
4 Compliance

The Department of Defense (DoD) must comply with applicable laws, regulations, Executive Orders, Final Governing Standards, and agreements designed to protect human health and the environment. The DoD Compliance Program policy objectives are to:

- Plan, program, budget, and execute projects and activities that help DoD achieve compliance
- Promote the development and use of innovative compliance solutions
- Conduct internal and external compliance assessments
- Correct identified issues promptly
- Reduce compliance costs

Compliance at a Glance:

Fiscal Year (FY) 2010 funding: **\$1.5 billion**, a **one percent** decrease from FY09

Program Accomplishments:

- Increased percentage of compliant water permits to **93 percent** during first half of calendar year (CY) 2010
- Provided safe drinking water to **97 percent** of the Department of Defense population during first half of CY10
- Decreased total fines and penalties assessed **85 percent** during FY10
- Decreased hazardous air pollutant emissions **25 percent** since CY06

Requirements

The Compliance Program covers all Department of Defense (DoD) operations, activities, and installations within the United States and its territories and includes government-owned and contractor-operated facilities. The Department's Compliance Program also includes overseas installations, as determined by the Office of the Secretary of Defense. These laws, Executive Orders (E.O.s), and DoD Instructions (DoDI) provide specific criteria for the Compliance Program:

- Clean Air Act (CAA)
- Clean Water Act (CWA)
- Emergency Planning and Community Right-to-Know Act
- National Environmental Policy Act
- Resource Conservation and Recovery Act (RCRA)
- Safe Drinking Water Act (SDWA)
- Solid Waste Disposal Act
- Toxic Substances Control Act
- E.O. 13423, "Strengthening Federal Environmental, Energy, and Transportation Management"
- E.O. 13514, "Federal Leadership in Environmental, Energy, and Economic Performance"
- DoDI 4715.6, "Environmental Compliance"
- DoDI 4715.5, "Management of Environmental Compliance at Overseas Installations"

Program Summary

Compliance is not an independent environmental program. It is part of a systematic approach to achieve environmental objectives. DoD integrates this program with other programs like the Pollution Prevention Program. As such, DoD prefers to achieve compliance by implementing pollution prevention activities and does so when practicable and feasible.

The Department uses a prioritized selection process to fund compliance projects and activities. This process is based upon specific criteria (e.g., current compliance status, pending regulatory requirements, and anticipated compliance deadlines) and ensures DoD meets its program objectives in a cost-effective manner.

For more information, please go to

<http://www.denix.osd.mil/em>

Air Quality

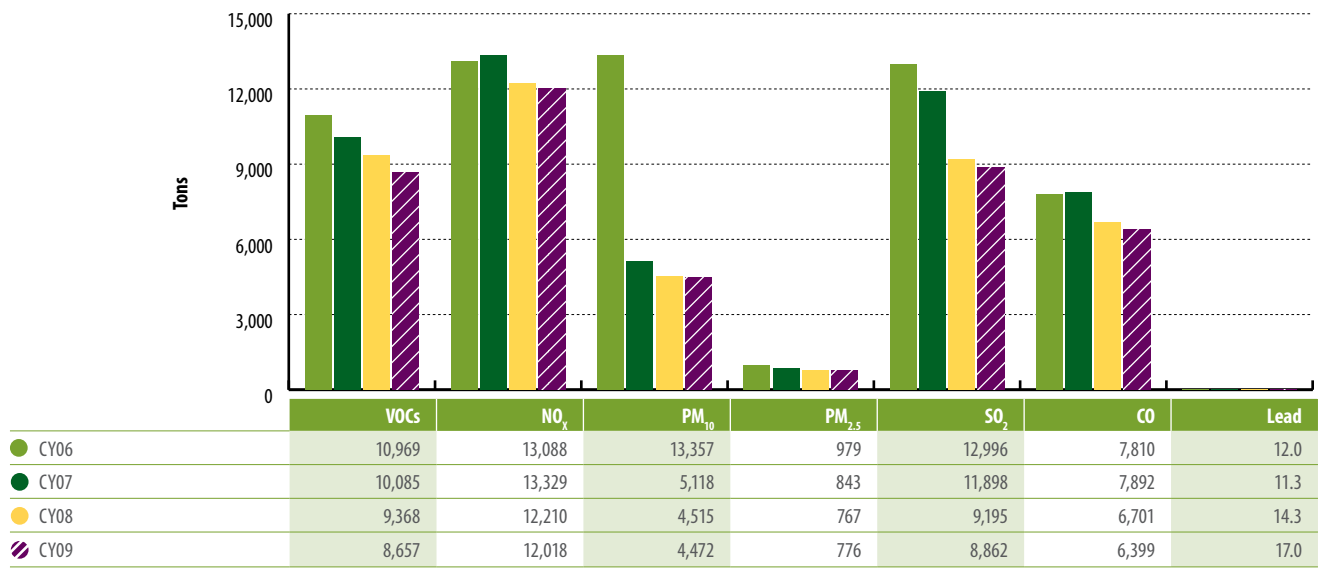
During CY09, DoD decreased:

