal regulations regarding the control of metals at auto body shops. As part of this outreach effort the SBAP gave presentations and staffed information booths at the NJ Automotive Expo in

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 approximately 900 businesses. These businesses are located throughout the United States,



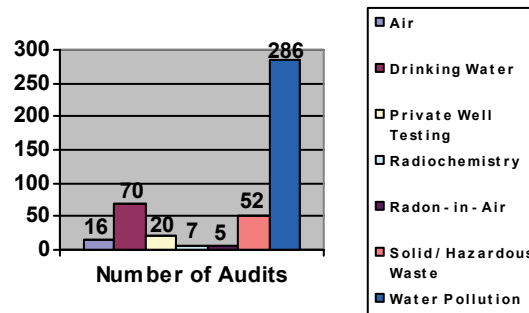
Secaucus and the Waterborne Paint Expo in Hamilton. These Expos allowed the SBAP to distribute hundreds of brochures and directly speak to auto body shop owners and operators on complying with the new Federal rules.

In fiscal year 2009, the SBAP, comprised of two individuals, conducted 358 separate on-site compliance assistance visits. Additionally the SBAP distributed over 4000 compliance calendars which are used by gas stations and dry cleaners to keep track of monitoring requirements associated with their NJDEP Air Permits.



Canada, Europe, Asia and South America. 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 2009 numbers relating to these two activities:

On-Site Audits



Performance Test Samples		
	Total Analyzed	Total Found Acceptable
Drinking Water	8,509	154
Radiochemistry	75	1
Radon-in-Air	12	0
Solid/Hazardous Waste	6,479	188
Water Pollution	11,908	655

On-Site Audits/Performance Test Samples

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

Technion Inc. (Lab ID #07004) Nutley Township, Essex County

An on-site audit conducted by the OQA in June 2006 revealed numerous deficiencies by this laboratory regarding its analytical procedures for

testing and reporting of regulatory samples in the Water Pollution and Solid/Hazardous Waste programs. A number of the deficiencies found during the June 2006 on-site audit were reoccurring findings found on previous audits (1999 and 2001) of the laboratory.

The laboratory had a history of problems consisting of repeat findings, unresolved issues and administrative orders. The on-site audit conducted in 1999 resulted in an AONOCAPA which assessed a civil penalty in the amount of \$65,000.00. The on-site audit conducted in 2001 resulted in an AONOCAPA which assessed a civil penalty in the amount of \$53,250.000. Additional AONOCAPAs with civil penalties were issued from June 1998 through July 2007 for failure to submit results for annual proficiency testing samples.

Repeat findings and administrative orders from previous on-site audits in conjunction with the findings from the June 2006 on-site audit resulted in an AONOCAPA and NCR. The Department issues the AONOCAPA and NCR in December 2007. In May 2009 Technion Inc. withdrew from the New Jersey Environmental Laboratory Certification Program (ELCP) and can no longer analyze and report compliance data to the Department.

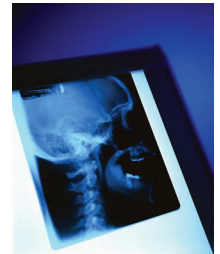
Radiation

Initiatives

X-ray Inspections

The Bureau inspected 2,655 facilities and evaluated compliance of 6,913 x-ray machines in fiscal year 2009.. These inspections resulted in the issuance of 719 enforcement documents (NOV, AO & NOP). There were 1,108 violations of radiation protection codes of which 330 (29.8 percent) were violations of quality assurance regulations and 778 were of other radiation protection regulations. The majority of quality assurance violations were for failure to conduct various quality control tests, 205 (62 percent) and failure to have an annual medical

physicist's survey performed, 69 (21 percent). The majority of violations in non-quality assurance categories were for failure to pay registration fees, 290 (37 percent); equipment performance issues, 104 (13 percent); failure to perform and/or submit radiation safety surveys, 76 (10 percent); failure to register x-ray equipment with the Department, 72 (9percent); failure to monitor employees radiation exposure, 51 (7 percent); and permitting the operation of x-ray equipment without a license, 48 (6 percent).



