

The *FY 1995 Enforcement and Compliance Assurance Accomplishments Report* was prepared by the Targeting and Evaluation Branch within the Office of Enforcement and Compliance Assurance. Information contained in the report was supplied by the EPA regional offices and the Office of Enforcement and Compliance Assurance.

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## ACRONYMS

ADR	Alternative Dispute Resolution
BIF	Boilers and Industrial Furnaces
CAA	Clean Air Act
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFA	Civilian Federal Agency
CWA	Clean Water Act
DOD	Department of Defense
DOE	Department of Energy
DOI	Department of the Interior
DOJ	Department of Justice
EPA	Environmental Protection Agency
EPCRA	Emergency Planning and Community Right-to-know Act
FAA	Federal Aviation Administration
FFCA	Federal Facilities Compliance Act
FFEO	Federal Facilities Enforcement Office
FIFRA	Federal Insecticide, Fungicide, and Rodenticide Act
FY	Fiscal Year
MED	Multimedia Enforcement Division
MOA	Memorandum of Agreement
NETI	National Enforcement Training Institute
NOV	Notice of Violation
NPDES	National Pollutant Discharge Elimination System
OC	Office of Compliance
OCEFT	Office of Criminal Enforcement, Forensics, and Training
OECA	Office of Enforcement and Compliance Assurance
OPA	Oil Pollution Act
PPA	Pollution Prosecution Act
PRP	Potentially Responsible Party
RCRA	Resource Conservation and Recovery Act
SDWA	Safe Drinking Water Act
SEP	Supplemental Environmental Project
TSCA	Toxic Substances Control Act
USDA	United States Department of Agriculture
UST	Underground Storage Tank
WPS	Worker Protection Standard

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## **1. INTRODUCTION**

In Fiscal Year 1995 (FY95), the Environmental Protection Agency (EPA) made significant strides in protecting the American people from the ills of environmental pollution and restoring the quality of our nation's environment. This work in FY95 led to the reduction of thousands of tons of pollutants being dumped into the country's rivers and streams, leaked into the soil, and spewed into the air by those caught violating the federal environmental laws. These accomplishments are the result of a common-sense approach to environmental enforcement - one that combines strong criminal and civil cases, swift administrative actions, policies and programs designed to provide incentives to companies to voluntarily confront, report, and correct their environmental violations, and compliance assistance measures principally targeted at small businesses.

FY95 marked the first full year following the reorganization of the Agency's enforcement and compliance program. The expansion of the types of tools that EPA uses to ensure environmental protection through compliance fully complements the existing criminal and civil enforcement programs. The civil and criminal enforcement programs are the bulwark of efforts to punish environmental violators, deter would-be violators, and ensure a level playing field so violators do not gain an unfair competitive advantage over law-abiding members of the regulated community. The integration of all these approaches in FY95 has made the impact of EPA's actions more far-reaching than ever. Precedential enforcement cases have sent strong messages that the environmental cop remains on the beat, and companies, both large and small, are availing themselves of the compliance incentives provided by new EPA policies and the various compliance assistance programs that have recently been developed at the state and federal levels.

This report of EPA's FY95 accomplishments describes the results of these efforts. Section 2 of this report details various activities related to monitoring compliance with the environmental laws. On-site inspections, investigations, and other information-gathering techniques are used to identify and assess violations, allowing the Agency and its state partners to appropriately address those problems posing the greatest risks to human health and the environment. These compliance monitoring activities remain a vital conduit between the Agency and the regulated community, and help to provide the best picture of individual instances of noncompliance.

Section 3 details significant criminal, civil, and administrative enforcement actions, and the results achieved on behalf of the American public and the environment. These and other cases brought by the Agency and the Department of Justice (DOJ) continue to be a highly effective means of ensuring broad-based compliance. In every medium, and in every state, environmental enforcement actions have led to huge reductions of pollutants that would otherwise spoil our environment in violation of our laws. The results of many of the cases, set forth in this section of the report, demonstrate the immense value of this part of the enforcement and compliance program.

Sections 4 and 5 deal, respectively, with various compliance incentive and compliance assistance approaches used in FY95. This past fiscal year has seen tremendous progress on each of these fronts, which is the direct result of the previous year's reorganization of the Office of

Enforcement and Compliance Assurance (OECA) - new approaches building on traditional successes. EPA's promulgation of final Agency policies on self-detection, self-reporting, and self-correction, and for small businesses, offer the regulated community increased incentives to take full responsibility for their actions, and for their compliance with environmental laws. These and other approaches embody a recognition that environmental results are EPA's bottom line; these results are maximally achieved when a company monitors its own pollution practices, and when those who responsibly come forward to correct their violations are treated differently (i.e., better) than those who abuse the public trust in failing to discover and disclose their violations. EPA also created several national compliance assistance centers in FY95, which will serve several sectors of the regulated community and help those entities understand and comply with environmental protection requirements. Working with the states, Native American tribes, and the regulated community, these and other programs are reaching increasing numbers of people, which will continue to yield benefits from compliance far into the future.

Section 6 of the report focuses on additional new approaches EPA is using to address environmental pollution resulting from noncompliance. These activities include a range of targeting approaches that address multimedia compliance issues, industrial sectors, and geographic areas. In addition, these approaches are being employed in the specific context of environmental justice issues. In FY95, the Office of Environmental Justice became a part of OECA. Efforts designed to ensure that no one suffers disproportionately from the effects of environmental violations remain a priority in EPA's enforcement program. Section 7 deals with infrastructure issues, including training and guidance that support state and federal environmental enforcement and compliance programs. Section 8 discusses EPA's FY95 actions that measure the results of the overall program. New approaches in this regard are critical and are evolving to account for the expansion of enforcement and compliance-related tools now in use by the Agency. The Appendix to this report highlights significant criminal, civil, and administrative actions taken in FY95.

This FY95 accomplishments report documents an impressive array of achievements by EPA. These programs and policies work in concert to bring measurable results to the American people - cleaner and healthier air, water, and land. Enforcement and compliance continues to play a vital, and irreplaceable, role in the mission of EPA to ensure that the country's environmental laws work to their fullest extent in protecting our environment.

## **2. MONITORING COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS**

Compliance with the nation's environmental laws is not discretionary, and the vital protections that our laws afford the American public depend on adherence to their requirements. Compliance monitoring activities provide a crucial link between the regulated community, the Agency, and the American people. Information garnered through these activities serves many purposes: 1) it allows the Agency to carry out its mission of protecting public health and the environment from pollution by providing necessary data on the effectiveness of our environmental laws, and other Agency programs; 2) it allows the Agency, and OECA in particular, to address the greatest risks to human health and the environment through priority targeting and remedial work; 3) it ensures that the environmental laws are being complied with uniformly, so that those who violate the law do not gain a competitive advantage through noncompliance; and 4) it helps OECA focus compliance incentives and compliance assistance programs on those sectors, or entities, that need the most regulatory attention.

There are several broad categories of compliance monitoring activities, including on-site inspections, investigations, record reviews, settlement oversight, and targeted information gathering. Many of the environmental statutes require facilities to monitor their own pollution practices, and provide periodic status reports regarding their various emissions. In addition to reviewing these required reports, the Agency has other information-gathering authorities that may be used to obtain specific information from a targeted facility or industrial sector. Inspections and/or other investigations also occur on a routine basis, or in response to tips or other information provided by the public. Finally, settlement oversight involves monitoring a facility's compliance with terms of any agreements reached with the Agency as a result of an enforcement action or a court order.

These and other compliance monitoring activities are used by OECA to most appropriately target those violations that pose the greatest risks to human health or the environment. Depending on the nature and scope of any violations discovered as a result of these monitoring activities, criminal, civil, or administrative enforcement actions may be taken to provide immediate relief from the illegal pollution activity, and other protective measures may be sought. Inspection results are also used to inform the office's compliance incentives and compliance assistance programs. These types of information exchanges ultimately provide the foundation for allowing EPA to administer the nation's environmental laws in the most fair, effective, and efficient way possible - one that provides the maximum benefits to the American people and the regulated community as well.

In FY95, EPA and the states conducted 90,671 inspections at regulated facilities across the nation. Table 2-1 shows the number of inspections conducted under each environmental statute for each of the 10 EPA regions.



**Table 2-1  
FY 1995 Inspections at Regulated Facilities**

Statute/Program Area	Region										Totals
	I	II	III	IV	V	VI	VII	VIII	IX	X	
CAA (EPA and State)	939	251	9,991	4,834	6,688	2,936	2,151	1,081	1,667	225	30,763
CWA (EPA and State)	434	617	614	1,289	924	757	297	234	229	266	5,661
	33	35	61	206	169	41	61	31	58	12	707
EPCRA	32	100	91	137	36	27	37	22	60	40	582
FIFRA	-	-	-	-	-	-	2	117	-	-	119
	1,259	1,068	2,110	3,037	3,454	13,340	409	1,369	2,620	972	29,638
TSCA	38	180	111	137	98	54	108	17	12	139	894
	250	120	202	199	282	132	188	96	74	-	1,543
RCRA	43	361	20	163	133	30	269	33	37	39	1,128
	798	3,195	1,559	6,836	3,756	1,539	711	484	385	373	19,636
<b>Total Inspections at Regulated Facilities</b>											<b>90,671</b>

CAA and CWA inspections are not broken out between EPA and states. EPA conducted approximately 2 percent of the CAA stationary source inspections reported above. For the CWA, EPA conducted approximately 19 percent of the major facility and pretreatment program inspections reported above.

In addition to the regional and state FIFRA and TSCA inspections included above, there were 86 Good Laboratory Practices inspections conducted in FY 1995.

These are the numbers EPA has traditionally used to measure the inspection program; however, EPA also maintains and reports data on other types of inspections.

## **2.1 Innovations in Compliance Monitoring**

In FY 1995, EPA's Federal Facilities Enforcement Office (FFEO) completed its analysis of the FY 1993-94 Federal Facilities Multimedia Enforcement/Compliance Initiative (FMECI). During the FMECI, regions and states conducted 73 multimedia inspections and issued more than 110 enforcement actions for violations of nine separate environmental statutes. Approximately 44 percent of inspected facilities violated more than one statute and nearly 20 percent violated three or more statutes. In addition, during FY 1995, FFEO continued to promote a commitment to multimedia inspection and enforcement strategies by the regions. Most regions continued to conduct multimedia inspections at federal facilities during FY 1995, and the results of the FMECI indicate that most regions and states see benefits to using a multimedia approach. Lastly, an increasing number of regions and states included supplemental environmental projects and/or pollution prevention conditions in enforcement settlements as part of the FMECI.

In Region VI, improved information management contributed to more effective compliance monitoring. Region VI developed a U.S./Mexico Hazardous Waste Tracking System (HAZTRAKS). This system, a binational database that tracks the transboundary movement of hazardous waste between Mexico and the U.S., serves both as a compliance monitoring tool on waste shipments and assists in detecting violations of import/export regulations. During FY95, nine administrative and judicial enforcement actions were filed and/or settled against companies for failure to comply with federal laws applicable to the transboundary shipment of hazardous wastes. These enforcement actions have been effective in signaling to the regulated community the need for proper waste management practices.

HAZTRAKS has entailed significant international cooperation, with Region VI providing computers and hardware/software on HAZTRAKS to Mexico to facilitate data entry of import and export information into the binational tracking system. Computer training was also provided through the University of Texas at El Paso.

A second information management effort consisted of the Electronic Data Interchange. Under this project, which focused on streamlining existing paper processes associated with transboundary movement of hazardous waste, the Resource Conservation and Recovery Act (RCRA) Enforcement Program in partnership with the Office of Regulatory Management and Evaluation, Mexico's Instituto Nacional de Ecologica, and the Texas Natural Resource Conservation Commission initiated a pilot project for the electronic transmission and exchange of environmental compliance reports. Due to the transborder nature of the business conducted by Maquiladora facilities, they are subject to the environmental compliance reporting requirements of both the U.S. and Mexico, as well as to additional requirements of their respective customs and other State agencies. The automation of reporting is providing a unique opportunity to streamline environmental compliance reporting requirements by collapsing the paper requirements of multiple agencies into a single electronic format. For FY95, the pilot phase of this project tested the viability of electronically reporting manifest compliance data that are required of industry for shipments of hazardous waste crossing the border into the U.S. for treatment, storage, and disposal. The pilot has demonstrated that it is feasible to electronically exchange data, reduce

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paperwork, speed up transboundary hazardous waste transactions, reduce data entry costs, and provide real-time data for ongoing border compliance monitoring efforts.

### **3. USING ENFORCEMENT TO ENSURE PROTECTION THROUGH COMPLIANCE**

Criminal, civil, and administrative enforcement actions remain an effective, and appropriate, means of addressing a wide range of environmental violations. The continued use of strong and aggressive enforcement actions to ensure compliance has also driven the widespread acceptance of EPA's other compliance incentives and compliance assistance-related programs and policies. This strategic combination of traditional enforcement actions and other compliance-related activities allows EPA to best apportion its resources to obtain the greatest protection for the American people by ensuring full compliance with the environmental laws.

Traditional enforcement actions, brought at both the state and federal levels, serve several purposes:

- Emergency authorities allow the Agency to take immediate actions when public health or the environment is at serious risk of harm from pollution and violations of the law. These judicial or administrative actions often result in the immediate cessation by the violator of the harmful pollution emission, and may require remediation or cleanup efforts to avert additional harm to neighboring communities or to the environment.
- Criminals, recalcitrant violators, or those whose violations pose serious risks to people or the environment, can be punished through strong enforcement actions. Compliance with our nation's environmental laws is not optional, and enforcement actions are an effective means of penalizing those who disregard the protection required by law.
- Enforcement actions prevent violators from gaining any competitive advantages by skirting pollution control requirements. No one should gain from violating the environmental laws, and putting people's health and the environment at risk. Furthermore, responsible citizens and companies who make the necessary expenditures to comply with our laws should not be placed at a competitive disadvantage to those who do not. EPA is committed to ensuring that actions are taken to level the economic playing field for law-abiding companies.
- Enforcement actions help deter future violations, providing assurance to the American people that the environmental cop remains on the beat and that serious environmental violations will not go undetected and unpunished.
- Enforcement actions ensure that those responsible for the pollution pay for its cleanup, and that the public does not shoulder the burden of these costs.

This section contains the highlights of EPA's enforcement accomplishments in FY95. This past year saw a continued increase in the number of environmental crimes prosecuted, addressing the most egregious violators and cases of illegal pollution. In addition, FY95 saw a continued increase in the amount of injunctive relief obtained by EPA through its enforcement actions (see Tables 3-1 and 3-2 on the following pages). This figure represents a direct investment by

violators into the cleanup, protection, and preservation of our nation's environment. Specific highlights include:

- **Largest FIFRA §6(a)(2) Case in Program History** - DowElanco agreed to pay \$876,000 in penalties for failing to disclose adverse effects incidents, most of which involved the widely-used insecticide chlorpyrifos. The complaint alleged 327 violations of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) §6(a)(2). The Environmental Appeals Board (EAB) remanded the originally-proposed settlement of \$732,000 because of concerns over DowElanco's lengthy delay in reporting, which affected the penalty reduction calculation under the FIFRA Enforcement Response Policy (ERP). EPA negotiated an increased penalty and provided supporting documentation to show that it was in the public interest to encourage registrants to disclose violations, even when such disclosure was very late.

The DowElanco case arose in November 1994 after CBS News investigated an incident in which the parents of a disabled child obtained a judgement against DowElanco for injuries the court found were caused by pre-natal chlorpyrifos exposure. DowElanco disclosed to EPA 249 unreported claims-related adverse effects incidents which spanned approximately a decade.

- **FY95 Worker Protection Standard (WPS) Labeling Cases** - EPA filed its first FIFRA WPS misbranding actions against DuPont and Rhone-Poulenc in October 1994. DuPont is charged with 379 counts of sale or distribution of four misbranded pesticide products; the proposed penalty is \$1.895 million. Rhone Poulenc is charged with 46 counts for a proposed penalty of \$230,000. Both DuPont and Rhone Poulenc failed to include required worker protections on the pesticide labels.
- **TSCA §§5 & 8 Cases Issued** - In FY95, EPA issued 53 administrative enforcement actions for violations that occurred under the Toxic Substances Control Act (TSCA). This number represents the most cases ever taken by headquarters under TSCA in a single fiscal year. The penalties assessed for the 53 cases totaled \$1,137,000.

All of the 53 cases involved violations of the TSCA §8(a) Inventory Update Rule (IUR). Specifically, these actions involved the chemical manufacturer's and/or importer's failure to report in a timely manner specific chemical production and site information to the Agency.

The information required to be reported is used by the Agency to make informed decisions on potential environmental hazards, worker safety and the amounts of toxic chemicals being introduced into the environment. In addition to federal and state agencies who rely upon the information in establishing priorities, the Interagency Testing Committee (ITC) also uses the data to prioritize chemical testing needs.

**Table 3-1  
Dollar Value of Fiscal Year 1995 Enforcement Actions (by Statute)**

<b>Statute</b>	<b>Criminal Penalties Assessed</b>	<b>Civil Judicial Penalties Assessed</b>	<b>Administrative Penalties Assessed</b>	<b>Dollar Value of Injunctive Relief</b>	<b>Dollar Value of SEPs</b>
CAA	156,700	10,464,583	2,366,859	114,784,941	4,331,622
CERCLA	16,000	5,677,000	194,534	282,814,505	114,600
CWA	11,564,900	8,919,150	5,462,329	302,902,435	50,162,839
EPCRA	0	39,977	4,084,188	141,437	8,707,770
FIFRA	73,600	39,300	1,630,039	5,071	685,879
RCRA	10,961,400	937,500	13,076,989	2,229,785	5,457,366
SDWA	100,000	34,000	255,191	520,874	20,000
TSCA	0	168,282	7,042,884	1,842,977	15,125,576
Multi-statute/unknown	348,500	8,645,680	1,941,161	201,395,027	19,235,121
<b>Total</b>	<b>23,221,100</b>	<b>34,925,472</b>	<b>36,054,174</b>	<b>906,637,052</b>	<b>103,840,773</b>

**Table 3-2  
Cases Initiated and Concluded in FY95**

Cases Initiated	CAA	CERCLA	CWA NPDES	CWA § 311	CWA § 404	EPCRA	FIFRA	RCRA	SDWA	Multi-Media /Unk.	TSCA	Total
Criminal Referrals	38	7	91	w/CWA	3	0	12	94	2	0	5	256
Civil Referrals	37	102	35	11	3	3	1	14	5	0	3	214
Adm. Penalty Orders	102	23	173	17	22	244	160	91	86	0	187	1,105
Federal Facility Compliance Agreements	0	1	0	0	0	0	0	0	0	0	0	1
<b>Case Conclusions</b>												
Criminal Referrals	20	7	49	w/CWA	3	1	8	74	1	NA	3	168
Civil Referrals	43	87	24	0	0	1	1	6	4	9	4	179
Adm. Penalty Orders	127	28	191	15	4	201	105	104	55	45	239	1,114
Compliance Orders	130	257	825	-	40	NA	NA	1	611	NA	NA	1,864
Federal Facility Compliance Agreements	0	1	0	0	0	0	0	2	0	0	0	3

1. Criminal referral initiation total includes four Title 18 and other cases; criminal conclusions include one Title 18 and one "other" case.
2. Criminal cases are closed for various reasons including convictions and declination by DOJ, subsequent referral to state and local law enforcement agencies, subsequent referral for civil/administrative action, etc.
3. Cases concluded during FY 1995 may have been initiated in any fiscal year.