- Volatile organic compound emissions by **eight percent**
- Sulfur dioxide emissions by **four percent**
- Carbon monoxide emissions by **five percent**

Overview

DoD operations are subject to many requirements designed to protect and enhance air quality. These operations require permits for regulated emissions and must comply with permit terms and conditions. The Department implements internal policies, procedures, program objectives, and best management practices to reduce emitted pollutants and protect air quality. DoD's Clean Air Act Services Steering Committee, led by the Navy, supports these efforts.

Figure 4-1 DoD Criteria Pollutant Emissions from Stationary Sources (U.S. and Territories & Overseas)



Evaluation Criteria

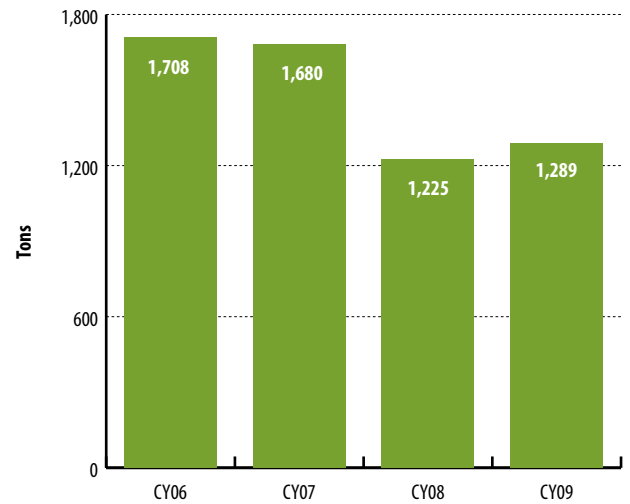
DoD set these goals to protect air quality:

- Manage air pollutant emissions to protect public health, meet national clean air standards, and maximize operational flexibility
- Make appropriate investments to promote the attainment of National Ambient Air Quality Standards and enhance the training/operations flexibility in maximizing the use of air resources

DoD installations with CAA operating permits calculate and report their criteria pollutant and hazardous air pollutant (HAP) emissions to their permitting authority. DoD aggregates and analyzes the reported emissions and compares them to the previous year's emissions to establish overall air emission trends. DoD measures emissions for the six criteria pollutants (and their regulated precursors where applicable) and 187 HAPs as an overall indicator to help evaluate progress toward these goals. The six criteria pollutants are:

- Ozone (O₃) (reported as precursor emissions of volatile organic compounds (VOCs) and NO_x)
- Nitrogen dioxide (reported as NO_x)
- Particulate matter (regulated as PM_{2.5} and PM₁₀)
- Sulfur dioxide (SO₂)
- Carbon Monoxide (CO)
- Lead

Figure 4-2 DoD Hazardous Air Pollutants from Stationary Sources (U.S. and Territories & Overseas)



Performance Summary

In CY09, SO₂ and CO emissions decreased four percent and five percent, respectively. DoD's lead emissions increased 19 percent in CY09 due to the use of new emission factors not available before CY09 (Figure 4-1).

Although HAP emissions increased five percent between CY08 and CY09, the overall trend of HAP emissions shows a 25 percent decrease since CY06 (Figure 4-2).

Appendix D, Section 4 contains Air Quality performance data by DoD Component.