Mammography Facilities Inspected

In fiscal year 2009, the Bureau conducted 227 federally mandated Mammography Quality Standards Act (MQSA) facility inspections and discovered violations of MQSA regulations at 32 facilities (14.1%), which were forwarded to FDA for final action. New Jersey facilities exceeded national compliance rates (85.9% vs. 77.3 %) as reported by FDA.

Technologist Certification Section

License verification activities discovered 64 individuals working without a license or with an expired license. These individuals and/or their employers were assessed civil penalties. In FY 2009, the Section dedicated significant resources towards performing on-site compliance inspections of its limited radiologic technology programs. The Section conducted nine on-site inspections of educational programs and evaluated two applications for sponsorship of new educational programs; the nine inspections conducted in FY 2009 were the most conducted in any fiscal year.

Release Prevention

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

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

Discharge Prevention Program

Owners or operators of facilities that store 20,000 gallons or more of hazardous substances other than petroleum or petroleum products, or 200,000 gallons or more of hazardous substances of all kinds are regulated under the Discharge Prevention rules. The Discharge Prevention program inspects regulated facilities to evaluate implementation of their discharge prevention program as well as to evaluate physical conditions. Site visits are also conducted for technical review of operations during initial plan approval or existing plan renewal. Bureau staff perform comprehensive inspections and reviews of facilities. Inspections are conducted unannounced each year except during plan renewal. Technical site visits are conducted every three years during the DPCC/DCR plan renewal process. During inspection a Notice of Violation is issued for any out of compliance items found. Non-minor violations are elevated to a formal enforcement action. Currently, there are 300 sites covered by the Discharge Prevention rule. The Bureau conducted inspections at 186 facilities and technical site visits at 123 facilities in fiscal year 2009.



TCPA PROGRAM

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

Inspections and audits conducted by the TCPA program's chemical safety engineers cover the management system for the facility's risk management program including the procedures, records and reports, and tracking systems, along with an inspection of the equipment and controls of the covered process. If the TCPA program finds material deficiencies, which are inadequacies or omissions of an owner's

or operator's risk management program that reduces the effectiveness of the risk management program, a consent agreement, which includes the description of the finding and a corrective action, is issued.

Currently, there are 85 sites covered by the TCPA rule. The Bureau completed inspections or audits of 55 sites last year. In addition to enforcement actions issued to facilities resulting from compliance inspections, consent agreements were issued to 3 new facilities, and 3 consent agreement addenda were issued for existing facilities.

Rule Readoption with Amendments

In FY2009 the Department readopted with amendments the Toxic Catastrophe Prevention Act (TCPA) rules at N.J.A.C. 7:31. The Bureau held a free workshop in June 2009 to assist in understanding and complying with the amended rules. It was attended by approximately 100 people comprised of members of the regulated community, environmental and labor groups, and safety professionals. The workshop slides are available on the Bureau website referenced above.



Site Remediation Waste Management

Initiatives

The availability of the federal stimulus money prompted the Department to issue 21 Spill Act directives to responsible entities, directing them to pay the Department to conduct remediation at their sites. The sites were selected based on the recalcitrance of the responsible parties to conduct the required actions for which they were previously notified and/or the risk of a given under-investigated site to human and ecological receptors. Of the 21 parties directed, 5 have agreed to conduct the remediation at their respective sites upon receipt of the directive and the remaining 16 sites will be remediated using public funds provided under the American Recovery and Reinvestment Act of 2009.

Case Highlights

On April 30, 2009, after numerous months of negotiations, Citgo Petroleum Corporation and the Department came to an agreement on the remediation of 527 acre Petty's Island which was used as an oil refinery since 1918. Citgo Petroleum Corporation executed an Administrative Consent order with the Department which includes a timeline for the remediation of the Island to be completed within a period of 12 years. In addition, the ACO also requires that Citgo establish a remediation funding source to

guarantee the completion of the remediation of the Island. Upon completion of the remediation, and working in conjunction with the Natural

Lands Trust, Citgo will establish a wildlife viewing facility or cultural center and environmental education facility on the island. The entire island will be maintained as a nature reserve. The Island is currently home to Bald Eagles and numerous other birds and wildlife. This Island will be held permanently in its natural state for New Jersey students and residents to enjoy.