- **National Enforcement Initiative on Inefficacious and Unregistered Sterilants and Disinfectants** - On February 15, 1995, EPA issued 13 civil administrative complaints against the registrants of eight ineffective sterilant medical products, and against the manufacturer and distributors of other sterilant and disinfectant products that were not properly registered with EPA. A total of \$3.1 million in civil penalties was sought.

Sterilants are used in hospitals, dental, medical and veterinary facilities for destroying all forms of spores, bacteria, fungi and viruses on inanimate objects, particularly on delicate medical and surgical instruments and equipment. Disinfectants are also used in these facilities and in the home to control certain microorganisms. Ineffective sterilant and disinfectant products may cause people to become ill because infectious microorganisms that should have been destroyed remain viable.

- **National EPCRA §313 Community Right-to-Know Initiative** - On June 16, 1995, the Agency announced a nation-wide enforcement initiative against 47 companies that emitted or released toxic chemicals into the environment but failed to make this information available to EPA and the public as required under the Emergency Planning and Community Right-to-Know Act (EPCRA).

EPA assessed \$2.6 million in penalties against the companies for failure to supply information on the release, transfer and management of 36 toxic chemicals, thereby failing to make local communities aware of their potential exposure to these toxic chemicals. This community right-to-know information is required under the Toxic Release Inventory (TRI) provisions of EPCRA.

The TRI reporting requirement provides the public, industry and federal, state and local governments with a basic tool for making risk-based decisions about management and control of toxic chemicals, which can have significant adverse effects on human health and the environment. TRI data also allows the public as well as regulated entities to gauge the progress of industry and government efforts to reduce toxic chemical wastes.

- **National EPCRA §304/CERCLA §103 Hazardous Release Notification Enforcement Initiative** - On August 14, 1995, EPA announced an EPCRA §304 and Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) §103 Enforcement Initiative focusing on accidental releases of ammonia and chlorine.

This initiative included fines to 18 companies for failure to immediately notify local, state, and federal authorities at the time of a non-permitted, non-exempted release of a hazardous substance, as required by EPCRA §304 and CERCLA §103. The EPA regional offices issued the enforcement cases, which were part of this national Hazardous Release Notification Enforcement Initiative. Without timely notification, emergency responders cannot adequately determine the need for a response action, which may include evacuations, public announcements, and emergency medical care. Timely notification also ensures that local citizens, fire departments, and health care providers have sufficient



information to make informed decisions about protecting the community and the environment.

- **Antimicrobials - First Disinfectant Case** - On February 15, 1995, EPA issued a Stop Sale, Use or Removal Order on all quantities of Broadspec 128 and 256 (SSURO-95-H-3) and announced civil penalties totaling \$3.1 million against the registrants of eight ineffective sterilants of medical instruments, the two hospital disinfectants, and against the manufacturers and distributors of other sterilant and disinfectant products that were not registered as required by EPA. Additionally, a civil administrative complaint was issued against the company for \$30,000 in penalties on violations of labeling requirements of FIFRA. This was EPA's first enforcement action against a disinfectant product under its sterilant and disinfectant testing program.

Specifically, the violations involved the sale or distribution of a misbranded/inefficacious disinfectant. EPA tested these products as part of an ongoing pesticidal efficacy effort to verify the effectiveness of disinfectants. If these products are not effective, patients in hospitals, nursing homes and trauma rooms are put at much greater risk of infection.

As a result of EPA's enforcement action, the company sought a temporary restraining order (TRO) against the Agency in U.S. District Court of Indianapolis, Indiana. Brulin Corporation and the Agency subsequently entered into an agreement that requires the company to retest the Broadspec products for efficacy.

- **November 1994 Enforcement Initiative at Hazardous Waste Combustion Facilities** As part of a continuing effort to protect human health and the environment from risk associated with improper burning of hazardous waste, OECA coordinated its third hazardous waste combustion enforcement initiative in FY95. The initiative included 32 enforcement actions involving \$7.5 million in penalties against owners and operators of incinerators and boilers and industrial furnaces (BIFs) that burn hazardous waste. The 32 cases--22 settlements collecting over \$3.3 million in civil penalties, and ten administrative complaints seeking an additional \$4.2 million in penalties--were brought under RCRA and filed by EPA and state environmental agencies in Georgia, Michigan, South Carolina, and Utah.
- **Model Lead-Based Paint Enforcement Program** - OECA prepared a Model Lead-Based Paint Enforcement Program and an accompanying guidance document. The Model Program, developed pursuant to §404 of TSCA and codified as part of the TSCA §404 rule, will serve as the basic guide for the federal lead-based paint compliance and enforcement program, as well as a guide for states and tribes seeking authority to administer and enforce state/tribal lead-based paint programs.

### 3.1 Civil Enforcement

As shown earlier in this section, EPA assessed more than \$70 million in civil penalties in FY95. On the judicial side, nearly \$35 million in penalties were assessed, with nearly one-third of these penalties assessed under the Clean Air Act (CAA). Administratively assessed penalties totalled more than \$36 million, with more than one-third of these penalties being assessed under RCRA. Combined, these penalties sent a strong message of deterrence to the regulated community. Some of the more significant civil enforcement cases are discussed below.

- **Koch Materials** - On March 29, 1995, EPA filed both a complaint and innovative settlement agreement with Koch Materials and its sister asphalt companies, Elf Asphalt, Texas Emulsions, and Southwest Emulsions. The agreement requires the asphalt companies to immediately pay \$102,000 in civil penalties for violations of TSCA §8(a) for failure to report chemical production data to the EPA TSCA Chemical Inventory, as required under the TSCA IUR. The updated inventory then provides EPA with a significant tool for identifying, prioritizing, evaluating and developing a profile of toxic chemicals in the United States. The data in the inventory is considered the only reliable source of national production volume information for organic chemicals, and is used by the Agency to determine testing and regulatory actions taken by the Agency.

The settlement requires the company to review records for the past 10 years at each facility to disclose TSCA and EPCRA §313 reporting violations, which allows local communities to be aware of their potential exposure to these toxic chemicals. The audits will cover approximately 90 operating facilities plus more than 50 formerly owned or merged facilities across the country. This settlement arises from Koch Materials' disclosure of its failure to report emulsifiers and other chemicals used in asphalt production as required under the TSCA IUR for 1990.

- **Koch Industries** - In one of the largest Clean Water Act/Oil Pollution Act (CWA/OPA) cases ever brought, DOJ, EPA, and the Coast Guard announced the filing of a civil lawsuit against Koch Industries and several of its subdivisions for unlawfully discharging at least 3.5 million gallons of oil into the waters of the United States. Since 1990, Koch and its subsidiaries were responsible for more than 300 separate oil spills affecting waters of the United States, including wetlands, across the states of Kansas, Oklahoma, Texas, Louisiana and Alabama. In this action, Koch faces potential penalties in excess of \$50 million as well as requirements to take such actions as are necessary to protect waters of the U.S. and eliminate future spills.
- **Copper Range** - In a landmark settlement that will help reduce air and water pollution in the northern regions of Michigan and Wisconsin, the Copper Range Company agreed to curb the mercury, lead and cadmium output from its smelting plant in White Pine, Michigan and to pay \$4.8 million for civil penalties and environmental projects.

Copper Range's emissions of particulate matter have been a threat to air quality, resulting in potential health effects including breathing impairments and respiratory ailments, aggravation of existing respiratory and cardiovascular diseases, damage to lung tissue and alterations of the body's defense system against inhaled particles. The Copper Range Company is also the largest emitter of mercury in the Upper Great Lakes. Environmental

justice issues involve fish advisories caused by excessive levels of mercury in fish taken for subsistence purposes by local Native Americans.

The settlement resolves a 1992 CAA suit brought by the National Wildlife Federation and Michigan United Conservation Clubs that was later joined by the United States, Michigan and Wisconsin. Alleged violations include: exceedances of emissions limits on particulate matter (including excessive stack opacity) on a continuous basis, in violation of Michigan State Implementation Plan (SIP) (CAA); and failure to report air toxics emissions (metals and metallic compounds) (EPCRA and CERCLA). The case will result in annual emission decreases of 1200 pounds of mercury, 50,000 tons of sulfur dioxide and at least 900 tons of particulate matter. Mercury emission reductions will enhance Lake Superior water quality and reduce mercury levels for continued subsistence fishing by local Indian tribes. The settlement also offered relief for local Native Americans whose blood contains elevated levels of mercury from air pollution.

Under the settlement, Copper Range will pay \$1.6 million in civil penalties to the United States, \$200,000 in civil penalties to the state of Michigan, and \$3 million into a trust fund to be administered by Michigan and Wisconsin as trustees. As much as \$1.4 million of the civil penalty payment to the U.S. may be placed in a special §304(g) citizen suit fund which may be appropriated for air enforcement and compliance activities. This is the first time this new fund, added by the 1990 Amendments to the CAA, has been utilized. The \$3 million trust fund will be used for evaluation of the impact of mercury and other heavy metals on the Lake Superior basin.

- **Burlington-Northern** - On March 29, 1995, Burlington Northern Railroad settled one of the largest OPA cases. The claims arose from three separate oil and hazardous waste spills caused by train derailments, including one near the town of Superior, Wisconsin, which spilled nearly 22,000 gallons of aromatic concentrates containing various volatile organic compounds, including carcinogens such as benzene and toluene; forced the evacuation of approximately 50,000 people; and caused thousands of fish to be killed. The other two derailments were in Wyoming and together spilled more than 3,400 barrels of oil into the North Plate River.

Under the settlement, Burlington Northern agreed to pay a total of \$1.5 million, including a \$1.1 million civil penalty (the largest single penalty awarded so far under the OPA), \$260,000 to reimburse EPA and other federal agencies for costs in responding to the Wisconsin spill, and a \$140,000 contribution to a fund managed by the Department of the Interior and two bands of the Lake Superior Chippewas for injury to natural resources caused by the Wisconsin spill. In addition, Burlington Northern agreed to spend \$1.2 million to purchase three ultrasonic rail inspection cars which will improve the company's ability to detect rail defects and prevent derailments like those that caused the three spills. Burlington-Northern will also pay \$100,000 into a fund to study internal rail defects of the type involved in these derailments.

In FY 1995, EPA issued a total of 20 enforcement actions with sanctions under RCRA to federal facilities. RCRA penalties at federal facilities in FY 1995 totalled more than \$1.5 million with an additional \$1.5 million worth of supplemental environmental projects (SEPs) initiated as part of enforcement settlements. In addition, the federal facilities program negotiated three CERCLA Interagency Agreements and stipulated approximately \$225,000 in penalty actions and \$720,000 in supplemental environmental projects under CERCLA Federal Facility Agreements (FFAs). EPA also continued implementation of multi-media inspections and enforcement actions initiated during the FY 1993-94 FMECI.

Specifically, EPA continued to emphasize aggressive enforcement of environmental regulations at federal facilities, particularly RCRA requirements under the Federal Facilities Compliance Act (FFCA). In FY 1995, FFEO and the regions issued 12 Consent Agreements and Final Orders under RCRA §3008. The types of violations addressed under these actions ranged from illegal transport of hazardous waste and improper waste management to inadequate waste characterization and various procedural/administrative errors. Total penalties associated with these actions amounted to nearly \$360,000, with an additional \$1.5 million worth of supplemental environmental projects. During FY 1995, EPA also issued a total of six RCRA §3008 Complaints and Orders with opportunities for hearings. The potential penalties associated with these actions exceed \$1.1 million. During the year, EPA, Region IV, and Region VI issued two Corrective Action Orders under RCRA §3008(h) against the Air Force. Federal facilities affected by RCRA Orders were located across seven EPA regions and included Army, Navy, and Air Force installations, as well as facilities under the oversight of civilian federal agencies (CFAs) such as the Coast Guard, U.S. Department of Agriculture (USDA), and the Department of the Interior (DOI).

In addition to the activities conducted specifically by FFEO, the regions provided a strong enforcement presence at federal facilities. Examples of such presence are discussed below:

- **Rocky Flats** - In Region VIII, in resolution of 14 violations of the Rocky Flats Interagency Agreement (IAG), the Department of Energy (DOE) agreed to pay \$700,000 in cash penalties and to expend \$2.1 million for SEPs, with both the cash and SEP components to be split evenly between EPA and Colorado. The settlement agreement required DOE to request a specific authorization and appropriation for payment of the \$350,000 cash penalty to EPA. Also in late September, DOE sent letters to effect the transfer of funds for all of the \$2.1 million set aside for SEPs. These transfers include approximately \$1.5 million for purchase of open space surrounding Rocky Flats. Most of these funds will support an effort by Westminster/Jefferson County to establish a wildlife corridor between the Rocky Flats Buffer Zone and Standley Lake. These property acquisitions may also ensure the protection of habitat of the Preble's Meadow Jumping Mouse, which has been proposed for the Endangered Species List.
- **Non-DOE Federal Generator Facilities** - In this Region IX enforcement initiative, the region found significant violations rates and ended the year with two complaints issued and one pending against facilities located in different bureaus of DOI. Another highlight of

Region IX's formal compliance effort was the settlement of the RCRA complaint against Schofield Army Barracks in Hawaii. The settlement included a SEP valued at over \$1.2 million dollars. The SEP required a range of actions including elimination of 10,000 pounds per year of spent solvent waste, reduction and upgrading of satellite accumulation points, and adoption of a model hazardous substance management system, which should reduce the generation of waste as well as assure that waste which is still generated is handled in an optimal manner.

- **Alaska Department of Defense (DOD) Facilities** - Upon passage of the FFCA, Region X took significant penalty enforcement actions against three facilities which were considered significant non-compliers because of over 10 years of chronic compliance problems. As a result of the enforcement actions, these facilities have turned their operations around and are now model facilities for RCRA compliance, to the point where no violations were noted during the most recent inspections. Fort Richardson was recently awarded the Green Star Award, recognized by EPA for environmental excellence, by the city of Anchorage for its efforts in recycling. Other Army facilities in Alaska are in the process of receiving similar awards from their communities. In addition, EPA and the Alaska Department of Environmental Conservation have signed a Statement of Cooperation with the Army to provide a framework to resolve environmental issues, an agreement which has since expanded to include the Coast Guard, Federal Aviation Administration (FAA), and other DOD facilities.

The Superfund enforcement program secured \$851 million in private party cleanup commitments in FY95. Potentially Responsible Party (PRP) commitments to site cleanup have averaged over \$1 billion per year for three of the past five years. Since the inception of the program, the total value of private party commitments is estimated at more than \$11 billion. PRPs continued to initiate over 75 percent of new remedial work at National Priority List (NPL) sites during FY95.

PRP commitments for remedial design and remedial action (RD/RA) response work exceeded \$670 million. The type of response settlements and their estimated values were:

- 40 consent decrees referred to DOJ with an estimated response value of \$362 million
- 31 unilateral administrative orders (UAOs) with which PRPs complied and for work estimated at \$306 million
- 6 administrative orders on consent (AOCs) for response work estimated at \$2 million.

In an ongoing effort to promote enforcement fairness and resolve small party contributors' potential liability under §122(g) of CERCLA, the Superfund enforcement program concluded 42 *de minimis* settlements with over 1,800 parties in the fiscal year. Through FY95, the Agency achieved more than 200 *de minimis* settlements with more than 12,000 settlers.

In FY95, under CERCLA, the Agency reached a total of 163 administrative orders on consent, and issued 94 unilateral administrative orders. The Agency addressed 184 past cost cases,

including statute of limitation cases, all valued at more than \$200,000 each. Of these cost recovery actions 38 were administrative settlements, 30 were §107 referrals to DOJ, and 40 were consent decrees. Seventy-five were decision documents to write-off past costs; one was a claim in bankruptcy. In addition, the Container Corporation of America was assessed a \$1.2 million penalty under §104(e) of CERCLA. The penalty is the largest civil penalty ever obtained from a defendant under §104(e).

During fiscal year 1995 the Agency achieved a total of 220 cost recovery settlements estimated at more than \$160 million, and collected over \$254 million in past costs. To date the program has achieved approximately \$1.6 billion in cost recovery settlements, and collected over \$1.1 billion in past costs.

### **3.2 Criminal Enforcement**

As shown on the following page in Table 3-3, a high level of enforcement activity by EPA's criminal enforcement program during FY 1995 is reflected in several statistical categories. For example, 256 cases were referred to DOJ in FY 1995 (the previous highest number was 220 in FY 1994), and the number of cases initiated was up from 525 in FY 1994 to 562 in FY 1995.

In FY 1995, the number of months of jail time to which defendants were sentenced totaled 890 months. One hundred and sixteen individual defendants pleaded or were found guilty and 31 corporate defendants pleaded or were found guilty. Over \$23 million in criminal fines and restitution were assessed in FY 1995. Additionally, in FY 1995, 245 corporate and individual defendants were indicted.

Incarceration is a key component of the criminal enforcement program because of its deterrent effect. Individuals are more likely to be deterred from criminal environmental misconduct because of the stigma associated with a criminal conviction, as well as potential imprisonment. Those who are convicted and sentenced to jail cannot pass the sentence on as another "cost of doing business;" it must be served by the violator. Since 1990, individuals have received over 422 years of incarceration for committing environmental crimes.

**Table 3-3**  
**Criminal Enforcement Major Outputs (FY 1991 through FY 1995)**

Clearly contributing to this increase in criminal prosecution is the Pollution Prosecution Act (PPA) of 1990, which authorizes a number of enhancements to EPA's criminal enforcement program, including increases in the number of criminal investigators to 200 and a commensurate increase in support staff. By the end of FY 1995, EPA had increased the number of criminal agents to 153 compared to 47 in FY 1989. This additional investment in agents has yielded significant increases in most key areas of the criminal program including 562 cases initiated by the end of FY 1995.