Clean Water

From CY09 through the first half of CY10, DoD increased the percentage of:

- CWA compliant water discharge permits from **92 to 93 percent**
- Overseas compliant wastewater discharge facilities from **85 to 91 percent**

Overview

DoD operations generate point source and non-point source discharges to surface waters, which can adversely affect surface water quality. DoD's point source discharges and pollutants commonly originate from installation sewage treatment plants, industrial wastewater treatment facilities, and combined sewer overflows. The Department's non-point source discharges and pollutants are from stormwater runoff that flows across construction sites, range operations, and shipyards.

Most operations that generate discharges into water bodies must obtain permits for the discharges of regulated pollutants and comply with permit terms and conditions. DoD's two most common water pollution control permits administered under the CWA are:

- National Pollution Discharge Elimination System permits for sanitary sewage, industrial wastewater, and stormwater discharges
- Pre-treatment permits for discharges of sanitary sewage and pre-treated industrial wastewaters discharged to the local Publicly Owned Treatment Works before discharged to bodies of water

Evaluation Criteria

DoD's clean water goals are to:

- Manage domestic and industrial wastewater and stormwater effectively to protect public health, meet clean water standards, and maximize operational flexibility
- Protect watersheds and ensure availability of discharge capacity to support mission

The Department reports these performance metrics:

- In the United States and its territories: Percentage of water pollution control permits compliant with applicable requirements
- Overseas: Percentage of facilities that discharge regulated wastewater or stormwater compliant with Final Governing Standards (FGS)

Performance Summary

During the first half of CY10, 93 percent of the 1,471 DoD water pollution control permits were compliant with the CWA (Figure 4-3). DoD's compliance trend over the past five years has remained at or above 92 percent. From CY06 through the first half of CY10, the total number of CWA permits continued to decrease, primarily due to base closures, the consolidation and elimination of discharges, and the privatization of wastewater utilities.

During the first half of CY10, 91 percent of the 234 overseas DoD facilities discharging wastewater or stormwater were compliant with FGS (Figure 4-4). Overseas compliance increased over 25 percent from CY06 through the first half of CY10.

Appendix D, Section 4 contains Clean Water performance data by DoD Component. For more CWA information, please go to <http://www.denix.osd.mil/cwa>

Safe Drinking Water

From CY09 to the first half of CY10, DoD increased the percentage of the DoD population served by DoD public water systems that meets established drinking water requirements from **96 to 97 percent** (Figure 4-5).

Overview

DoD provides drinking water to 3.4 million people living and working on DoD installations. In the United States and its territories, public water systems supply drinking water. These water systems must comply with National Primary Drinking Water Regulations administered under the SDWA. However, DoD's overseas public water systems must comply with FGS. These limits ensure potable water meets relevant drinking water standards.

Figure 4-3 Percent of DoD Clean Water Pollution Control Permits Compliant with Clean Water Act (U.S. and Territories)

