

CIC/NJ

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June 6, 1990

TO: CIC/NJ Executive Committee and Board of Directors
FROM: Carla Israel, Associate Director
RE: Clean Water Enforcement Act

Attached, at your request, is a fact sheet on the recently enacted Clean Water Enforcement Act. Included, are the key provisions of the act along with a chart of the civil and criminal penalties and various other aspects of the mechanisms of the law.

If you have any further questions, please don't hesitate to contact either Hal or myself.

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CLEAN WATER ENFORCEMENT ACT Fact Sheet

The Clean Water Enforcement Act is the strongest water pollution enforcement law in the nation. It provides, for the first time, mandatory fines and penalties for violating the terms of permits that govern the discharge of wastewater into our waterways and sewage treatment plants.

It sets stiff criminal penalties for reckless, negligent water pollution. And, it gives the public more power to discover and act against polluters.

Most of those covered by the law are industrial facilities and sewage treatment plants. The prime pollutant target is wastewater: the liquid byproduct that remains when solids are removed from materials being processed for disposal. Such wastewater is a major source of pollution in lakes, rivers and streams, as well as the ocean.

The law being signed by Governor Florio requires stricter monitoring by sewage treatment plants of industrial dischargers. This, in addition to the penalties, will help put pressure on industries to properly treat their wastes.

WHAT ARE THE KEY PROVISIONS OF THE ACT?

* Any person discharging wastewater into the surface or ground water must obtain a New Jersey pollutant discharge permit from the Department of Environmental Protection.

* The permit sets the terms and conditions under which a permittee may discharge wastewater, based on DEP's assurance that the amount or concentration of pollutants being discharged will not harm the receiving waters or the public health.

* Those required to obtain permits will include: publicly owned treatment works (POTWs), industries discharging directly into water or large industrial facilities discharging into POTWs.

* For the first time, this Act clearly defines permit violators, sets specific mandatory civil and criminal penalties, outlines new reporting and inspection requirements and provides for the creation of two special dedicated fund accounts to collect penalty money which would be used for training and for loans to local governments to upgrade treatment facilities.

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UNDER THESE NEW, STRICTER REPORTING AND INSPECTION REQUIREMENTS, WHAT ACTIONS CAN BE TAKEN TO MONITOR DISCHARGE ACTIVITY?

* The highest ranking official with day-to-day responsibility for operating a plant must sign the monitoring reports.

* Facilities must report any violation which poses a threat to health or the environment within 2 hours.

* Sewage plants must inspect facilities of permitted dischargers and do analyses of incoming pollutants.

HOW DO THE TWO SPECIAL DEDICATED FUNDS WORK?

1. The "Clean Water Enforcement Fund," will be sustained by money from penalties, fines or other enforcement actions taken by DEP in response to violations of the Act. Also dedicated to the fund will be assessments or damages collected as a result of loss or destruction of wildlife, aquatic life or other natural resources.

The money will go toward DEP's enforcement and implementation responsibilities and the existing "Wastewater Treatment Fund" for use in providing loans to local governments to upgrade wastewater treatment facilities.

2. The "Wastewater Treatment Operators' Training Account," will be established to provide money for the training and continuing education of wastewater treatment operators. It will be funded by 10 percent of the penalties collected in actions brought by local agencies for violations of the Act. The remaining 90 percent will be used for continued enforcement of the Act and the upgrade of municipal treatment works.

HOW WILL THE PUBLIC BE MADE AWARE OF LOCAL VIOLATORS?

DEP must provide an annual report to the Governor and the Legislature in March of each year which documents all data relevant to the enforcement of the Act. Within 30 days of the release of that report, the Commissioner of DEP shall provide a written notice for publication in at least one newspaper in each county identifying the name and location of all "significant noncompliers."

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CIVIL PENALTIES

VIOLATION	PENALTY
1. Serious Violation Violation of a water permit limit by 20% over for a hazardous pollutant and 40% over for a .. non-hazardous pollutant.	\$1,000 mandatory minimum fine
2. Significant Non-Complier a. Two Serious Violations within 6 months; b. A violation of a permit by any level for any single pollutant 4 times in 6 months c. Failure to submit monitoring reports for any 2 months in a 6 month period.	1) \$5,000 mandatory minimum fine 2) Increased inspections by State Department of Environmental Protection (DEP) 3) Publication of identity in annual DEP report; 4) Notification of identity to newspapers.
3. Reporting violations Omission of permit level on a monitoring report	\$100 per day per limit

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CRIMINAL PENALTIES

VIOLATION	PENALTY
1. Purposeful, knowing, violation of permit limitation, or discharge without a permit, which places person in imminent danger of death or serious injury	1ST degree crime: fine of \$30,000 - \$250,000: (for corporation \$200,000 - \$1,000,000) per day of violation, or imprisonment or both
2. Purposeful, knowing or reckless violation which causes a significant adverse environmental impact	2ND degree crime: fine of \$25,000 - \$250,000 per day of violation, or imprisonment, or both
3. Purposeful, knowing, reckless violation, false statement, tampering with equipment, etc.	3RD degree crime: fine of \$5,000 - \$75,000 per day of violation, or imprisonment, or both: mandatory 10 days imprisonment
4. Negligent violation of Act	4TH degree crime: fine of \$5,000 - \$50,000 per day of violation, or imprisonment, or both

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