### **3.3 Supplemental Environmental Projects (SEPs)**

EPA uses SEPs to gain significant environmental benefits in conjunction with the settlement of enforcement cases. Nominally, SEPs are projects voluntarily undertaken by members of the regulated community in conjunction with case settlements to provide some level of environmental benefit usually unrelated to the nature of the violations committed. In exchange for SEP performance, the facility is granted penalty relief equaling some fraction of the total value of the stipulated penalty. Historically applied predominantly in reporting violation cases, SEPs are maturing into a more versatile tool, with SEPs now included in CAA, CWA, RCRA, and other program area settlements.

As shown in Table 3-4 on the following page, EPA negotiated nearly 350 SEPs in FY95, totalling more than \$103 million. Perhaps more importantly, however, are the environmental and human health benefits that were derived from these cases. The text box provides examples of such benefits. In FY95, the highest number of SEPs was negotiated under EPCRA (more than one-third). More than half of all SEPs were categorized as either pollution prevention or pollution reduction.

*Expected Pollutant Reductions  
as a Result of SEPs*

- *Total reduction of 637,000 pounds of non-halogenated organics, including toluene and xylene (9 cases)*
- *Total reduction of 483,000 pounds of halogenated organics, including solvents (6 cases)*
- *Total reduction of 4,000 tons per year of sulfur dioxide air emissions (2 cases)*
- *Total reduction of 104,000 pounds per year of volatile organic compounds (VOCs) air emissions (2 cases)*

Through the use of SEPs, Region I is requiring facilities to either reduce or eliminate certain waste streams. In Region I during FY95, 19 SEPs were included in a total of 14 settlements. The types of SEPs included 3 pollution prevention, 7 pollution reduction, 2 environmental restoration, 3 equipment donation, 2 environmental audits, 1 public awareness, and 1 public health/environmental justice. In Region II, more than 260,000 pounds of EPCRA §313 chemicals will no longer be used or released into the environment due to the implementation of SEPs. The expenditures incurred by the facilities to achieve this reduction in emissions/usage was approximately \$1.6 million.



**Table 3-4  
Fiscal Year 1995 Supplemental Environmental Projects and Their Associated Dollar Values  
(By Statute and Type of SEP)**

Statute	Public Health	Pollution Prevention	Pollution Reduction	Environmental Restoration/Protection	Environmental Assessments and Audits	Environmental Compliance Promotion	Emergency Planning and Preparedness	Other	Totals and Values
	No.	No.	No.	No.	No.	No.	No.	No.	
CAA	2	4	5	0	0	0	0	2	13
	Value								
CERCLA	0	0	0	0	0	0	21	0	21
	Value								
CWA	2	11	16	9	2	4	0	2	46
	Value								
EPCRA	3	43	31	1	2	4	49	0	133
	Value								
FIFRA	0	6	2	0	1	0	0	0	9
	Value								
RCRA	2	11	8	1	4	2	0	0	28
	Value								
SDWA	1	1	0	0	0	0	0	0	2
	Value								
TSCA	6	27	14	4	5	1	1	12	70
	Value								
Multimedia /unknown	1	11	4	1	2	1	5	1	26
	Value								
Totals	17	114	80	16	16	12	76	17	348
	Value								
									\$103,840,773

Region IV identified two significant SEPs it achieved in FY95. Woodgrain Millwork, located in Americus, Georgia, agreed to implement a \$2.4 million pollution prevention SEP to redesign and install a coating process to predominantly eliminate the current use of solvent-based toxic chemicals, resulting in an overall 50 to 60 percent reduction of volatile organic compounds (VOCs). Another SEP, in Clay County, Florida, involves construction of a force main from Ridaught Landing Wastewater Treatment Plant to the County's reuse wastewater treatment facility. This will eliminate the current surface water discharge into Little Black Creek. Construction will cost the County approximately \$2.1 million.

In Region V, 14 SEPs were developed in settlement of EPCRA §313 enforcement actions and 2 in settlement of TSCA §§5 and 8 enforcement actions. These 16 SEPs resulted in the reduction in the use of 1,134,128 pounds per year of toxic chemicals and in the reduction in the release of 825,560 pounds per year of toxic chemicals. In addition, Region V settled 16 polychlorinated biphenyl (PCB) cases with SEPs costing \$3,173,401 and involving the disposal of 1,039,282 pounds of PCBs and PCB items.

In FY95, Region VII was able to negotiate SEPs in 28 percent of its enforcement settlements. Over 80 percent of the SEPs negotiated involved pollution prevention projects representing expenditures of nearly \$3 million. Examples of the types of environmental benefits gained from these SEPs include reduction of 20,000 pounds of xylene emissions per year; protection of underground drinking water sources from contamination; immediate elimination of release of over 110 tons of sandblast residue to the environment, and permanent elimination of 388 tons per year thereafter; replacement of refrigerant systems resulting in elimination of the use of over 1,700 pounds of chlorofluorocarbon (CFC)-containing materials; and a collective reduction of TRI chemicals by 3,165,000 pounds.

Region VIII is also encouraging industries to implement SEPs. Among its numerous SEPs, Region VIII had the largest OPA penalty collected to date: the Burlington Northern Railroad settled for \$1.5 million in cash and the remaining in SEPs, and cost recovery. The SEPs included a \$100,000 study on improving early detection of spills in the industry.

### **3.4 Injunctive Relief**

As shown earlier in this chapter, EPA actions resulted in more than \$900 million in injunctive relief. More than one-third of this relief was under the CWA. One of the more significant injunctive relief cases was Ketchikan Pulp Company. On March 21, 1995, two weeks after agreeing to pay \$3 million in criminal penalties, the Ketchikan Pulp Company of Ketchikan, Alaska, agreed to pay an additional \$3.1 million in civil penalties, and to spend up to \$6 million more cleaning up damage it caused to Ward Cove. Accumulated wastes from the Ketchikan mill have deprived the cove of its potential as a marine habitat.

The case alleged hundreds of violations of the CWA and CAA. The CWA allegations stemmed from 42 occasions when the mill's discharges into Ward Cove failed to meet the pH requirements of its discharge permit, more than three dozen times when other effluent limits were exceeded,

and repeated failure of the mill to report effluent monitoring results as required by its discharge permit.

Under the CAA, it was alleged that an oil-fired Ketchikan Pulp boiler failed to meet emission standards over a two-year period, resulting in an estimated 1,600 tons of sulfur dioxide emissions that should not have been released.

This case is significant because it is among the largest penalties ever obtained by EPA in a CAA New Source Performance Standard (NSPS) case and because of the innovative nature of some of the injunctive relief in this case. Examples include Ketchikan's agreement to: 1) conduct an independent facility-wide multimedia audit that will ensure full compliance with environmental laws and help efforts to prevent pollution; 2) eliminate direct discharges from its water treatment plant; 3) develop a mill operations and maintenance program designed to minimize pollution; and conduct a pollution prevention study modeled after EPA protocols that emphasizes the prevention of toxic discharges or emissions. In addition, the case also demonstrates the concept of polluter pays, since Ketchikan Pulp will be paying for the restoration of Ward Cove.

## 4. USING INCENTIVES TO INCREASE INDUSTRY COMPLIANCE

As mentioned earlier in this report, compliance with this nation's environmental laws is an obligation of all Americans - it is not discretionary. EPA's goal is to ensure that the regulated community fully complies with these laws to provide the maximum benefits for people's health and the environment. As a result of the reorganization of OECA, additional tools designed to boost compliance with environmental laws are being used to enhance, and complement, the traditional enforcement activities mentioned in the previous section. This section of the report details certain programs and policies that provide the regulated community with incentives to voluntarily comply with environmental requirements.

These programs and policies, which are set forth below, encourage the regulated community to take full responsibility for their compliance status and their pollution practices. By providing, for example, certain incentives for companies to engage in environmental audits or other environmental management practices, this aspect of EPA's programs helps lay the foundation for internal corporate mechanisms that can detect and prevent future violations from occurring at a facility. In addition, these incentives policies encourage a degree of openness between the regulated community and the Agency. This increased level of trust and communication allows EPA and the participating entity to jointly confront and address any violations without the delays and expenses normally associated with contested litigation.

The following are some of the more significant compliance incentives activities undertaken by EPA in FY95.

### 4.1 New Incentive Policies

EPA developed and implemented three major compliance incentive policies during FY95:

- **Environmental Audit Policy** - EPA issued the "Voluntary Environmental Self-Policing and Self-Disclosure Interim Policy," which offers dramatic new incentives for companies that evaluate their own operations for compliance, then voluntarily disclose and correct their violations. The policy provides incentives, such as reduced penalties and reduced criminal liability, for companies that meet established conditions for finding, disclosing, and fixing violations. It does not apply to parties engaging in recurring violations, or violations that reflect criminal conduct or result in serious actual harm or imminent and substantial endangerment. In addition, while the "punitive" or gravity-based component of the penalty may be reduced, EPA will continue to recover any economic advantage that companies may have gained from their noncompliance.
- **Small Business Incentives Policy** - EPA issued the "Interim Policy on Compliance Incentives for Small Business," which is intended to promote environmental compliance among small businesses by providing incentives for participation in compliance assistance programs and prompt correction of violations. Under the interim policy, EPA will eliminate or reduce the civil penalty where a small business has made a good faith effort to

comply with applicable environmental requirements by receiving compliance assistance from a non-confidential government or government supported program and the violations are detected during the compliance assistance. The policy does not apply if the violation is caused by criminal conduct or has caused actual serious harm or imminent and substantial endangerment to public health or the environment.

- **Small Communities Flexibility Enforcement Policy** - This policy describes the circumstances in which EPA will generally defer to a state's decision to place a small community on an enforceable compliance agreement and schedule that requires compliance with all applicable environmental mandates by a specified date. Under the policy, states can allow small communities to prioritize among competing environmental mandates on the basis of comparative risk, and EPA will defer to the state's decision to waive part or all of the noncompliance penalty.

#### **4.2 Environmental Leadership Program**

The Environmental Leadership Program (ELP) is a national program currently being piloted by EPA and the states in which facilities have volunteered to demonstrate innovative approaches to environmental management and compliance. The ELP recognizes and rewards companies that develop and implement comprehensive environmental management systems that result in significant environmental improvements and yield outstanding compliance records. On April 7, 1995, EPA announced the 12 pilot facilities that would participate in the program (see Table 4-1 on the following page). These 12 facilities (10 private sector firms and 2 federal facilities) were selected from a field of more than 40 applicants. The ELP projects focus on such issues as development of innovative environmental management systems, creation of mentoring programs, testing of third party auditing and self-certification protocols, and enhanced community involvement policies.

**Table 4-1  
Environmental Leadership Program Participants**

<i>Company</i>	<i>EPA Region</i>	<i>State</i>
<i>Gillette (3 facilities)</i>	<i>Regions I, V, IX</i>	<i>Massachusetts, Illinois, California</i>
<i>Ocean State Power</i>	<i>Region I</i>	<i>Rhode Island</i>
<i>Duke Power Company</i>	<i>Region IV</i>	<i>North Carolina</i>
<i>The John Roberts Company</i>	<i>Region V</i>	<i>Minnesota</i>
<i>Ciba-Geigy St. Gabriel</i>	<i>Region VI</i>	<i>Louisiana</i>
<i>Motorola</i>	<i>Region VI</i>	<i>Texas</i>
<i>Arizona Public Service</i>	<i>Region IX</i>	<i>Arizona</i>
<i>Salt River Project</i>	<i>Region IX</i>	<i>Arizona</i>
<i>McClellan Air Force Base</i>	<i>Region IX</i>	<i>California</i>
<i>Puget Sound Naval Shipyard</i>	<i>Region X</i>	<i>Washington</i>
<i>Simpson Tacoma Kraft Company</i>	<i>Region X</i>	<i>Washington</i>
<i>WMX Technologies</i>	<i>Region X</i>	<i>Oregon</i>

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## **5. USING ASSISTANCE TO INCREASE SECTOR COMPLIANCE**

Compliance assistance pertains to information and technical assistance provided to the regulated community to help it understand and fully comply with the requirements of the environmental laws. Along with the various incentives discussed in the previous section, compliance assistance activities supplement the traditional enforcement actions EPA uses to ensure compliance with the environmental laws.

Compliance assistance activities take place at both the state and federal levels and are mainly targeted toward small businesses that make up the bulk of those facilities who need to comply with environmental regulatory and statutory requirements. Many of EPA's compliance assistance activities involve partnerships with states and industry associations. For example, in FY95, these efforts resulted in the initiation of four compliance assistance centers, located throughout the country, and serving the following industrial sectors: printing, agriculture, metal finishing, and auto repair. The participation of states and industry partners in the development of these compliance assistance programs has allowed the Agency to tailor its assistance to those areas where it can provide the most benefits.

There are several broad categories of compliance assistance:

- **Outreach** to the states and regulated community through marketing of compliance guides, seminars, information services, and other means of assistance
- **Response** to requests for assistance, which may include requests for EPA to determine the applicability of a particular regulation to a specific source, or more general inquiries to hotlines or information centers
- **Partnerships** between EPA, states, and industry, which may include development of self-audit materials
- **Research** to develop technologies needed to comply, or verify compliance, with new regulations, or the development and dissemination of information pertaining to pollution prevention technologies
- **On-site assistance**, such as compliance consultations or audits.

These various compliance assistance activities help industry and government to work in tandem toward the same goal - environmental protection through compliance with our laws. The integration of these types of programs into OECA's operations both promotes and ensures the effectiveness of the other enforcement actions discussed in previous sections of this report.



## **5.1 Compliance Assistance Centers**

EPA, in partnership with industry, academic institutions, environmental groups and other federal and state agencies, is establishing national Compliance Assistance Centers for four specific industry sectors heavily populated with small businesses that face substantial federal regulation. The four centers are:

- **National Compliance Assistance Center for Printing Sector** - In FY95, EPA's Office of Compliance (OC), in conjunction with the Universities of Illinois and Wisconsin, the Council of Great Lakes Governors, and the Environmental Defense Fund initiated development of a National Resource Center targeted to the Printing Industry. This electronically based "virtual" Center will conduct focus groups, distribute "best in class" pollution prevention information, develop high quality technical and regulatory information, and conduct training and outreach activities.
- **Agriculture Services Compliance Assistance Center** - EPA initiated the Agriculture Services Compliance Assistance Center in FY 1995. Utilizing existing distribution networks, including the USDA Agriculture Extension Service, the Center will be a source of environmental compliance information for agriculture producers. The Center will develop material to be distributed by the USDA Extension Service and other national associations that will give farmers "plain English" information on their regulatory duties and pollution prevention opportunities.
- **Metal Finishing Resource Center** - In FY95, EPA, and its partner, the National Institute of Standards and Technology (NIST), initiated development of a Compliance Assistance Center for the Metal Finishing Industry that will provide comprehensive and reliable information on pollution prevention opportunities, regulatory compliance, and technologies for reducing pollution. Initial products planned for release early in 1996 include an industry needs assessment survey; a directory of assistance providers; "plain English" regulatory interpretations; pollution prevention on-line data; creation of a home page on the World Wide Web; on-line expert assistance; and manufacturing efficiency case studies.
- **Automotive Compliance Assistance Project** - In FY95, EPA initiated a grant with the Coordinating Committee for Automotive Repair (CCAR) for the development of an Automotive Compliance Assistance Center. Initial products for this Center, when operational in FY96, will include a 1-800 toll free system and an electronic bulletin board on the EnviroSense Home Page on the Internet. In addition, the grant will develop community college compliance curriculum containing compliance and pollution prevention information and local government consolidated inspection protocols.

## **5.2 Sector-specific Compliance Assistance**

In recognition of the specific risks and prevalence of certain industry sectors, EPA continued targeting specific sectors for compliance assistance. The following are some examples of the sectors and the types of compliance assistance targeted toward them.

- **Dry-cleaning** - EPA has targeted specific compliance assistance initiatives to the perchloroethylene dry cleaning industry to increase compliance in the sector through heightened awareness of the environmental regulations impacting their activities and the pollution prevention opportunities available to the sector. Specific assistance projects completed or underway include:
  - ***Multimedia Inspection Guidance for Dry Cleaning Facilities***- This manual will assist environmental personnel in conducting multimedia inspections or audits at a perc dry cleaning facility. A draft manual was completed in September 1995 and will be finalized in FY96.
  - ***Plain English/Korean Version of Perc Dry Cleaning Regulations***- To assist dry cleaners in complying with various environmental regulations, the Agency is developing a comprehensive, readable version of environmental requirements. A “Plain Korean” version of the guidance is under development as well to meet the needs of the large component of Korean-Americans that populate the industry. These guidances will be field tested at dry cleaning facilities in the Fall of 1995 and will be made widely available in FY96.
- **Auto Services Industry** - In FY95, EPA initiated two compliance assistance efforts targeted at the auto services industry:
  - ***National Environmental Curriculum***- EPA, working through its grantee CCAR, has identified 18 automotive topics of instruction to be used in the development of curriculum modules for automotive technicians. These modules will address compliance issues facing the automotive repair industry, as well as available pollution prevention technologies. The curriculum should be available in late FY96.
  - ***Automotive Services Checklist***- EPA has also developed a draft checklist of federal environmental requirements that impact an automotive service and repair shop. The checklist, which is ready to be pilot-tested by regional inspectors, will be finalized in FY96. It will be made available to automotive shopowners to assess their compliance status.

- **Printing Facilities** - In FY95, EPA initiated multimedia compliance/pollution prevention assessment guidance for lithographic printers. The assessment guidance was developed in conjunction with the Common Sense Initiative (CSI) Printing Sector. The assessment guidance helps states and/or EPA regional offices determine the compliance status of printing facilities, as well as identify opportunities to use pollution prevention and innovative technology to help facilities come into compliance or go beyond compliance. It can also be used as a self-audit tool by printers to identify compliance issues and learn how to incorporate pollution prevention into their facilities' practices. The guidance also contains an extensive list of compliance assistance and pollution prevention materials available for printers. EPA field tested the guidance at four facilities in the State of Washington in conjunction with Washington State's Department of Ecology.