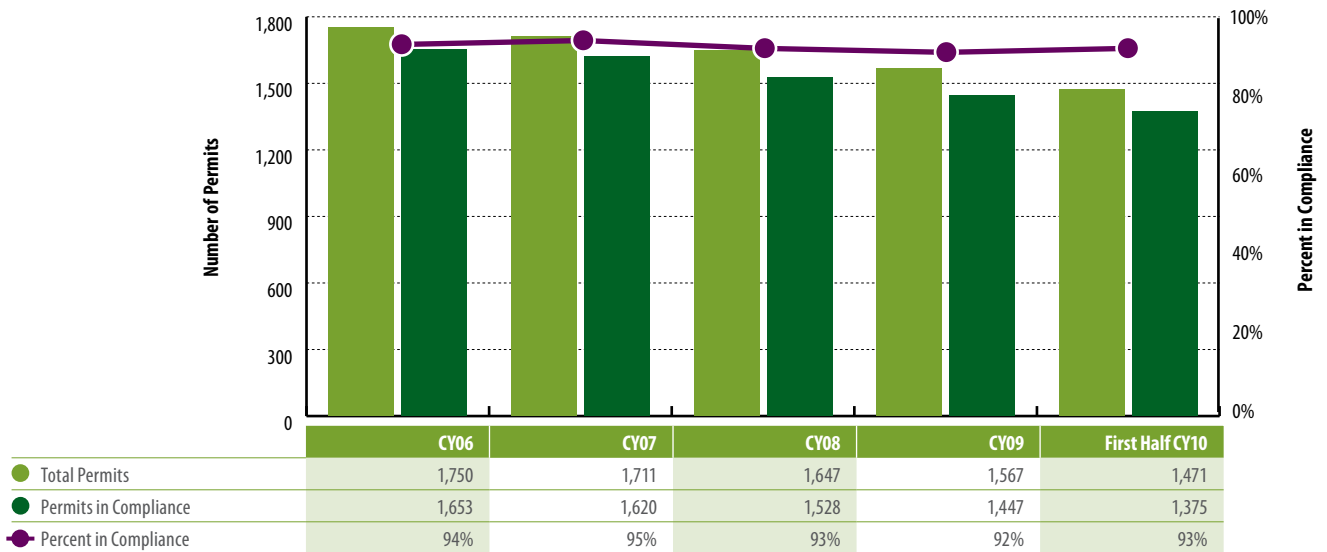
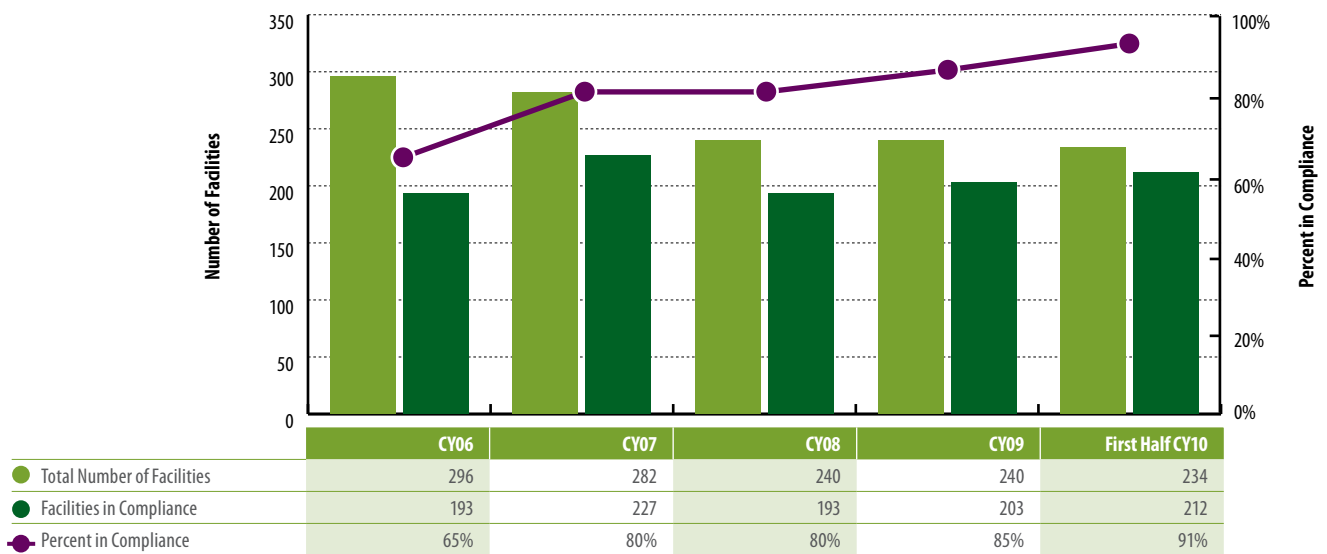


Figure 4-4 Percent of DoD Facilities Discharging Wastewater that are Compliant with Final Governing Standards (Overseas)



Evaluation Criteria

DoD’s public water system goals are to:

- Provide safe drinking water to protect the health of people living and working on its installations
- Distribute public water in compliance with relevant standards to 100 percent of the DoD population
- Support military readiness by conserving resources through efficient management of drinking water assets

DoD evaluates safe drinking water for both U.S. and overseas operations using the following performance metric:

- Percentage of DoD population served by DoD public water systems that meets established drinking water requirements (e.g., SDWA and FGS)

Performance Summary

In the first half of CY10, DoD provided safe drinking water to 97 percent of the population served (over 3.4 million people worldwide [Figure 4-5]). In cases where regulatory

Figure 4-5 Percent of DoD Population Served by DoD Public Water Systems in Compliance with Applicable Requirements (U.S. and Territories & Overseas)



* Compliance rates are calculated from exact populations

standards were not met, DoD fixed the issue immediately or provided alternative drinking water.