In addition, Region I provided compliance assistance to printers, including:

- Coordinated the activities of several state, private, and industry organizations in Massachusetts offering compliance and pollution prevention services to printers
  - Assisted Vermont Department of Environmental Conservation in establishing the first of five model compliance facilities, which will also test pollution prevention technologies
  - Assisted the Toxics Use Reduction Institute at UMass-Lowell in demonstrating near-zero VOC lithographic ink and blanket wash systems
  - Began developing six compliance and pollution prevention workshops for printers, and a joint workshop for textile manufacturers and screen printers.
- **Partners in Healthy Drinking Water (Mentoring Outreach on TCR Rule)** - In August 1995, EPA awarded four grants in the total amount of \$150,000, to three states and one tribal organization to fund participation in a compliance assistance mentoring program pilot designed to assist small and very small public water systems to come into compliance with EPA's Total Coliform Rule (TCR). The TCR requires public water systems to monitor the microbiological quality of drinking water. In FY94, 54 percent of the small community water systems failed to meet the microbiological requirements. Pilot grantees included the Colorado Department of Public Health, Iowa Department of Natural Resources, Alaska Water Management Association, and Tanana Chiefs Conference, Inc. Each grantee is responsible for identifying small public water systems in their jurisdiction that are out of compliance with the TCR on a recurrent basis and pair them with a volunteer from a "mentor" public water system with a good compliance record. Mentors provide such assistance as monthly reminders to conduct required sampling, and advice on sampling protocols.
  - **EPCRA Outreach** - Region II conducted EPCRA outreach for non-reporters and current reporters. A mailing was sent to over 1,000 New Jersey facilities in SIC Codes 26 (paper

and allied products), 28 (chemicals and allied products), 30 (rubber and miscellaneous plastics products), 33 (primary metals), and 34 (fabricated metals). The recipients were facilities with less than 50 employees that had not reported for TRI. This was followed up with three seminars held in January 1995 for these groups.

New Jersey Department of Environmental Protection

representatives also participated in

these seminars, making presentations on the New Jersey Community Right-to-Know Release Reporting Requirements and Pollution Prevention Laws. In addition, 10 EPCRA §313 compliance assistance seminars were held in the region.

*The New England Environmental Assistance Team (NEEAT) is focusing in FY95 and FY96 on assistance to municipalities, mainly with wastewater issues, and on three industrial sectors that are also CSI sectors: metal finishing, printing, and electronics/computers. Activities in each sector fall into clusters: on-site, tailored assistance (to municipalities only), workshops/training, printed information, technology development/demonstration, telephone assistance, and a recognition program (to be launched in FY96).*

- **Metal Furnishing Manufacturers** - Region III's Air Enforcement Program implemented a Pilot Business Compliance Assistance and Incentive Strategy. The goal of this new approach is to achieve the same or greater emissions reductions as would be achieved through traditional enforcement actions by offering incentives for compliance (i.e., technical assistance and reduced penalties). The metal furniture manufacturing sector has been selected as the pilot sector for compliance assistance. In FY 1995, the Region provided staff training to deliver compliance assistance, coordinated discussions with state and local authorities, developed compliance assistance materials that explain applicable regulations and compliance requirements, and determined the baseline compliance rate.
- **Public Water Supply Systems (PWSS)** - The PWSS Program in Region IV developed a program for lead and copper field assistance for small systems in North Carolina. The State and National Rural Water Associations will assist 200 systems that have lead and copper violations by providing on-site technical assistance and compliance workshops to return systems to compliance.
- **Noncommunity Water Systems** - Region V and the Indiana Department of Environmental Management Drinking Water Branch co-sponsored 15 compliance assistance workshops at nine locations. The compliance assistance effort targeted almost 850 small transient noncommunity water systems that had failed to collect annual nitrate samples for the past 2 years. A total of 309 system representatives attended the compliance assistance workshops. As a result of joint efforts, about 600 of the targeted systems are working to achieve compliance with the Federal nitrate requirements.
- **Foundries** - To address high rates of noncompliance among foundries in Region VI, a full spectrum of compliance and enforcement tools is being used. In partnership with the

Oklahoma Department of Environmental Quality (ODEQ), EPA developed a compliance assistance pilot project for the foundries in Oklahoma willing to participate in the program. The project started with a outreach seminar in Tulsa, Oklahoma, in April 1995. Facilities were offered a six month grace period to conduct a multimedia self-assessment of their operations, correct violations, and self-report to ODEQ on changes in their operation as a result of the outreach. Participants were given relief from civil penalties while they corrected any regulatory deficiencies discovered during the audit. In addition, ODEQ provided on-site multimedia technical assistance to participating facilities that is similar to the CAA §507 program for small businesses.

Twenty-three of Oklahoma's 63 foundries took part in the program. ODEQ reported the foundries' compliance concerns and interests were in air (52 percent), storm water (30 percent), solid waste (17 percent), and hazardous waste (17 percent). Preliminary statistics indicate 14 of the facilities in the program participated in the ODEQ/self-audit program. The survey results of the workshop indicated six facilities had made changes to their operations to address compliance issues as a result of the workshop. The Oklahoma pilot has been praised by the industry and will serve as a model for helping to shape future compliance assistance programs in the region to strengthen compliance and promote pollution prevention.

- **Small Businesses** - Region VII worked closely with the state Small Business Assistance Programs (SBAPs) in all four states, as well as with pollution prevention contacts, to implement active and successful compliance assistance programs that provide assistance to businesses and communities on all federal and state environmental regulatory requirements. All of the SBAPs conduct extensive outreach to a diverse group of small businesses and all have received very positive feedback from stakeholders on their compliance assistance efforts. Examples of the scope and types of compliance assistance provided by the state SBAPs in FY95 include:
  - The Nebraska SBAP addressed 34 complaints and 230 inquiries, provided on-site assistance to 26 small businesses, and participated in outreach at various meetings attended by 1,882 people.
  - The Iowa SBAP (with the Iowa Waste Reduction Center) provides compliance assistance training to small businesses. The training addressing spray painting is designed to reduce air emissions and material consumption. After attending this training, one small business reduced material consumption by more than 30 percent and average monthly material costs from \$6,000 to \$2,000.
  - The Kansas SBAP has produced numerous compliance assistance materials including fact sheets for farmers concerning air conditioning certification, quick-reference guides for dry cleaners, a degreasing manual, and materials for chromium electroplaters and printers. In addition, the Kansas SBAP distributes a quarterly

newsletter focusing on specific CAA information that is important to small businesses.

- The Technical Assistance Program (TAP) in the Missouri Department of Natural Resources has established an environmental education program for elementary and secondary school teachers. The TAP offers between 15-18 courses each year. The courses assist teachers in development of environmental education curricula.
- **Hazardous Waste Generators** - Region IX, in cooperation with the California Department of Toxic Substances Control, put on workshops for small- to medium-sized hazardous waste generators across the state. The primary strategy was to conduct the generator workshops in rural counties where information on the hazardous waste handling requirements was harder to obtain.

Region IX also identified federal facilities as a sector requiring compliance assistance. A total of seven generator workshops for federal facilities was conducted during the year. Five workshops were conducted for the U.S. Navy in Hawaii, one for the San Francisco Bay Area Health and Safety Council, and one as part of a federal facilities conference held in the regional office. The combined total attendance for all the workshops conducted in FY95 was approximately 1,000 people.

- **CFC Emitters** - Region X's Air Program compliance assistance efforts focused on outreach efforts to the regulated community for new requirements. The region prepared information packets to sources regulated under the CFC program (primarily §§608 and 609) and conducted a limited number of inspections in areas where low numbers of notices were filed. The region also targeted outreach efforts at demolition and renovation contractors that remove heating, ventilation, and air conditioning systems. The region conducted a workshop in conjunction with the local chapter of the Air and Waste Management Association for Title V and new maximum achievable control technology (MACT) standards.

### **5.3 Compliance Assistance to Federal Facilities**

During FY95, FFEO continued development and implementation of compliance assistance programs in concert with the other offices within OECA. The following presents information on some of the more significant compliance assistance efforts:

- **EPA/Army Pollution Prevention Memorandum of Agreement (MOA)** - EPA recently completed a series of pollution prevention technical assistance projects through an MOA with the Army. In January 1995, FFEO helped form a partnership between EPA and the Army to conduct pollution prevention research at three Army installations: Rock Island Arsenal, Illinois; Ft. Benning, Georgia; and White Sands Proving Ground, New Mexico.

The pollution prevention opportunity assessments provided under the EPA-Army MOA encouraged the development and adoption of production, recycling, and treatment processes that result in the reduction of hazardous wastes. Each assessment included an on-site visit, consultation with Army personnel, and a written report, which is a public document.

- **FEDPLAN-PC** - EPA developed a PC-based information management system (known as FEDPLAN-PC) to support the federal agency environmental program planning process. The new system was implemented in all 10 EPA regions this year and many federal agencies and departments received demonstrations of the software. The goal of the process is to ensure that federal agencies identify all relevant environmental requirements and devote adequate resources to address them. EPA uses FEDPLAN-PC to analyze individual agency data submissions, identify gaps in agency plans, evaluate funding trends, and forecast future budget requirements. The system also can be used by federal agencies in their internal environmental program management. FEDPLAN-PC is comprehensive, covering the full range of activities from pollution prevention and compliance to remediation.
- **Federal Facilities Tracking System (FFTS)** - EPA developed a significantly enhanced version of FFTS to extract federal sector compliance data from other EPA compliance data systems and to make it more readily available to EPA personnel. In addition, EPA is currently sponsoring a pilot effort in Region X to test the capabilities of FFTS to track the entire universe of facilities on a sector-by-sector basis. If the expansion to other sectors proves successful, FFTS will save the government time and resources, and will enhance the efficiency of EPA regional staff in promoting environmental compliance in both the public and private sectors.
- **Environmental Benchmarking** - In FY 1995, EPA continued its identification of areas in which federal agencies need improvement in fulfilling their environmental responsibilities. This identification establishes a benchmark from which to measure the degree of improvement in federal agency environmental management programs. In addition, the benchmarking initiative will enable EPA to assess the effectiveness of its own compliance assistance and outreach efforts.
- **Civilian Federal Agency (CFA) Task Force** - To offer enhanced compliance assistance to the civilian departments and agencies throughout the government, EPA formed a task force to address federal facilities' unique environmental compliance management problems. The purpose of the task force, chaired by EPA, is to identify deficiencies in CFA environmental management and compliance programs, determine their causes, and make recommendations for improvements. The task force has been instrumental in the development of two key documents during FY 1995:

- *CFA Environmental Improvement Strategy*, which contains specific recommendations for improvements in six primary areas of need that could be made through increased technical assistance from EPA or other sources
- *Generic Audit Protocol* is intended to assist in the conduct of environmental audits and environmental management assessments of federal facilities.
- **Environmental Auditing** - The *Generic Protocol for Conducting Environmental Audits of Federal Facilities* was released in March 1995. The document was a collaborative effort by the Federal Audit Protocol Workgroup consisting of environmental audit experts from various federal agencies and departments (DOD, DOE, DOI; EPA; Postal Service; National Aeronautics and Space Administration; USDA; and FAA). This document contains specific procedures (protocols) for evaluating the performance of facility specific technical and multimedia programs, such as air, water, solid and hazardous waste against compliance with federal environmental requirements.

In addition to guidance development, in March 1995, EPA, in joint effort with the Institute for Environmental Auditing and DOE, sponsored a seminar and training designed to provide an accelerated learning experience for audit professionals. Practitioners throughout the federal government examined proven techniques, innovative tools, and methods. In May 1995, EPA, in partnership with audit experts from DOE, designed and conducted a one-day training course for 50 EPA personnel to support the Environmental Leadership Program.

- **Pollution Prevention** - To assist federal agencies in meeting the challenges posed by Executive Order (EO) 12856 "Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements" and EO 12873 "Federal Acquisition, Recycling, and Waste Prevention," EPA initiated or participated in a number of efforts ranging from the formation of an interagency pollution prevention task force and the establishment of a federal agency environmental management challenge program to pollution prevention training and preparation of guidance documents. EPA conducted six training workshops for federal agencies on how to prepare pollution prevention plans required under EO 12856. EPA also has developed a number of guidance documents to assist federal agency compliance with the provisions of these executive orders. Specific examples of these documents include:
  - *Federal Facility Pollution Prevention Planning Guide*
  - *Federal Facility Pollution Prevention Project Analysis: A Primer for Applying Life Cycle and Total Cost Assessment Concepts*



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- *Executive Order 12856: Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements: Questions and Answers*
- *Guidance for Implementing Executive Order 12856: Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements*
- *Meeting the Challenge: A Summary of Federal Agency Pollution Prevention Strategies.*

## **6. NEW APPROACHES TO SOLVE ENVIRONMENTAL PROBLEMS**

In FY95, EPA continued to enhance its programs that strategically target enforcement and compliance activities to address the most significant risks to human health and the environment. These innovative approaches to targeting, which are discussed in this section, are organized around whole facilities, industrial sectors, and geographic areas. In many instances, a multimedia approach allows the Agency to better address persistent problems affecting a whole facility or industry. A geographic orientation also permits the Agency to target its enforcement and compliance efforts based on the aggregate impacts of pollution sources on certain communities. For example, these types of activities are used to support the office's commitment to environmental justice. These new orientations for targeting enforcement and compliance activities also help integrate the work of the enforcement and compliance assurance program into the community-based environmental protection efforts throughout the Agency.

***Region VI Oil Pollution Act  
Inspection Targeting and Tracking Process***

*Region VI has developed an OPA inspection targeting system that prioritizes inspections based on greatest risk. The system conducts its analyses by considering spill history, past compliance performance, sensitive ecosystems, drinking water intakes, surface waters, ground waters, impacts to human health, conformance with industry standards, facility size, concentration of facilities, topography, lightning strike data, soil corrosivity data, adverse weather conditions, areas prone to flooding, and socio-economic factors. These data are compiled in a geographic information system (GIS) database system. The data are shared with states, other federal agencies, and industry. The purpose is to provide the best spill response and prevention mechanism available to combat oil spills. The Coast Guard and over 35 major companies have requested assistance in development of a similar system. EPA currently shares its data over the Internet and through CD ROM distribution.*

### **6.1 Sector-based Information and Initiatives**

The new framework for EPA's enforcement and compliance assurance programs reorients the Agency's focus to compliance problems that pervade certain sectors of the regulated community. This sector-based approach enables the Agency to:

- Address noncomplying sectors more effectively
- Allow for "whole facility" approaches to enforcement and compliance
- Measure more specifically rates of compliance and the effectiveness of enforcement strategies
- Augment enforcement strategies with appropriate compliance enhancement activities

- Develop sector expertise, which should improve performance in all aspects of the Agency's enforcement program.

During FY95, EPA made great strides in developing sector expertise. Such strides will allow the Agency to begin making sector-based enforcement and compliance assurance an integral part of everyday activities.

### **6.1.1 Sector Notebooks**

In the Fall of 1995, EPA published a series of 18 Industry Sector Notebooks that provide an in-depth profile of specific industry sectors. Each notebook includes discussions of general industry information (economic and geographic); a description of industrial processes; pollution outputs; pollution prevention opportunities; federal statutory and regulatory framework; compliance history; and a description of partnerships that have been formed between regulatory agencies, the regulated community and the public.

<i>Sector Notebooks</i>	
<i>Dry Cleaning</i>	<i>Non-Metal Mining</i>
<i>Electronics and Computers</i>	<i>Organic Chemicals</i>
<i>Fabricated Metal Products</i>	<i>Petroleum Refining</i>
<i>Inorganic Chemicals</i>	<i>Printing</i>
<i>Iron and Steel</i>	<i>Pulp and Paper</i>
<i>Lumber/Wood Products</i>	<i>Rubber and Plastics</i>
<i>Metal Mining</i>	<i>Transportation Equipment Cleaning</i>
<i>Motor Vehicle Assembly</i>	<i>Stone, Clay, Glass, and Concrete</i>
<i>Nonferrous Metal</i>	<i>Wood Furniture and Fixtures</i>

### **6.1.2 Sector-specific Initiatives**

A major national accomplishment during FY95, was OECA's first ever sector agreement. This agreement with the Gas Processors Association (GPA) settled 51 enforcement actions. The focus of this national agreement is reduced penalties for gas processors in exchange for a substantial amount of TSCA chemical production information being reported to EPA. As a result of this sector agreement, 249 facilities provided chemical production information for the 1990 IUR. Both GPA and EPA sought an agreement to encourage natural gas processors to file reports pursuant to the Update of the TSCA Chemical Substances Inventory. Sixty-eight companies registered to participate in this natural gas sector agreement and 51 settlement documents were approved by the EAB in FY95.

Based on its specific industrial base, each region develops and implements sector-based initiatives to target those sectors presenting serious environmental problems. In FY95, several regions pursued sector-based initiatives. Select initiatives are discussed below:

- **Printing** - In FY95, Region II inspected 30 of the approximately 100 flexographic printing operations in the New York City metropolitan area and found a noncompliance rate of 35 percent. Most of the cases are still pending, but when completed, the region estimates approximately 200,000 pounds per year of VOC emissions will be eliminated.
- **Non-metallic Mineral Processing Operations** - Due to the suspected noncompliance among the rock crushing/processing operations in Region II, the region targeted this sector for compliance/enforcement activities in FY95. The particulate matter (PM) produced in rock quarrying and processing is usually of relatively large particle size, though some of the dust generated tends to be in the respirable range (< 3 microns) and constitutes a health hazard. The region's efforts were concentrated mainly in Puerto Rico, because of its PM 10 nonattainment areas.
- **Industrial\Commercial Boilers** - Region II is participating in a national Boiler Enforcement Initiative designed to address the noncompliance status of such sources, which have the potential to emit total particulate matter and sulfur dioxide. The region is developing inventories of boilers in New York and New Jersey and has already issued select informational request letters targeting two large organizations (New York City [NYC] Board of Education--School Construction Authority and NYC Housing Authority) that have approximately 1,000 boilers, out of the approximately 3,000 boilers in the NYC area.
- **Sources of VOC Emissions** - Region III completed the targeting strategy, identified the largest VOC sources in a limited number of SIC code categories, and discussed each facility/VOC source with the enforcement programs.
- **Wood Product Companies** - Region III actively supported the National Wood Products Initiative, which was designed to address excess air emissions, primarily of VOCs, in the wood products industry. This included issuing and reviewing CAA §114 letter responses. Region III supported three wood products facilities (Georgia Pacific) for the national Notice of Violation (NOV). As an offshoot of the national initiative, Region III issued nine §114 letters to smaller wood product companies to determine their compliance with Prevention of Significant Deterioration (PSD) regulations and conducted inspections of six wood products facilities in the region.
- **Foundries** - Region VI targeted inspections across the region in FY94 and several enforcement actions were initiated. During FY95, the RCRA Enforcement Branch developed baseline information on the industry while on-going enforcement support shifted resources to compliance assurance activities. To address high rates of noncompliance in the region, a full spectrum of compliance and enforcement tools is being used. In partnership with ODEQ, EPA developed a compliance assistance pilot project for the foundries in Oklahoma willing to participate in the program.

- **Concentrated Animal Feeding Operations (CAFOs)** - Region VI issued a National Pollutant Discharge Elimination System (NPDES) general permit to concentrated animal feeding operations in February 1993. After 2 years of compliance and enforcement efforts, nearly all major producers (400) in Oklahoma are compliant. The EPA issued approximately 100 orders to producers to complete pollution prevention plans and the Oklahoma Department of Agriculture met with each producer individually so the plan would be implemented in a timely manner. Overall, compliance has been achieved through outreach in combination with traditional enforcement mechanisms.

In Region X, EPA, the state of Idaho, and the dairy industry agreed on a new approach to inspect the approximately 1,400 dairy operations (CAFOs). In the past, EPA was only able to inspect 5 percent of the dairy operations per year. In an effort to increase the number of inspections, and educate the farmers about water quality protection, the Idaho State Department of Agriculture (ISDA) will take the lead in inspections, while EPA retains its oversight authorities. The ISDA already inspects the dairies for milk quality and with the new agreement will expand their inspections to look at the waste management practices. With the number of ISDA dairy inspectors, it is anticipated that more than 95 percent of the dairies will be inspected per year. For those dairies who are illegally discharging or have inadequate waste management practices, ISDA will have the ability to revoke the farmer's license to sell milk.

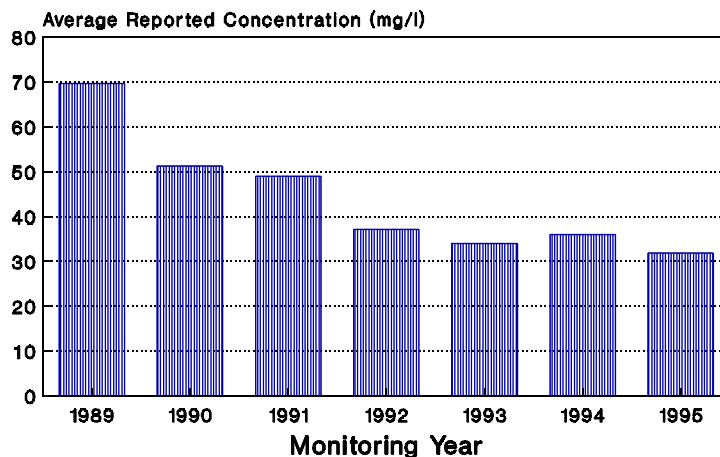
For the CAFO program in Oregon, EPA, and the Oregon Department of Agriculture also entered into an agreement establishing a partnership for regulating the industry. In FY95, 30 joint inspections were conducted and EPA overfiled on four enforcement actions (Oregon is a delegated NPDES state.) In addition, last fall approximately 150 farmers attended an EPA and state sponsored "mock" inspection, prior to the joint inspections. The purpose of the "mock" inspection was to inform the farmers of what aspects of their farms would be inspected and what type of waste management practices were expected by the farmers.

Over the past three years, Region X has inspected approximately 200 CAFOs and issued 17 administrative orders and 21 complaints in Idaho. In addition, in the past year Region X has issued 4 orders and 4 complaints in Oregon.

- **Oil and Gas Exploration and Production** - In response to Region VI's December 3, 1993, modification of the NPDES general permit for offshore oil and gas exploration and production, which incorporated newly promulgated discharge guidelines established at 40 CFR Part 435, the region undertook an initiative that ranked the 150 discharging companies according to the seriousness of the violations and the relative magnitude of their operations in the Gulf of Mexico. Administrative Orders requiring immediate corrective action were drafted for those companies ranked among the most serious violators. In some instances, violations were serious enough that administrative penalty orders were also issued.

Vigorous enforcement of the NPDES general permit for offshore oil and gas exploration and production has contributed to significant reductions in the reported concentration of pollutants discharged to the Western Gulf of Mexico. Among the most toxic of the discharges from these platforms is produced water (i.e., water extracted from the underground formation of oil and gas, which is separated out, treated, and discharged to the Gulf). Oil and grease concentrations in the produced water are measured monthly, and the worst case measurement is reported annually for each discharge location. The figure presented below depicts the reduction in reported oil and grease concentrations on an annual average basis of more than 900 discharge points during the time period 1989 to present.

### Produced Water Oil and Grease



In addition to compliance monitoring for produced water oil and grease, the permit limitations for discharges of deck drainage, drilling fluids and cuttings, sanitary waste, and other miscellaneous waste streams have also been closely monitored, and rigorously enforced. Although not as readily quantified, it is apparent that substantial reductions have also occurred in these areas.

Region IX also conducted an inspection initiative of the 19 oil and gas facilities (refineries, exploration and production platforms) in the Cook Inlet region of Alaska. This was in part in response to a citizen suit notice and the region's enforcement actions against 18 oil and gas exploration and production facilities. The purpose of the inspections was to determine if the non-compliance activities identified in the enforcement actions were still continuing. Inspections determined that the facilities were in compliance.

- **Bulk Pesticide Repackaging** - Region VII continues to work with EPA headquarters, states, and the pesticide industry in the bulk pesticide repackaging initiative begun four years ago to assess the integrity of bulk repackaged pesticides. Based upon inspection

findings that 70 percent of bulk repackaged pesticides were contaminated with one or more other pesticide active ingredients, EPA initiated several meetings of stakeholders to identify and resolve this situation. In FY95, Region VII continued to work with stakeholders to define toxicologically significant levels of pesticide cross-contamination in bulk repackaged pesticides.

- **Boilers and Industrial Furnaces** - Region VII combined compliance assistance and RCRA administrative enforcement actions to address compliance issues involved with implementation of the RCRA BIF Rule. During the past two years, Region VII has issued a number of RCRA administrative enforcement actions to seven of the eight cement kilns in the region that burn hazardous waste as interim status facilities under the BIF Rule. Concurrent with the issuance of these enforcement actions, Region VII also conducted compliance assistance activities such as semi-annual regional roundtable discussions between Region VII, states, and members of the cement kiln recycling coalition. Many of the industry participants in these roundtable discussions were from facilities involved in the Region VII enforcement actions. This combination of enforcement and compliance assistance activities has led to increased communication and understanding among Region VII, states, and the cement kiln industry.

These activities have also resulted in the development and use of specific approaches to implement the BIF Rule including a protocol for sampling and analysis to ascertain if the cement kiln dust meets the Bevill exemption. Use of this protocol significantly decreases the risk that hazardous cement kiln dust will be improperly disposed of and negatively affect human health and the environment.

## **6.2 Place-based Initiatives**

More and more, EPA and the states are focusing their compliance assurance and enforcement efforts on specific places that require special attention. Such places can either be geographic locations (e.g., cities, counties) or ecosystems (e.g., lakes, rivers). Like sector-based initiatives, these national initiatives are best implemented at a regional level, where each individual region can assess its own geographic areas and ecosystems and develop specific programs to meet the individual needs.

### **6.2.1 Geographic Initiatives**

At the national level, one specific example of a geographic-based initiative was the Miami, Florida, initiative conducted by the Office of Criminal Enforcement, Forensics, and Training (OCEFT). Over the course of FY 1995 there has been a dramatic increase in the illegal importation of CFCs and other ozone depleting chemicals (ODCs) in the United States subsequent to the promulgation of stringent amendments to the CAA. EPA's Criminal Investigation Division (CID) responded with aggressive investigation of these activities. Illegal importations of CFCs often involve violations of United States Customs Service (USCS) statutes related to smuggling and the Internal Revenue Service (IRS) codes regarding the payment of CFC excise taxes. During FY 1995, the majority of criminal activity in this area occurred in the Miami,

Florida, area. EPA's Miami Office initiated 12 investigations involving illegal ODC importations. EPA has selected a national coordinator to serve as a focal point among all area offices, the USCS, and the IRS. In FY 1995, the first successful prosecutions of ODC smuggling cases occurred with two convictions and four pleas to criminal counts. Four individuals were sentenced to prison terms totaling 50 months.

EPA and the states are realizing that certain geographic areas create more harm to human health and the environment than others. To address this situation and provide protection to residents of these areas, the Agency is moving its compliance assurance and enforcement priorities to specific geographic areas. The examples below highlight some of the specific initiatives in such areas:

- **Specific Urban Areas** - Region I originally targeted four urban areas for special enforcement attention and later added a fifth. The targeted urban areas were: Providence, Rhode Island; Boston, Massachusetts; and Bridgeport, Hartford, and New Haven, Connecticut. Regional staff worked with community groups and state and local officials to identify sectors and facilities that posed the greatest risk of environmental harm in these areas and to develop SEPs that would benefit the local population.
- **Long Island, New York and Camden, New Jersey** - Much of Region II has high population density and depends on ground water for potable water. To enhance aquifer protection, especially sole source, the region has conducted aquifer protection initiatives since 1991. In FY95, the region continued to emphasize this regional priority and conducted geographic initiatives to protect groundwater in Long Island and Camden.
- **Chester, Pennsylvania** - TRI reporters have been identified and ranked using the Chronic Index, and four multimedia inspections have been conducted. For air emissions, 39 facilities were screened, 16 file reviews were conducted, 12 inspections were conducted, and five NOVs and three §114 letters were issued in support of the initiative. Formal administrative and/or judicial actions are still being considered at several facilities. For RCRA, 43 hazardous waste and underground storage tank leak detection inspections were conducted and coordinated by EPA (21) and the Pennsylvania Department of Environmental Protection (PADEP) (22). Inspections were targeted at a mix of treatment, storage, and disposal facilities (TSDs), large quantity generators (LQGs), and small quantity generators (SQGs) that had not been previously inspected. Four NOVs were issued by EPA and seven NOVs were issued by PADEP in response to identified violations.
- **South Philadelphia, Pennsylvania** - TRI reporters have been identified and ranked using the Chronic Index. Two multimedia and several individual program inspections have been planned and will be carried out during the second quarter of FY 1996. A health study is being undertaken by Johns Hopkins University, the results of which will be used to further target inspection candidates. A compliance assistance initiative has been started for the auto body sector. In support of this initiative, the Air Radiation and Toxics Division has screened 46 facilities, conducted 17 file reviews, and performed eight inspections.



Fourteen facilities were screened for RCRA and NPDES program interest and inspections will be conducted at five to ten of these facilities during FY 1996. One air case was referred to DOJ. While this source was outside of South Philadelphia, it was adversely impacting the National Ambient Air Quality Standards for lead in a residential neighborhood in South Philadelphia.

- **Greater Chicago, Illinois** - In the Greater Chicago Geographic Initiative area, Region V has continued to implement a strong enforcement program, and, in a separate non-regulatory program, the region has continued to work closely with state and local partners to provide quality pollution prevention technical assistance in the community. The region recently announced a significant settlement at the PMC facility in Southeast Chicago where EPA joined in an action brought by two public interest plaintiffs under the Clean Water Act. The settlement calls for payment of a \$1.6 million penalty. The region also continues to prosecute a 39-count multimedia judicial action against PMC's neighbor, Sherwin-Williams, Inc. Vigorous enforcement of the CAA has also resulted in NOV's against LTV Steel, Ford Motor Company and the City of Chicago's Northwest Incinerator. The region is working to resolve each of these matters.
- **Southeast Michigan** - There have been three ongoing projects in Southeast Michigan Initiative (SEMI) that have involved compliance assistance activities. A pollution prevention provider network has been established and is a self-sustaining organization. This was accomplished through an EPA grant to the Michigan Energy and Resource Research Association (MERRA). MERRA also gathered names of industrial contacts at the annual Michigan Department of Natural Resources pollution prevention conference and met with about 25 assorted industry representatives.

An EPA grant was given to the Southeast Michigan Council of Governments to conduct pollution prevention outreach activities to Publicly Owned Treatment Works (POTWs). They conducted many site visits to communicate the existence and availability of pollution prevention resources. The Michigan Department of Environmental Quality was awarded a grant to continue pollution prevention compliance assistance at local POTWs.

The Southeast Michigan Coalition on Occupational Safety and Health received funds to establish labor/management discussion groups to identify pollution prevention methods in selected facilities. They have identified a number of sites and are continuing to work with them on establishing and implementing comprehensive pollution prevention programs.

- **Gateway Initiative** - This Region V initiative has resulted in significant enforcement-related activities, including the following actions:
  - TWI Consent Decree - A July 1995, Illinois EPA consent decree with Trade Waste Incinerator (Sauget, Illinois) included a \$200,000 SEP for the disposal of tires and other garbage that has accumulated in vacant lots and abandoned housing. Fly-dumping (the unauthorized disposal of construction and household waste material) is one of the Gateway community's highest concerns. TWI will place large

containers around East St. Louis, Alorton and Washington Park, the exact locations to be selected with community input.

- Chemetco - Settlement discussions continue with Chemetco (Hartford, Illinois) regarding particulate matter and lead violations cited in the July 13, 1993, complaint. Ambient lead monitoring around the facility continued to demonstrate violations in FY95.
- Clark Refinery - Sulfur dioxide-related violations at the Clark Refinery (Hartford, Illinois) were resolved through an administrative law judge's ruling following a hearing on the violations. EPA prevailed on all counts and a final penalty of \$139,440 was assessed and paid. An NOV of alleged air permit violations was also issued in March 1995.
- Other Notices Issued - An NOV and Finding of Violation (FOV) were issued to National Steel (Granite City, Illinois) for alleged particulate matter and benzene violations. An NOV and FOV were issued to Shell Oil (Roxana, Illinois) for numerous alleged violations of sulfur dioxide, ozone and benzene regulations. The EPA reviewed a benzene wastewater waiver from Shell and issued an initial intent-to-deny letter.

### **6.2.2 Sensitive Ecosystem Initiatives**

The value of ecosystems can be measured in several ways. Living things and the ecosystems on which they depend provide communities with food, clean air, clean water, and a multitude of other goods and services. Consequently, the high rates of species endangerment, loss of natural resources, habitat fragmentation, and losses of recreational opportunities pose a potential threat to the health, lifestyle, and economic future of all Americans.

Many EPA activities have helped protect ecosystems. The Agency has implemented laws to control many of the major sources that pollute the Nation's air, water, and land. Although these laws and regulations address such problems, past efforts have been as fragmented as the laws enacted to solve the problems. Because EPA concentrated on issuing permits, establishing pollutant limits, and setting national standards, as required by environmental laws, it did not concentrate on the overall environmental health of specific ecosystems. However, EPA is currently placing high priority on developing compliance assurance and enforcement programs that focus on such ecosystems. The following highlights some of the specific programs:

- **Chesapeake Bay** - EPA was actively involved in the regional Chesapeake Bay program geographic initiative. Involvement included having pesticide cooperating state programs conduct at least 10 percent of their compliance monitoring inspections in the Chesapeake Bay drainage basin. EPA was also involved in promoting Integrated Pest Management (IPM) implementation in the Chesapeake Bay area through extensive outreach and incorporation of IPM principles in state applicator training and certification programs.

Chesapeake Bay issues have also been included in over 40 "TownTalk" outreach events and in major educational exhibits such as the Philadelphia Flower Show and the Pennsylvania Farm Show.

### *Region I Sensitive Geographic Areas*

*The Region I sensitive geographic area theme had two distinct sub-themes. First, Region I committed to increase its efforts to improve coastal resources, particularly beaches and shellfish areas. Second, the region committed to a greater level of wellhead protection. Working with the six New England states, the region identified both threatened critical coastal resources and communities solely dependent on ground water for drinking water supplies.*

*Coastal Resources - EPA and the states worked with coastal municipalities to address raw sewage discharges that were impacting recreational activities. In Maine, the communities surrounding Casco Bay were placed on long term schedules to clean up the bay. In Massachusetts, eight communities along the Charles River were issued enforcement orders to address untreated discharges. In Connecticut, key communities on Long Island Sound were placed on schedules for abating discharges.*

*Wellhead Protection - The second sub-theme required coordination of EPA and state inspections using GIS mapping to target facilities in communities that use ground water as the sole source of drinking water. The region and states targeted inspections in all media to determine compliance and risk in these communities. Five of the six states identified specific communities for wellhead protection areas. The region performed inspections in those areas at sources that posed the greatest risk. The region found high compliance rates among those industries inspected in wellhead protection zones.*

- **Anacostia River** - Region III completed investigation of two major storm sewers to identify potential sources of PCB and heavy metal contamination to the Anacostia River. As a result of multimedia inspections and sediment sampling, Region III determined that two federal facilities were likely connected with historic PCB and heavy metals contamination of storm sewer sediment and river sediment in portions of both the Anacostia River and the Tidal Basin. Beginning in the first quarter of FY 1996, Region III will work with the identified federal facilities to determine how to remedy the past contamination.
- **Great Lakes Enforcement Strategy (Region V)** - The purpose of this strategy is to eliminate or control to the maximum extent feasible, the discharge of critical pollutants from point sources to the Great Lakes. For the past three quarters, Great Lakes significant noncompliance rates have been reduced to at or below the 10 percent goal and are in fact within 1 percent of the national average. The table shows that the Great Lakes Enforcement Strategy has been especially successful in reducing critical pollutant loadings in the Great Lakes.

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<b>Critical Pollutant Loads in Kilograms</b>				
<b>Parameter</b>	<b>1991-1992</b>	<b>1992-1993</b>	<b>1993-1994</b>	<b>Decrease</b>
Cadmium	14,646	9,408	7,188	51%
Chromium	46,909	38,355	24,184	48%
Copper	114,518	109,558	94,363	18%
Dioxin/Furan	0	0	0	NA
Hexachlorobenzene	17	0	0	100%
Lead	53,322	29,548	23,645	56%
Mercury	347	357	269	22%
Oil & Grease	17,650,661	14,704,619	13,681,581	22%
Polyaromatic hydrocarbon	194	83	63	68%
Polychlorinated Biphenyls	54	13	5	91%
Zinc	337,010	337,562	331,691	2%
<b>Total Pollutant Loads</b>	<b>18,217,678</b>	<b>15,229,503</b>	<b>14,162,989</b>	<b>22%</b>

- Galveston Bay Watershed** - Located in Region VI, the Galveston Bay Watershed area consists of the five counties surrounding the Bay. Within the watershed there are 1,680 municipal and industrial facilities of which 240 (approximately 15 percent) are major facilities and currently tracked in the NPDES program. The remaining 1,440 facilities are minor facilities and historically are not tracked for compliance in the NPDES program. Region VI developed a Comprehensive Conservation and Management Plan for Galveston Bay that identifies problems and action plans to correct those problems. The plans include prioritizing permitting, outreach, and enforcement actions for FY 1996; conducting 140 inspections of minor facilities in Harris and Galveston Counties; and issuing administrative orders to 250 industries under the Storm Water Permit program.

As a part of a civil lawsuit settlement with EPA, the City of Houston agreed to conduct an \$800,000 toxicity study of the Houston Ship Channel, and associated side bays and tributaries. As a result, Region VI has negotiated agreements with five industries discharging to Patrick Bayou which are potential sources of water quality violations in the Bayou. The industries have agreed to perform self audits of their facilities and processes to locate any potential source of the pollutants identified in the Bayou.