Appendix D, Section 4 contains Safe Drinking Water performance data by DoD Component.

Enforcement Actions

From FY09 to FY10, DoD decreased:

- Total fines and penalties assessed by **85 percent**
- CAA new enforcement actions by **24 percent**
- SDWA new enforcement actions by **20 percent**

Overview

DoD is committed to full and sustained compliance with applicable federal, state, and local environmental requirements. Despite the Department’s efforts to comply, events occur that cause non-compliance. During these events, regulatory agencies may issue enforcement actions. DoDI 4715.6 defines an enforcement action as any formal, written notification by EPA or other authorized federal, state, inter-state, regional, or local environmental regulatory agency of violation of any applicable statutory or regulatory requirement. An open enforcement action is an enforcement action that has been issued but is not yet resolved by the end of the reporting period

(September 30). A new enforcement action is an enforcement action received during the reporting period (October 1–September 30). The date of an enforcement action is the date the installation receives formal written notification from the regulating authority. In general, the most serious enforcement actions may include fines or non-monetary penalties that the regulatory agency assesses.

DoD tracks Compliance Program enforcement actions administered under the authority of the following:

- CAA (air quality)
- CWA (wastewater and stormwater)
- RCRA Subpart C (hazardous waste)
- RCRA Subpart I (underground storage tanks)
- RCRA Subpart D (solid waste)
- SDWA (drinking water)

Evaluation Criteria

DoD’s enforcement action goals are to:

- Maintain full and sustained compliance with environmental laws (U.S. and territories) and environmental obligations (overseas)
- Maintain robust self-audit and corrective action programs
- Identify and correct non-compliance in a timely manner

DoD reports the following metrics to evaluate performance toward enforcement action goals:

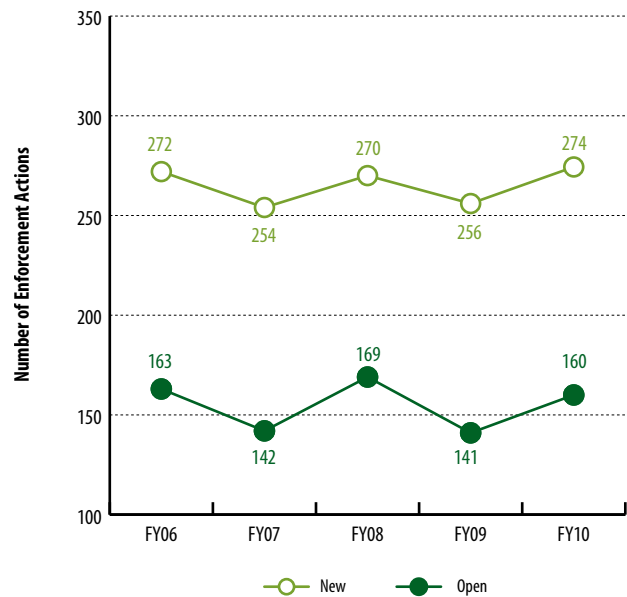
- Number of new and open enforcement actions (U.S. and territories, and overseas)
- Number of new inspections (U.S. and territories, and overseas)
- Number of new enforcement actions by statute (U.S. and territories, and overseas)
- Total monetary fines and penalties

Performance Summary

Although there was a 12 percent increase in the number of inspections in FY10, the percent of inspections resulting in enforcement actions remained constant at 9 percent, down from 11 percent in FY06 (Figure 4-6). In FY10, DoD reported 274 new enforcement actions and 160 open enforcement actions, a 7 percent and 13 percent increase respectively from FY09 (Figure 4-7). The increase in open enforcement actions is primarily due to the extended time taken to respond to requests to close completed enforcement actions.