- Lake Pontchartrain** - EPA, Region VI, and the Louisiana Department of Environmental Quality (LDEQ) initiated an enforcement and compliance outreach effort to address water quality problems in the Lake Pontchartrain Basin. As part of this initiative, EPA is monitoring compliance of all major facilities and all minor facilities that have received an

NPDES permit. The LDEQ is continuing to initiate enforcement actions as needed to address citizens complaints and address violations of state permits. A number of enforcement actions that have been completed or are pending include:

- Civil actions with the cities of Baton Rouge, New Orleans, and Kenner
- Administrative fines pending with St. Tammany Parish Sewer District #6 and Delatte Metals
- EPA orders to 64 scrap metal yards and approximately 25 minor sewage treatment plants
- State orders to over 80 facilities in 1994 and 1995.

A number of outreach efforts have also been completed, including:

- Joint EPA, LDEQ, and Farmers Home Administration meetings with minor facilities to explain how the enforcement process works and what funding programs may be available to facilitate compliance
  - Contacting each facility prior to issuance of any administrative action
  - A press release issued concurrent with the issuance of orders to minor facilities.
- **Lower Mississippi River Ecosystem Initiative** - Under this initiative, Region VI led a major targeting effort to identify LQGs for RCRA inspections. Targeting was limited to the Lower Mississippi River Ecosystem, extending one parish on either side of the river from Baton Rouge, Louisiana, to the Gulf of Mexico (a total of 14 parishes). This system has been identified as a sensitive environmental area and has a significant environmental justice component along much of the corridor. Industrial sectors located in this area include: organic chemical and coatings manufacturers; inorganic chemical manufacturers; pulp and paper mills; shipbuilders, barge cleaners, and associated fabrication operations.
  - **San Francisco Bay** - Region IX undertook, with members of the Association of Bay Area Governments, the California Department of Toxic Substances Control, a San Francisco Bay

*Throughout FY 1995, EPA participated with DOJ, the Coast Guard, and other federal and state entities in environmental task forces to address potential environmental violations in the Mississippi River watershed. The Philadelphia, Atlanta, Chicago, Dallas, and Kansas City Area Offices have investigations that target polluters along the Mississippi River and its tributaries. These investigations target sources that threaten ecosystems and environmental justice communities. Furthermore, the investigations are based upon strong science and data, and partnerships with other enforcement agencies. At the close of FY 1995, EPA had initiated almost 60 investigations under the Mississippi River initiative.*

Area Green Business Recognition Program. This program seeks to create a multi-agency program that would recognize businesses for two levels of environmental performance. Level I recognition would occur when businesses demonstrate compliance with all environmental regulations while Level II recognition would occur for businesses achieving excellence in waste reduction, pollution prevention, and resource conservation. At end of FY95, this team presented the program concept to the Region's Green Business Advisory Committee and nine counties in the San Francisco bay area for review and comments. During FY96, the goal is to begin implementation in two bay area counties. The targeted industry selected to focus on is automotive repair.

### **6.3 Multimedia**

At the headquarters level, the Multimedia Enforcement Division (MED) continued to aid the development of regional multimedia enforcement capacity by serving as a clearinghouse of information and experience on multimedia inspections, case development, and litigation. MED has been gathering various regional documents outlining different implementation strategies and, along with headquarters policy and guidance, has developed a central repository for information that is unique to multimedia enforcement or applies generally to all media programs. MED is also providing support for the improvement of multimedia inspections by participating in various workgroups developing inspection guidance, and by working with the National Enforcement Training Institute (NETI) to develop a multimedia inspector training program.

An example of MED's involvement with the regions and states was the 1995 Multimedia Enforcement National Conference. The 118 attendees at the conference represented EPA headquarters, including senior OECA management, all 10 regions, and 17 state environmental and enforcement agencies. A final report, which is intended as a tool to help disseminate knowledge of multimedia enforcement activities and further development of multimedia programs, especially at the regional and state level, has been published, and is also available on the EnvironSense electronic information system.

*FFEO is among the leaders in applying innovative approaches to inspection targeting and enforcement action resolution. For example, the recently completed FMECI and the subsequent implementation of multimedia inspections and enforcement actions as an on-going program element demonstrate the importance of multimedia approaches to the federal facilities compliance assurance and assistance program.*

At the regional level, Region IV continued to significantly improve its Multimedia Targeting Strategy. The region is using more environmental databases, (e.g., STORET, National Sediment Inventory and GIS) to further improve and refine this process. The region conducted 32 multimedia Category D Consolidated Inspections with 13 of these inspections occurring at federal facilities and another conducted with the National Enforcement Investigations Center. Region IV's purpose for conducting these inspections was to emphasize holistic targeting, maintain a holistic approach to compliance monitoring, and establish a holistic compliance presence.

### **6.4 Environmental Justice**

Many minority, low-income communities have raised concerns about the disproportionate burden of health consequences they suffer from the siting and operation of industrial plants and waste dumps, as well as from exposures to pesticides or other toxic chemicals at home and on the job. Their primary concern is that environmental programs do not adequately address these disproportionate exposures.

To better address these types of issues, OC established an office-wide environmental justice network and completed an environmental justice strategy entitled "Vision 2000 - A Five-Year Strategic Plan for Environmental Justice," which includes workplans for nine specific program initiatives. These initiatives included emphasizing environmental justice concerns in the development of state grant guidance and regional MOA guidance.

FFEO prepared environmental justice profiles of 25 federal installations across all 10 EPA regions to serve as models for how agencies should consider environmental justice in their planning processes and to assist EPA and states in targeting enforcement actions.

Throughout the regions, an awareness of environmental justice issues is increasing and becoming a consideration in all regional strategies and operations. For example, as part of its strategy to assess the compliance status and gain insights into environmental concerns in environmental justice areas, Region II has made compliance initiatives in environmental justice areas a priority for a number of years. Environmental justice areas where local community groups had voiced environmental concerns and environmental justice industrialized/residential areas with aging infrastructure have received hundreds of targeted compliance evaluations as well as follow-up enforcement. Areas include Catano, Puerto Rico; Greenpoint-Williamsburg, New York; Newark, New Jersey, and Camden, New Jersey. In addition, in FY95, an analysis of factors such as inspections and violation rates in environmental justice and non-environmental justice areas was conducted using GIS and RCRIS. Region IV has also responded to community concerns by placing special emphasis on environmental justice areas. The region prioritized inspections at combustion facilities with environmental justice concerns and has evaluated, using census data, corrective action facilities for environmental justice issues. Through multimedia inspections, another environmental justice area has been identified for further focus in FY96.

*One of the OCEFT initiatives is prosecution of environmental crimes in environmental justice communities. Each Area Office has identified specific communities by race, ethnicity, or income that bear disproportionate adverse impacts from pollutant sources. EPA initiated 320 investigations during FY 1995 which targeted industries that have repeatedly committed environmental crimes in minority or low income areas.*

In Region VI, activities in conjunction with the Agriculture Street Landfill Superfund NPL and Environmental Justice Site have been a model of intergovernmental cooperation and community relations. These activities have included meetings between EPA staff and the City of New Orleans, as well as meetings of the Region VI Regional Administrator and the Assistant Administrator for the Office of Solid Waste and Emergency Response with the Mayor of New

Orleans and with senior officials of the U.S. Department of Housing and Urban Development (HUD). Region VI has used a fast track approach to investigation and NPL Listing of the site, as well as remedial investigation/feasibility study.

The Agriculture Street Site includes about 95 acres and was operated as a solid and liquid waste landfill by the City of New Orleans between 1910 and the 1960s. Following the landfill's closure, the City became closely involved in developing the property for residential use and later built a school on the site. In the mid-1980s, EPA, state, and local officials studied the site extensively in response to public concern over possible health problems caused by contaminants to which residents may be exposed. Data from those studies indicated that the site did not pose an immediate health threat to the residents. Nevertheless, in response to renewed concerns, Region VI conducted an expanded site inspection (ESI) in 1993 for both site ranking and removal assessment purposes. EPA also conducted emergency removal action at the site and has continued its investigations with a removal/remedial integrated investigation study.

With its FY95 reorganization, Region VIII created an Environmental Justice Program within the Enforcement, Compliance and Environmental Justice Office. This program office will work closely with the Technical and Legal Program Offices, as well as the other Assistant Regional Administrator Offices, to develop a comprehensive way to target NPDES inspection and enforcement to the greatest advantage to take care of environmental injustices.

## **6.5 Pollution Prevention**

Pollution prevention continues to garner much attention throughout all EPA offices and the states. Pollution prevention and waste minimization activities are routinely negotiated as SEPs into settlement agreements. In addition, much of the Agency's compliance assistance involves pollution prevention and waste minimization activities.

The Region II strategy has been to consistently promote pollution prevention through numerous approaches at both state and federal levels. This includes major SEPs with significant waste reduction, outreach through training and technology transfer, in-depth waste minimization audits, screening inspections during all RCRA inspections, major grant support for innovative state approaches, outreach, and waste oil reuse program development in the Caribbean. For example, Kodak and DuPont are in the process of conducting major waste minimization projects as part of SEPs. As a result of the Kodak settlement, nearly \$12 million will be spent by Kodak for pollution prevention/waste minimization projects that will result in an anticipated annual reduction of 872,000 pounds of hazardous waste. Region II also funded the Multimedia Pollution Prevention Program implemented by New York State Department of Environmental Conservation (NYSDEC). In FY95, NYSDEC inspectors targeted for inspection and potential pollution prevention 50 of the top 400 toxic releasing facilities within the state. Region II also conducted 40 waste minimization audits to ascertain whether generators of ozone depleting chemicals and generators that send their hazardous wastes to incinerators are implementing RCRA-required waste minimization plans.



The Greater Chicago Pollution Prevention Program (GCP3) is a Region V cooperative non-regulatory partnership of the Metropolitan Water Reclamation District of Greater Chicago, the City of Chicago Department of Environment, the Illinois Hazardous Waste Research and Information Center, the Illinois Environmental Protection Agency, and EPA. GCP3 promotes the adoption of pollution prevention ethics and activities in industry, government, and community groups in the Chicago area.

Since GCP3's inception, 60 site visits and 31 industrial assessments have been completed, resulting in significant pollution reductions as well as industrial cost savings from improved production efficiency and reduced treatment costs. GCP3 has worked with industry to provide workshops such as "Practical Solutions to Industrial Solvent Problems" and "Charting the Course to Environmental Soundness in the Printing Industry." In addition, GCP3 joined with the Calumet Area Industrial Commission, Chicago Legal Clinic, and Citizens for a Better Environment to co-sponsor "Good Neighbors: Making the Toxic Release Inventory and Pollution Prevention Work for You."

In Region IX, the Merit Partnership for Pollution Prevention (Merit) is a voluntary program involving industry representatives, state and local regulatory agencies, and EPA Region IX. The goal of Merit is to facilitate and implement demonstration projects that reduce environmental impacts and make good business sense. Projects proposed to Merit are evaluated by a community advisory panel and a steering committee of industry and agency representatives to ensure that they are consistent with the goals of Merit. Merit is currently working with the metal finishing industry, the oil refinery industry, an industrial laundry, semiconductor manufacturers, alternative fuel vehicle proponents, and a multi-industry initiative to proactively address toxic spills. Merit is also coordinating with representatives from the CSI, Design for Environment, and other EPA initiatives.

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## **7. ENHANCING PROGRAM INFRASTRUCTURE: POLICIES, TRAINING, AND GUIDANCE**

The effectiveness of the various enforcement and compliance activities described in this report depends, in large measure, on the improvement of policies, training, and guidance that support the overall program. In FY95, the Agency worked with state and tribal partners, and with industry representatives, to develop and implement several new or revised policies to improve program implementation. Several of these policies have previously been discussed in this accomplishments report, but other significant policies developed in FY95 are discussed below. In addition, EPA has continued to expand its training programs at the federal, state, tribal, and local levels, working to increase environmental protection capacities in all jurisdictions.

### **7.1 Policies and Regulations**

In addition to new policies on environmental audits, small business compliance incentives, and compliance flexibility for small communities (described in Section 4), EPA developed or revised other significant policies:

- **Revised SEP Policy** - This revision makes numerous improvements to the February 1991 policy. Specifically, it clearly defines a SEP and establishes guidelines to ensure that SEPs are within EPA's legal authority. The policy also defines seven categories of projects that may qualify as SEPs and specifically encourages projects that 1) address environmental justice concerns, 2) are multimedia in scope and 3) implement pollution prevention techniques.
- **RCRA Enforcement Response Policy** - EPA revised the 1987 policy to give the states and regions practical, flexible guidance for use in evaluating and responding to facilities in violation of RCRA. In particular, the revision focuses RCRA enforcement actions against significant violators that present the greatest risk to human health and the environment, and implements risk-based enforcement.
- **NPDES Inspection Policy** - This revised policy provides the regions flexibility in conducting NPDES inspections. The new policy states that rather than inspecting 100 percent of the NPDES majors, the regions may now shift resources from low risk majors to high risk minors to better address problem facilities or priority geographic areas.
- **Clean Water Act Penalty Policy** - The policy provides the flexibility needed to secure appropriate relief in settlement of cases against municipalities. The new policy provides many improvements to the 1986 policy, including an alternative approach to determine penalties against municipalities; a revision to the method for calculating gravity; and two new gravity adjustment factors to provide incentives for quick settlement and to mitigate penalty amounts for small facilities.

- **Title V** - EPA issued several CAA Title V policy and implementation statements designed to clarify Title V requirements. In particular, some of the clarifications address Title V application requirements and key Title V certification issues.
- **Guidance on Agreements with Prospective Purchasers of Contaminated Property** - The new guidance supersedes the 1989 guidance and allows the Agency greater flexibility in entering into agreements that provide a promise by EPA not to sue the prospective purchaser for contamination existing at the time of purchase. The new guidance allows for a broader application of prospective purchaser agreements by expanding the universe of eligible sites to include sites where any form of federal involvement has occurred or is expected to occur and there is a realistic probability of incurring Superfund liability.
- **Policy Towards Owners of Property Containing Contaminated Aquifers** - The policy describes EPA's decision to exercise its enforcement discretion and not take enforcement actions under CERCLA against owners of property containing aquifers contaminated by hazardous substances as a result of the migration from a source or sources outside the property.
- **Policy on CERCLA Enforcement Against Lenders and Government Entities that Acquire Property Involuntarily** - The policy states that EPA and DOJ intend to apply as guidance the provisions of the Lender Liability Rule promulgated in 1992. (In 1994, the D.C. Court of Appeals vacated the Lender Liability Rule after it determined that EPA lacked the authority to issue a rule delineating the scope of CERCLA liability.) The policy advises EPA and DOJ personnel to consult both the regulatory text of the Lender Liability Rule and the accompanying preamble language in exercising their enforcement discretion under CERCLA as to lenders and government entities that acquire property involuntarily.
- **Standardizing the *De Minimis* Premium** - The guidance establishes presumptive premium figures and describes the most likely basis for deviating from such figures. Additionally, the guidance recommends a method for effectively communicating the premium determination process to the *de minimis* settlers and other interested parties at a site.

In FY95, FFEO participated in two significant policy-making efforts. FFEO, in collaboration with several other agencies, published a report entitled *Improving Federal Facilities Cleanup*. The report, which represents the culmination of several years of intensive effort, explores the origins of the federal facility environmental contamination problems, acknowledges federal responsibility for addressing these problems, and identifies potential obstacles on the path towards reforming federal facility environmental management. In addition, FFEO participated in the development of a joint EPA/DOE policy on decommissioning DOE facilities under CERCLA. The policy was formally executed on May 22, 1995, and establishes a decommissioning approach that protects workers, human health, and the environment; is consistent with CERCLA; provides stakeholder involvement; and achieves risk reduction without unnecessary delay.

Other significant regulation/rulemaking efforts include:

- **Hazardous Waste Combustion Rulemaking** - This rule, which regulates all combustion units that burn hazardous wastes, is being proposed under joint RCRA and CAA authorities. EPA utilized the procedures established by the CAA for development of MACT standards to establish new standards for organic and inorganic parameters for combustion activities. OECA's primary role in the development effort has been to ensure the overall enforceability of the rulemaking.
- **Detergents Rule** - EPA finalized and published the gasoline detergents Phase 1 final rule (enforcement provisions). The Act and rule require that all gasoline contain effective detergents to assure prevention of fuel injection and engine deposits. Such deposits can increase vehicle emissions. EPA hosted or participated in several regional and national detergents rule workshops that were widely attended by industry and also drafted an enforcement manual for detergents. In addition, EPA has drafted extensive regulatory provisions and preamble language for the gasoline detergents Phase 2 rule (enforcement provisions).

## **7.2 Training Programs**

To educate EPA and state personnel on new policies, regulations, rules, or programs, EPA routinely conducts training sessions and writes and issues guidance. The primary training arm of OECA is NETI. In FY95, NETI developed or participated in the development of seven new training courses: Advanced Negotiation Skills, Environmental Justice, Multimedia Inspection, Pollution Prevention, Protecting Water Quality Through Enforcement and Compliance, Enforcement Communications, and the RCRA Practitioners Workshop. Throughout the year, NETI delivered training to more than 5,300 environmental enforcement personnel at the federal, state, and local levels. NETI also organized the first EPA National Enforcement and Compliance Assurance Conference attended by more than 200 enforcement and compliance professionals from EPA's headquarters and regions. The conference promoted a common understanding about strategic directions for EPA's enforcement and compliance assurance program and explored issues surrounding working relationships and partnerships with key stakeholders.

In addition to the NETI-sponsored training, OECA conducted numerous other training courses in FY95, including:

- **SEP Training** - In conjunction with the issuance of its revised SEP Policy, OECA presented a series of training sessions on the revised policy. The course was produced as part of the implementation of the policy and covers numerous improvements made by the revised policy, including: definition of a SEP; guidelines to ensure that SEPs are within EPA's legal authority; the seven categories of projects that may qualify as SEPs; step-by-step procedures for calculating the cost of a SEP and the percentage of that cost that may be applied as mitigation before calculating the final penalty; and administrative procedures when a SEP is included in a settlement.

The course also contains modules on the Revised General Enforcement Policy Compendium and on the PROJECT computer model, which is used to calculate the cost of a SEP. It consists of a day of classroom work followed by a hands-on computer session. The course has been presented twice at headquarters and at least once in each of the regional offices. More than 500 EPA, state, and local environmental managers and staff have attended.

- **RCRA Practitioners Training Workshop** - This workshop is designed to impart program and legal staff with a strong working knowledge of RCRA and its enforcement authorities as well as provide opportunities for discussion of cross-cutting issues.
- **RCRA Inspector Institute** - This three day course is designed to enhance inspectors' knowledge and skill, thereby improving the quality of RCRA inspections. The RCRA Inspector Institute was presented jointly by OECA and NETI on three occasions in FY 1995. The Institute was presented in Regions II and III and at NETI West. Over 140 state and regional personnel received the training at these three presentations.
- **Training on Air Emissions Rules** - This training provides an overview of the recently promulgated RCRA air emissions rule for tanks, surface impoundments, and containers at hazardous waste treatment, storage, and disposal facilities (TSDFs).
- **RCRA Penalty Policy Training** - OECA hosted a RCRA Advanced Practitioners Penalty Policy Roundtable for regional and headquarters employees. The attendees participated in discussions on various new developments in penalty policies, including the SEP, Audit, and Small Business policies, and were updated on current administrative and judicial enforcement developments.
- **National FIFRA, TSCA and EPCRA Case Development Training Program** - Four national case development training courses were conducted in FY95 addressing FIFRA, TSCA and EPCRA. The courses, covering two days of instruction each, explain the civil administrative case development process from the gathering and evaluation of evidence through the issuance of the complaint to the ultimate settlement or litigation of the issues. A course manual is provided to each attendee. The manual explains the case development process through the citation of pertinent case law and actual examples of case documents.
- **Principles of Environmental Enforcement and Compliance** - In bilateral exchanges and capacity building, OECA coordinated, managed, and/or participated in deliveries of the course "Principles of Environmental Enforcement and Compliance" in Bulgaria, Chile, the Czech Republic, Hungary, Mexico, Russia (several deliveries there), Taiwan, Ukraine, and in Washington, D.C. to the World Bank. The course serves as an important component of the U.S. program to meet its commitments undertaken at the United Nations Conference on Environment and Development, including the commitment to develop institutions and capacity for effective environmental enforcement.

- **Introduction to Superfund Enforcement** - OECA developed a computer-based overview that uses narration, video, text, animation, graphics, and interactive exercises to explain the planning, management, and reporting requirements for basic CERCLA enforcement activities. The training course covers PRP liability, PRP search, negotiation and settlement, cost recovery, environmental justice and community involvement. The course was delivered on compact disk (CD-ROM) and runs on a standard multimedia personal computer. The four hour course was made available to all regional Superfund offices as well as to EPA libraries. In the future, OECA will conduct a comprehensive course evaluation to determine the effectiveness of CD-ROM as a training tool.
- **PRP Search Training** - The two-day PRP search training focused on the increased importance of PRP search activities at the Preliminary Assessment/Site Inspection phase. The training was intended for site assessment managers, civil investigators, case development staff for cost recovery referrals, regional counsel staff with PRP search responsibilities, and contractors who had been involved in the search process for one year or less. Topics covered include: elements of liability, *prima facie* case, PRP defenses, criminal liability, and information documentation.
- **Alternative Dispute Resolution (ADR) Training** - Training on the effective use of mediation and other ADR techniques to assist EPA enforcement actions was provided to all regional offices and headquarters during FY 1995. The intensive one-day training was designed for legal and program staff who participate in enforcement settlement activities. The ADR Users Training, taught jointly by EPA ADR staff and ADR professionals who have served as mediators in Superfund cases, concentrated on the inherent difficulties in Agency negotiations and how ADR can facilitate prompt resolution of such disputes.
- **CERCLA Education Center (CEC)** - During FY95, EPA's Office of Site Remediation and Enforcement provided support to the Technology Innovation Office in delivering two courses offered within the CEC curriculum.
  - **Fundamentals of Superfund** - This five-day course provides an overview of CERCLA, the National Contingency Plan and the Superfund Accelerated Cleanup Model. It includes introductory-level coverage of enforcement topics, such as CERCLA liability, identifying PRPs, settlement tools, ensuring adequate PRP response and employee authorities and liabilities.
  - **Enforcement Process** - This course provides in-depth information on enforcement activities and responsibilities under CERCLA. The first two days are dedicated to an enforcement overview and review of Superfund liability, PRP search activities, administrative and judicial law involvement, settlement tools and cost recovery. The last two days involve participants in an intensive negotiation skills workshop.

- **PRP Search Conference** - The two-day PRP search conference focused on methods of obtaining and documenting high quality evidence earlier in the search process and reorienting the process to facilitate expedited settlements. The conference was intended for experienced personnel who deal with liability and viability determinations and information collection and documentation. Topics covered included: PRP searches for expedited settlements and allocations, exchange of good ideas for searches, ability to pay/financial analysis, information management including on-line systems, and early sharing of information with PRPs.
- **National ADR Conference** - In cooperation with Region I and the National Corporate Counsel Association, the ADR Program held a conference on the effective use of ADR in environmental disputes. The two-day conference brought together over a hundred corporate executives, representing a wide range of the regulated community, with upper management of EPA regional and headquarters offices and DOJ.

In addition to the several training courses specifically cited, EPA headquarters and the regions are constantly offering and providing training to states and municipalities on similar topics relating to development and implementation of EPA programs. Some of these training/seminar topics have included:

- Multimedia inspector training
- Pollution prevention planning
- Waste minimization
- EPCRA reporting
- EPCRA compliance assistance
- Various statute-specific inspector courses.

### **7.3 Guidance Efforts**

To further educate EPA and state employees on programs, EPA develops and issues guidance documents or guidance statements. In FY95, the following are some of the significant guidance pieces issued:

- **Agriculture WPS Interpretive Guidance** - OECA issued three sets of WPS Questions and Answers in FY95. This effort reflected a major effort to respond to all but the most recent questions raised concerning the standard. The question and answer documents are the work of a multi-office work group established to address interpretive policy questions on the WPS. Questions have come from regions, state lead agencies, and the public.
- **Guidance on the Exercise of Investigative Discretion** - OCEFT issued this guidance, which establishes discrete criteria for Agency investigators when considering whether or not to proceed with a criminal investigation. The guidance is designed to promote consistent but flexible application of the criminal environmental statutes. The criminal case selection outlined in the guidance is based on two general measures - "significant



environmental harm" and "culpable conduct." These measures, in turn, are divided into nine factors which serve as indicators that a case is suitable for criminal investigation.

- **FY96/97 MOA Guidance** - OECA's annual MOA Guidance serves as EPA's vehicle for articulating the goals and direction of the national enforcement and compliance assurance program to EPA's regional offices and state programs. The FY96/97 guidance represented a significant change in strategic direction, shifting from our traditional focus on media-specific enforcement activities to the balanced application of a broad range of enforcement and compliance assurance tools to address community-based, industry sector-based and media-specific programmatic priorities. These tools include compliance assistance, incentive and recognition programs, compliance monitoring and data analyses as well as civil and criminal enforcement actions.
- **FY95 Pesticides/Toxics Grant Guidance** - In FY95, OECA took over management of the pesticides and toxics cooperative agreement (grants) programs, which included the lead-based paint grants program. These grants programs are designed to assist states, territories, and Tribes in maintaining comprehensive compliance and enforcement programs.
- **Draft Priority Guidance for Addressing Discharges of Raw Sewage from Separate Sanitary Sewers** - OECA publicly released its draft priority guidance for addressing discharges of raw sewage, known as sanitary sewer overflows (SSOs), from separate sanitary sewers. EPA will continue to enforce against SSOs (which are violations of the Clean Water Act in most instances) while a Federal Advisory Committee reviews the national scope of the SSO problem and drafts solutions to control these unpermitted discharges of raw sewage.
- **Guidance Document for §404 of TSCA, State Administered Lead-Based Paint Programs** - EPA has developed a "Model Lead-Based Paint Compliance and Enforcement Program" guidance document. The purpose of the guidance document is to clarify the term "adequate enforcement" with regard to lead-based paint programs and establish guidelines for a "Model Lead-Based Paint Compliance and Enforcement Program" for both state and federal programs. The document also establishes guidelines for EPA approval of the compliance and enforcement program portion of state lead-based paint programs.

In addition to its training and guidance efforts for domestic programs, OECA has continued progress in international collaborative efforts for environmental compliance and enforcement through the co-sponsorship of international conferences and development of hands-on workshop and support materials. As an outgrowth of the Third International Conference, OECA completed and distributed internationally, five technical support documents that summarize environmental problems, control and prevention opportunities, and references for metals mining, petroleum refining, deforestation, tourism, and residential and industrial waste disposal. Six new capacity building support documents are being developed for the conference, including international

comparisons of programs for source self-monitoring, record keeping and reporting; multimedia inspection protocols; organizing permitting, compliance monitoring and enforcement programs; financing and budgeting; communications for enforcement; and transboundary shipments of hazardous waste, pesticides and contraband CFCs.

## **8. MEASURING RESULTS AND THE IMPACT OF ENFORCEMENT AND COMPLIANCE ACTIVITIES**

Environmental results are the ultimate measure of success. These environmental results can only be achieved, at a minimum, when there is full compliance with our nation's environmental laws. In FY95, while EPA continued to improve on its ability to ensure compliance with these requirements, EPA also improved the methods of measuring the effectiveness of these efforts.

The expansion of compliance-related activities used by EPA, as a result of the 1994 enforcement reorganization, has required additional means of measuring success. Although certain numerical statistics of enforcement activity remain good indicators of Agency performance, EPA has adopted new approaches that focus on sector compliance rates and environmental health. These new approaches to measuring results have three principal objectives: 1) to measure accomplishments for the full spectrum of enforcement and compliance assurance activities, including those new compliance incentives and compliance assistance programs that supplement traditional enforcement activity; 2) to measure the degree to which these various program activities serve to protect human health and the environment; and 3) to measure industry performance in terms of compliance rates.

### **8.1 Steps Toward Improved Measurement**

In FY95, EPA took significant steps toward meeting the three objectives of the improved approach to measuring success. FY95 became a transition year to develop and pilot test new measures, information collection techniques, and re-engineered data systems. These changes will lead to a much improved set of measures that will be used to assess more accurately the effectiveness of enforcement and compliance assurance efforts and the performance of industry in complying with environmental laws and regulations. Among the steps taken in FY95:

- **Established compliance assistance measure** - Effective in FY 1996, EPA will begin collecting information about compliance assistance activities. All regions will provide information about the amount and types of general compliance assistance they deliver. They will also provide information about the results and impact of compliance assistance initiatives targeted at specific industry sectors. States have been asked to report voluntarily on this measure for FY96.
- **Emphasized environmental results of enforcement activities** - The Case Conclusion Data Sheet, piloted in every EPA region in FY95, was designed to provide systematic reporting of the qualitative and quantitative impacts and results of administrative and judicial enforcement cases. Information collected through this effort will include actions

taken by violators to return to compliance, environmental impact or benefit of actions taken by violators, and qualification of pollution reductions resulting from these actions. (The text box provides examples of some of the impacts identified during the 1995 pilot.) Use of this sheet will also provide useful information on the value of injunctive relief and the nature and value of SEPs.

- **Developed industry-specific compliance rates** - Through re-engineering single-statute compliance databases to organize data by industry sector and facility, EPA will be able to establish and monitor rates of noncompliance for industry sectors. This will allow EPA and industries to see the effects of various strategies on industry compliance and monitor the performance of industries in complying with environmental requirements.

*Reduction in Pollutants  
as a Result of Compliance Actions  
or Other Conditions of Settlement*

- *Air emissions of VOCs reduced by almost 800 tons per year (4 cases)*
- *Reductions of particulate air emissions of 95 percent (2 cases)*
- *Reductions in a total of 2,500 tons per year of particulate air emissions (2 cases)*
- *Reduced use of toluene and xylene by 20,000 pounds (1 case)*
- *Ammonia emissions reduced 53 percent (1 case)*
- *Total reduction of almost 2,000 gallons of PCBs (3 cases)*
- *Reductions in water pollutants of 45,000 pounds/year of biological oxygen demand (BOD) and 58,000 pounds/year of total suspended solids (TSS) (1 case)*
- *Reduction of 11,000 gallons of petroleum products*

Thus, for each of the tools of the integrated enforcement and compliance assurance program described in Sections 2 through 5 (compliance assistance, compliance incentives, compliance monitoring, and civil/criminal enforcement), EPA's improved approach to measuring success will move beyond merely counting activities by EPA and states to include actions by regulated entities, benefits to the environment and public health, and compliance level of industry sectors. On the following page, Table 8-1 on improved measures shows how new information being collected about each of the tools will contribute to the use of new and more powerful measures that can be used to assess program effectiveness and industry performance. In FY 1996, EPA will be able to use these new measures to further refine and adapt its enforcement and compliance assurance program, and thereby increase its effectiveness in protecting public health and the environment.

**Table 8-1  
Improved Measures of Success**

<b>Tools</b>	<b>Measures*</b>			
	<b>Actions by EPA/States</b>	<b>Actions by Regulated Community</b>	<b>Benefits to Environment, Health</b>	<b>Level of Compliance</b>
<b>Compliance Assistance</b>	<i>Aggregate data on assistance provided</i>	<i>Aggregate data on industry response</i>	<i>Aggregate data on emission reductions, etc.</i>	<i>Aggregate or anecdotal data on industry sectors</i>
<b>Compliance Incentives</b>	<i>Aggregate data on cases and agreements</i>	<i>Aggregate data on self-disclosures and agreements</i>	<i>Aggregate data on types of benefits, quantifiable results</i>	
<b>Compliance Monitoring</b>	Aggregate inspection data			<i>Contributes to sector-specific compliance rates</i>
<b>Civil/Criminal Enforcement</b>	Aggregate case and penalty data	<i>Aggregate data on violator actions to achieve compliance</i>	<i>Aggregate data on types of benefits, quantifiable results</i>	<i>Contributes to sector-specific compliance rates</i>

\* = *Italics* indicate new information being collected.

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## REGION I

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### CLEAN AIR ACT

***United States v. Borden, Inc. (D. MA):*** On March 24, 1995, the federal district court entered a civil consent decree in which Borden agreed to pay a penalty of \$82,278 for Clean Air Act violations. The action addressed violations of Massachusetts SIP regulations that limit volatile organic compound (VOC) emissions from vinyl surface coating operations. From September 1986 to May 1992, Borden's Vernon Plastics Division in Haverill, Massachusetts, operated vinyl surface printing lines using coatings that emitted VOCs in excess of the SIP limits. In response to EPA's enforcement action, Borden achieved compliance by reformulating its coatings and by installing and testing full enclosures around two printing lines and by routing all VOC emissions to incinerators. The full enclosures represent state-of-the-art emissions capture technology previously considered technically and economically infeasible. In reaching compliance, Borden reduced VOC emissions by at least 200 tons per year below 1986 levels.

***United States v. Housing Authority of the City of New Haven and Aaron Gleich, Inc. (D. CT):*** On August 17, 1995, the U.S. District Court in Connecticut approved a consent decree which settles this Clean Air Act asbestos case, originally filed in 1991 against a federally funded low-income housing provider and an asbestos abatement firm now in Chapter 11 bankruptcy proceedings. The case involves claims by EPA that the defendants failed to wet asbestos-containing material (ACM) and improperly disposed of ACM during the 1990 demolition of a large, vacant public housing complex in New Haven, Connecticut. At the time of the demolition, the facility was owned by the Housing Authority which had hired Gleich as the asbestos abatement contractor for the demolition operation. The settlement includes payment of a \$43,000 penalty for which defendants are jointly and severally liable as well as injunctive provisions designed to ensure future compliance with the asbestos NESHAP.

***In re: City of Providence, Central High School:*** A consent agreement and final order was signed on November 8, 1994, in which the City of Providence, Rhode Island, through its school department, agreed to pay a \$91,000 penalty for violations of the federal Clean Air Act and the federally approved State Implementation Plan. At its Central High School facility, the City failed to meet opacity emission limits, to operate opacity monitors in accordance with the regulations, and to combust fuel with the required sulfur dioxide content under federal

regulations. In the course of negotiations with EPA, the City agreed to purchase fuel with the required sulfur dioxide content and to operate its opacity monitor as required by the regulations.

### CERCLA

***United States v. Coakley Landfill, Inc. (D. NH):*** The United States and the State of New Hampshire have entered a consent decree with Coakley Landfill, Inc., Ronald Coakley, and other individual members of the Coakley family resolving the liability of the Coakley entities as owners and operators of the Coakley Landfill Superfund site. The Coakleys did not settle at the time of the first operable unit remedial design/remedial action (RD/RA) cleanup negotiations in 1991 because of lack of financial resources. After that, however, the New Hampshire Supreme Court rendered a decision in favor of the Coakleys against their insurers. The Coakleys then negotiated settlements with their insurers, the federal and state governments, and the first operable unit RD/RA settlers. Under the settlement, the Coakleys will pay \$1,404,000. The United States and New Hampshire will receive \$842,400, to be divided among EPA, the U.S. Department of the Interior, and the State based on the proportion of expected costs at the site. The Coakleys also agreed to impose controls on their property and to provide permanent site access. The settling parties with whom EPA entered into a RD/RA consent decree in September 1991 will receive \$561,600.

***In re: General Electric Company:*** In September 1995, the Region issued a unilateral administrative order to the General Electric Company (GE) requiring GE to remove soils highly contaminated with PCBs from residential properties forming part of the Fletcher Paint Works and Storage Facility Superfund site in Milford, New Hampshire. The contamination of the residential properties resulted from the spread of PCB-laden soils from the Fletcher property to the properties of neighboring homeowners. The Fletcher soils became contaminated primarily through disposal of waste PCBs at the site by GE in the 1950s and 1960s. The soils addressed in the removal order were up to 130 times the safe level for unrestricted residential exposure to PCBs set by national guidance.

***M&V Electroplating Superfund Site:*** On September 7, 1995, EPA-New England issued an administrative order for removal action to three potentially responsible parties at the M&V Electroplating Corporation Superfund site in

Newburyport, Massachusetts. The order compelled Circle Finishing Corporation, former tenant and generator, Joyce Vigeant, current owner and owner at the time of disposal, and M&V Electroplating Corporation, former operator and generator, to remove hundreds of gallons of dangerous chemicals improperly stored at the former electroplating facility. These substances presented an immediate and substantial threat of fire. The site is located in a mixed residential/commercial/industrial neighborhood, near a daycare center, a play area, and within one half mile of a grammar school. The town middle school and the downtown commercial district are within one mile of the site.

## CLEAN WATER ACT

***United States v. Commonwealth of Massachusetts (D. MA):*** On April 4, 1995, the federal district court entered a civil consent decree requiring the Commonwealth of Massachusetts and its general contractor, Dimeo Construction Company, to undertake a \$1.5 million wetlands mitigation project; pay a \$50,000 penalty; pay an additional \$378,000 penalty (economic benefit) if the Commonwealth ever sells the undeveloped land abutting the jail site; pay \$150,000 to the Massachusetts Audubon Society for the establishment of an endowment for the preservation of 264 acres of valuable wetlands in Halifax, Massachusetts; and offer a wetlands training course to employees of Dimeo and to the Associated General Contractors of Massachusetts. Between 1988 and 1990, the Commonwealth and its contractor filled approximately 11.5 acres of forested wetlands in Dartmouth, Massachusetts while constructing the Bristol County House of Corrections. The defendants neither applied for nor obtained a federal CWA Section 404 permit for this activity.