In FY10, new enforcement actions for CAA, RCRA/D, and SDWA decreased, while new enforcement actions for CWA, RCRA/C, RCRA/I, and Other increased (Figure 4-8). Despite an increase in local and EPA fines in FY10, the total

Figure 4-7 Number of New and Open DoD Enforcement Actions (U.S. and Territories & Overseas)



amount of DoD fines and penalties assessed decreased 85 percent (Figure 4-9).

Appendix D, Section 4 contains enforcement action performance data by DoD Component.

Figure 4-6 Number of Inspections and New Enforcement Actions (U.S. and Territories & Overseas)

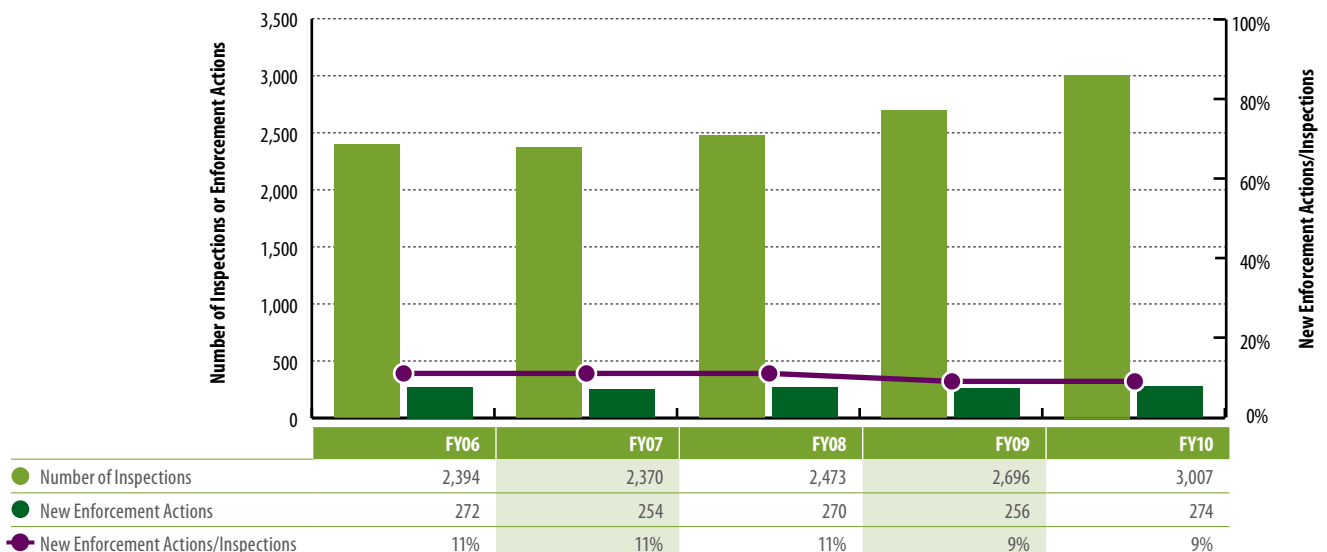
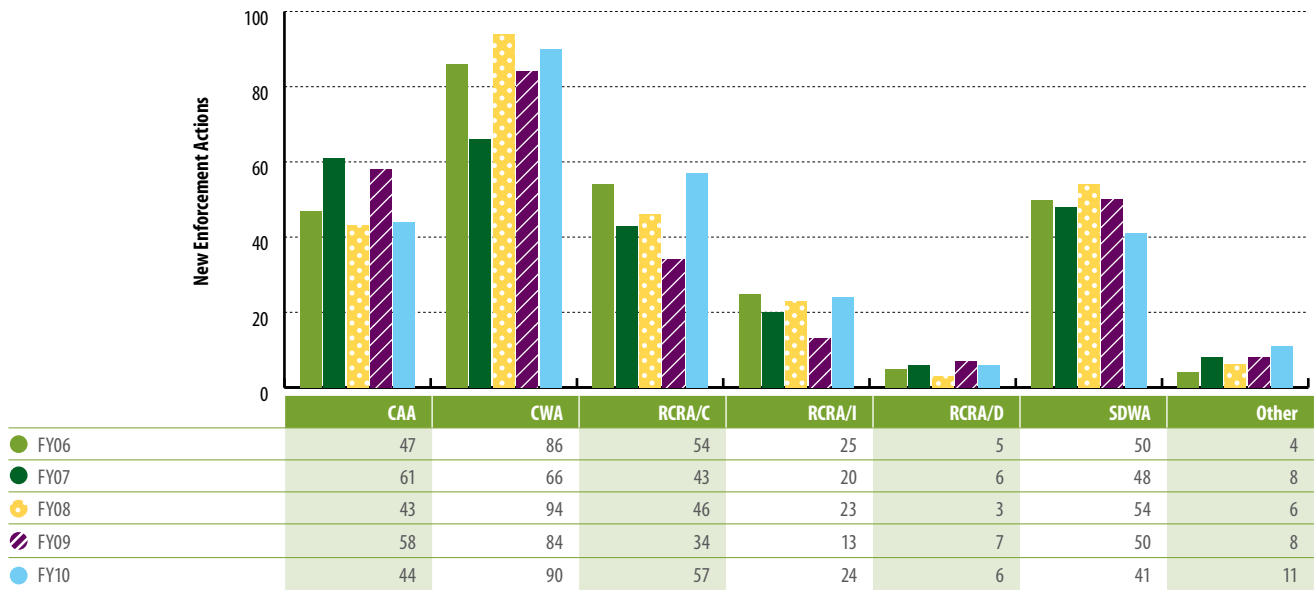
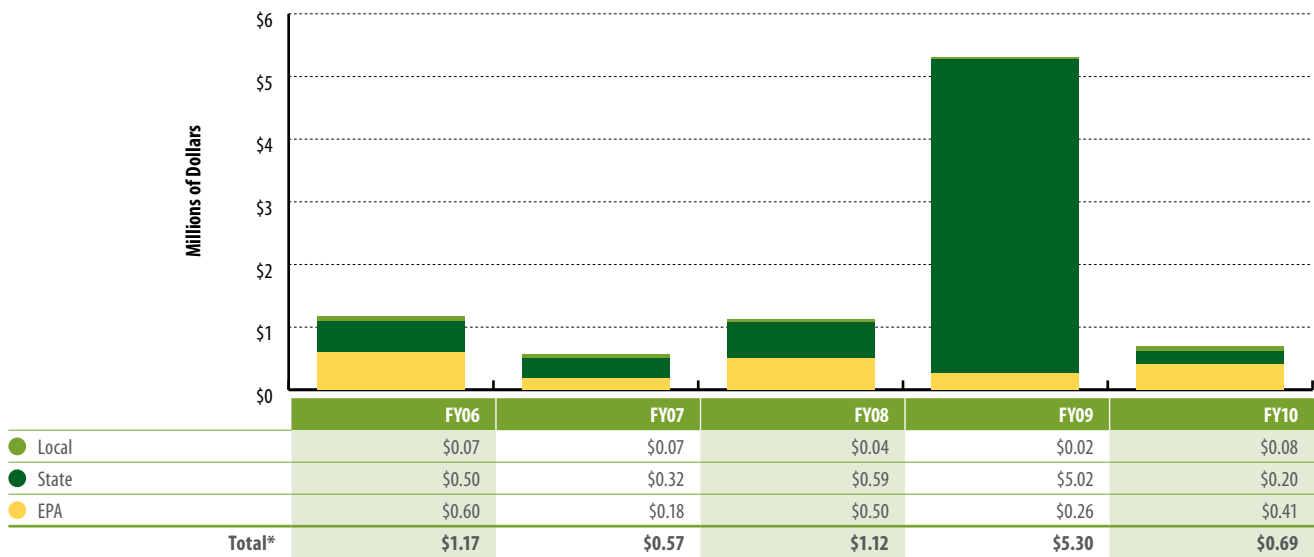


Figure 4-8 Number of New Enforcement Actions by Statute (U.S. and Territories)*



* Excludes new overseas enforcement actions by media.

Figure 4-9 DoD Monetary Fines and Penalties Assessed (Millions of Dollars)



* Subtotals may not add to total due to rounding.