A unique feature of the settlement is the Supplemental Environmental Project (SEP) which involves the Commonwealth funding an endowment to be created by the Massachusetts Audubon Society (MAS) to be used to preserve and maintain valuable wetlands that will be conveyed to MAS in connection with another EPA-New England wetlands settlement. This is the first time in the country that a settlement in one wetlands case has been used to ensure the success of the settlement in another case.

***United States v. City of Lynn (D. MA):*** EPA negotiated an agreement with the City of Lynn, Massachusetts, to add a schedule for the construction of combined sewer overflow controls to an existing consent decree. Lynn's CSO discharges violated Section 301(a) of the Clean Water Act. The required CSO controls, which are

estimated to cost approximately \$50 million, will eliminate an overflow which discharges near shellfish beds and will greatly reduce overflows which discharge onto a popular public beach. The schedule also includes a "reopener" date for negotiation of additional facilities to eliminate the remaining overflows onto the beach.

***United States v. City of New Bedford (D. MA):*** On June 16, 1995, the U.S. District Court for the District of Massachusetts entered a modified consent decree requiring the City of New Bedford to construct a secondary wastewater treatment plant. In 1993, the City of New Bedford refused to construct the secondary plant in accordance with the requirements of an earlier consent decree. The United States filed a motion to enforce the decree. Subsequently, New Bedford agreed to construct the plant, and EPA negotiated a modified consent decree. The modified decree requires completion of the new secondary treatment plant by 1996, and payment of a \$51,000 penalty to the United States. In addition, the decree requires payment of a penalty of \$51,000 to the Commonwealth of Massachusetts, which will be waived if New Bedford complies with certain terms of the modified consent decree.

***United States v. Freudenberg-NOK General Partnership (D. NH):*** On October 17, 1994, the U.S. District Court entered a civil consent decree in which Freudenberg-NOK agreed to pay \$550,000 in civil penalties in settlement of a civil action brought for violations of Sections 307 and 308 of the Clean Water Act. This action arose out of Freudenberg-NOK's violation of the federal metal finishing pretreatment standards and reporting requirements. The Region referred this action following an inspection made as part of the Region's efforts to ensure that industries subject to categorical standards but located in jurisdictions without federally approved pretreatment programs were meeting federal requirements.

***United States v. Hercules, Incorporated (D. MA):*** On December 13, 1994, the federal district court entered a civil consent decree which requires Hercules Incorporated to achieve and maintain compliance with pretreatment limitations, to pay a civil penalty of \$250,000, and to complete SEPs at a projected cost of \$375,000. The consent decree resolves a federal civil action which arose under Section 307 of the Clean Water Act for pretreatment violations at Hercules' branch facility in Chicopee, Massachusetts. Included in the action were violations of federal and local wastewater pretreatment standards for pH, violations of national pretreatment standards for organic chemicals, and a violation of the prohibition against discharging pollutants that may pass through the treatment plant.

**BayBank, Inc. and Northland, Inc.:** On January 11, 1995, the United States signed agreements with BayBank, Inc., and Northland Cranberries, Inc., to resolve potential future claims against those companies related to unlawfully-filled wetlands in Hanson and Halifax, Massachusetts. The agreements require a variety of restoration and mitigation projects, including the conveyance of a 264-acre parcel of Atlantic white cedar swamp to the Massachusetts Audubon Society.

**In re: Town of Brookline:** EPA issued an administrative penalty order against the Town of Brookline, Massachusetts, for discharges of sewage into the Muddy River in violation Section 301(a) of the Clean Water Act. The discharges resulted from illicit connections of sewer lines to storm drains. EPA negotiated a consent agreement with Brookline which requires the Town to locate and remove all such connections by 1997, and to undertake a variety of stormwater management practices. The consent agreement requires that Brookline pay a \$25,000 penalty if the Town does not comply with the schedule for removal of the illegal sewer connections.

## EPCRA

**In re: Colfax, Inc.:** On September 29, 1995, EPA issued an initial decision ordering Colfax, Inc., of Pawtucket, Rhode Island, to pay a fine of \$56,480 for its failure to file MSDS sheets and chemical inventory forms as required under EPCRA Sections 311 and 312. An administrative complaint was issued against the company in September 1993 following discovery of the violations during an inspection of the facility. The inspection revealed a history of non-compliance with reporting requirements necessary for local authorities to conduct chemical emergency planning.

## RCRA

**In re: Yale University:** An administrative consent agreement and order was signed September 19, 1995, to settle Yale University's failure to comply with various RCRA requirements involving the management of hazardous wastes and the preparation of emergency procedures. The case was negotiated following a routine inspection of four facilities at Yale. In addition to requiring Yale to comply with RCRA regulations, EPA agreed to a cash penalty of \$69,570 and SEP expenditures of \$279,205 on three projects. One SEP is to test micro-scaling of undergraduate organic chemistry laboratories, which will promote pollution prevention; the second is a hazardous chemical waste management training program, which will promote environmental compliance; and the third is renovation of a building to be used for a lead

poison resource center, which will promote public health in an environmental justice location.

**In re: United States Coast Guard Academy:** An administrative consent agreement and order was signed on September 21, 1995, to settle the Coast Guard Academy's failure to comply with various RCRA requirements involving the management of hazardous wastes and the training of employees. The case was negotiated following a routine inspection of the Coast Guard Academy. In addition to requiring the Coast Guard Academy to comply with RCRA regulations, EPA agreed to SEP expenditures of \$259,362.92 on two projects in lieu of a proposed cash penalty of \$171,809. Under the terms of one SEP, the Coast Guard will remove two underground fuel storage tanks and one above ground storage tank and will replace them with one dual compartment above ground tank to serve as a central fueling station. The other SEP calls for construction of a concrete block container storage building to replace the current waste storage modular.

**In re: Giering Metal Finishing, Inc.:** On September 8, 1995, EPA filed a consent agreement and order to settle an administrative penalty action against Giering Metal Finishing, Inc., (Giering). EPA initiated this administrative action against Giering for violations of RCRA requirements for the management of hazardous wastes and the training of employees. The settlement agreement requires Giering to pay a civil penalty in the amount of \$65,000, and to make expenditures in the amount of at least \$93,000 to implement three SEPs at the facility. The SEPs include: (1) enhanced closed loop pre-coat rinses; (2) solvent substitution; and (3) a compliance and pollution prevention audit.

## SDWA

**United States v. West Stockbridge Water Company and Victor Stannard (D. MA):** On December 20, 1994, the court entered a default judgment against the West Stockbridge Water Company and its owner, Victor Stannard, assessing a civil penalty in the amount of \$350,000 and enjoining the defendants to comply at all times with the requirements of the Safe Drinking Water Act. Water supplied by the water company periodically exceeded the maximum contaminant level (MCL) for coliform bacteria, with many samples showing the presence of fecal coliform. The water company also violated the Act's monitoring and public notice requirements and the filtration treatment requirements of the surface water treatment rule (SWTR). Believing that the water company's violations presented an imminent and substantial threat to the public health, EPA issued an emergency administrative order to the defendants. The

defendants' failure to comply with the emergency order led to the filing of the civil action and the \$350,000 penalty.

## TSCA

***In re: Altana, Inc.:*** A consent agreement and final order was signed February 15, 1995, settling an administrative action for violations of TSCA Section 4. Altana, Inc. is a corporation operating a business, the Byk-Chemie USA facility involving the manufacture and import of paint chemical additives. BYK-Chemie self-disclosed violations of TSCA Section 4 testing rules resulting from the importation of four subject chemicals without notice to the Agency or participation in required toxicity testing on the chemicals. The case was settled for a penalty of \$35,000. Incorporated into the settlement agreement is Altana's performance of a full TSCA environmental compliance audit at its BYK-Chemie facility.

***In re: Polaroid Corporation:*** In November 1994, Region I entered into a consent agreement and order with Polaroid Corporation resolving TSCA new chemicals program violations. Polaroid had notified EPA in October 1994, that an internal audit revealed the manufacture and use of a new chemical for several years without compliance with TSCA's premanufacture notification (PMN) requirements. Beginning in 1992, Polaroid, of Waltham, Massachusetts, had exceeded its low volume exemption for the chemical by manufacturing in excess of 1,000 kilograms per year without having submitted the chemical for the required EPA review of health and environmental impacts. Polaroid paid a penalty of \$80,000, reduced from \$160,000 in light of the prompt and voluntary disclosure of the violations. Polaroid is also performing an audit of its compliance with TSCA low volume exemption requirements for approximately 100 other chemicals, and will pay stipulated penalties for any further violations uncovered by the audit.

***In re: Litton Industrial Automation Systems, Inc.:*** The Environmental Appeals Board upheld EPA's inspection authority and procedures under TSCA, and assessed a \$36,000 penalty for PCB transformer violations. The violations were discovered during an inspection of Litton Industrial Automation Systems, Inc.'s New Britain, Connecticut, facility conducted by Connecticut Department of Environmental Protection personnel under EPA's inspection authority. The EAB decision affirms that under TSCA Section 11, the EPA Administrator is authorized to appoint state inspectors as "duly designated representatives" of EPA to conduct TSCA compliance inspections. This decision supports EPA's ability to supplement its PCB compliance monitoring efforts by using TSCA Section 28 grants for state inspections. The

EAB also clarifies that a respondent's voluntary consent to an inspection by State inspectors holding EPA credentials waives any Fourth Amendment right to exclude from evidence information derived from a warrantless search.

## FEDERAL FACILITIES

***U.S. Coast Guard Academy:*** Region I announced on September 27, 1995, that the U.S. Coast Guard Academy in New London, Connecticut, has agreed to spend \$259,254 on pollution prevention remedies as part of an enforcement settlement for hazardous waste violations. During an inspection of the facility, the Region cited the Coast Guard Academy for violations ranging from failure to maintain adequate records to improper storage of incompatible waste. The Coast Guard has agreed to conduct an SEP to remove two underground storage tanks and one above-ground tank to serve as a central fueling station. The Coast Guard also will replace its current waste storage modular building with a permanent concrete block container storage building. The new building will be used for the management of hazardous and Connecticut regulated wastes. The Region announced that the \$260,000 SEP, a 50% increase over the original proposed penalty amount was agreed to because the Coast Guard Academy is located within an environmental justice area identified by EPA for the State of Connecticut. The SEP will directly decrease the likelihood of pollution migrating into the Thames River, with which members of the community regularly come into contact for fishing and recreational purposes.

***Massachusetts Military Reservation:*** Region I approved, with concurrence by EPA Headquarters, two SEPs at the Massachusetts Military Reservation (MMR) as part of a settlement with the National Guard Bureau (NGB). In April 1994, EPA and NGB reached an agreement in principle to settle a dispute relating to the October 6, 1993, assessment of penalties under the MMR federal facility agreement. Under the agreement, NGB will pay a \$55,000 cash penalty and conduct an SEP in the amount of \$500,000 which meets the requirements of EPA's SEP guidance.

A review of past and present operations and waste disposal practices identified potentially contaminated areas, including eight that cover 3,900 acres on the southern portion of MMR. The materials found at the eight areas are fly ash, bottom ash, waste solvents, waste fuels,

herbicides, and transformer oil. The municipalities of Bourne and Sandwich, and the Air Force base have an estimated population of 36,000 people and have drinking water wells within 3 miles of hazardous substances at the site. Irrigation wells are also within 3 miles. Ashumet Pond, less than one mile from the former fire training area, is used for recreational activities. A freshwater wetland is 3,600 feet downstream of the area.

***U.S. Naval Education and Training Center:*** Region I reached a settlement with the Navy over violations of the federal facilities agreement for the Naval Education and Training Center (NETC), Newport, Rhode Island. The Navy agreed to pay \$30,000 in stipulated penalties, undertake \$220,000 in SEPs, pay \$10,000 for an EPA-Navy "partnering" meeting, and provide the necessary ecological risk assessments for two specific areas of the facility.

The dispute concerned the Navy's repeated failure to submit draft remedial investigation reports including ecological and human health risk assessments for the McAllister Point landfill and the old fire fighting training area at the facility. The Region took the position that until the Navy completes and submits the outstanding human and ecological risk assessment reports, the Navy was out of compliance with the requirements of Section 6.4 of the FFCA for NETC.





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## REGION II

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### CLEAN AIR ACT

***United States v. MTP Industries, Inc.:*** On December 19, 1994, a consent decree was entered in federal district court in this case involving a graphic arts company that was using printing ink with excessive solvent content without requisite control equipment. The decree provides for payment of a \$120,025 civil penalty by MTP and requires the company to maintain compliance with the Clean Air Act and applicable New York State Implementation Plan (SIP) regulations. At present, the facility has installed required pollution abatement equipment in advance of the compliance schedule requirements of the decree. Stack tests conducted on-site demonstrate compliance with the pertinent emission standards.

***United States v. Caribbean Petroleum Corporation:*** In addition to the four administrative Subpart J cases, in Fiscal Year 1992 Region II referred to DOJ one judicial enforcement action against the Caribbean Petroleum Corporation (CPC). A consent decree was entered on March 16, 1995, in the District Court for Puerto Rico, which provides for payment of a civil penalty of \$350,000. The complaint in this case alleged CPC violated the federal Subpart J new source performance standards; specific conditions of its PSD (Prevention of Significant Deterioration of Air Quality) permit; and specific provisions of the Puerto Rico State Implementation Plan. The consent decree requires CPC to comply with Subpart J performance standards, its PSD permit and those provisions of the Puerto Rico SIP which were alleged to have been violated. In 1994 Region II referred to DOJ three judicial enforcement actions which included Subpart J SO<sub>2</sub> emission violation counts in addition to monitoring violations. The Caribbean Petroleum case is the first of these matters to be resolved.

***United States v. Consolidated Edison and John's Insulation:*** On March 8, 1994, the United States filed a complaint against Consolidated Edison of New York, as owner, and John's Insulation, Inc., as operator, for violations of the asbestos demolition/renovation NESHAP that occurred at Con Ed's Waterside generating station in New York City. Allegations included violation of the work practice and notification provisions of 40 CFR § 61.145. A partial consent decree resolving the action against Con Ed was entered on April 14, 1995, requiring a \$100,000 penalty, which was paid in full May 1. John's Insulation signed a partial consent decree soon thereafter that required a penalty of \$42,500, to be paid in three installments. However, John's Insulation filed for

bankruptcy protection in December of 1994, causing the United States to file a proof of claim to protect its judgment on August 30, 1995.

***United States v. Public Service Electric & Gas:*** The vigilance of an off-duty Region II inspector resulted in this enforcement action, resolved with the payment by PSE&G of \$230,000 in civil penalties. The inspector, while commuting home, noticed a pile of old pipes laying in a yard. A later inspection of the old gas cracking operation revealed numerous violations of the asbestos NESHAP by PSE&G. Following pre-filing negotiations with the company, a consent decree was lodged at the same time the complaint was filed, and subsequently entered on March 30, 1995. The decree required payment of the penalty and the completion of an extensive worker training and notification program by PSE&G.

***United States v. Del'Aquila:*** On August 23, 1995, a judicial consent decree was entered in New Jersey District Court resolving this action against Anthony Del'Aquila concerning asbestos demolition/renovation NESHAP violations. The decree memorializes the defendant's agreement to a civil penalty of \$400,000 for those violations. The agreement was signed by the Chapter 11 bankruptcy trustee, which acknowledges the validity of the claim. When the bankruptcy judge eventually enters Del'Aquila's reorganization the United States will receive payment of the penalty. The original court order enjoining violations at the site will also remain in effect.

***In the Matter of Glenmore Plastic Industries, Inc., and In the Matter of Supreme Poly Products, Inc.:*** In September 1995, Region II issued two administrative complaints to Glenmore Plastic Industries, Inc., and Supreme Poly Products, Inc., seeking penalties of \$137,000 and \$183,361, respectively, for violations of the applicable emission standards for volatile organic compounds (VOCs). Both plants are located in Brooklyn, New York, a severe non-attainment area for ozone. Inspections at the two facilities (in late 1994 and early 1995) revealed that these coating and graphic arts facilities used coatings and inks with VOC contents well above permissible limits, causing excess VOC emissions which exacerbates the area's ozone air quality problem. Supreme also operated its facility without a valid operating permit.

***In the Matter of Phillips Puerto Rico Core, Inc.:*** The last of four administrative actions issued by Region II as part of a national Subpart J Enforcement Initiative was resolved on November 17, 1994, by issuance of an

administrative consent order to Phillips Puerto Rico Core. The order requires Phillips to achieve compliance with the regulations in question, and to pay a civil penalty of \$99,000. The four Subpart J administrative Complaints were issued in September of 1992 for failure to comply with H<sub>2</sub>S monitoring requirements which became effective in October of 1991. In Fiscal Year 1994, prior to the settlement of the Phillips Puerto Rico Core case, the other three Subpart J administrative cases were settled. In total, the four matters resulted in \$271,680 penalty payments.

## CLEAN WATER ACT

***United States v. Lifesavers Manufacturing Inc.:*** On March 23, 1995, a consent decree was entered in Puerto Rico District Court in this Clean Water Act case. The decree requires Lifesavers to pay a civil penalty of \$527,000 for its past violations of the CWA and its NPDES permit. Lifesavers owns and operates a manufacturing facility, producing chewing gum, in Las Piedras, Puerto Rico. Industrial and stormwater discharges were regulated under an NPDES permit, the terms of which Lifesavers violated on various occasions during 1990-1992. Lifesavers has now ceased the direct discharge of industrial wastes; the wastes are pre-treated and sent to a publicly owned sewage treatment plant. Lifesavers has improved its stormwater collection and treatment system and is now meeting the stormwater requirements of its modified NPDES permit.

## EPCRA

***United States v. TR Metals Corp.:*** At the request of EPA Region II, the U.S. Attorney for the District of New Jersey initiated a civil action against the TR Metals Corporation. Filed in federal district court, the complaint seeks collection of a \$34,000 default judgment due and owing to the United States plus costs and interest. The debt arose as the result of an administrative default order issued to the company for violations of the EPCRA. The violations occurred in 1987 and 1988 and involved the failure to report toxic releases associated with the facility's use of lead in amounts exceeding the reporting threshold. The default order was subsequently appealed by the company and confirmed by the Environmental Appeals Board. The judicial complaint seeks an award of \$44,371.99 plus any accrued interest, penalty interest, and costs associated with the maintenance of this action.

***In the Matter of Forto Chemical Corp.:*** On January 25, 1995, Region II issued an administrative complaint charging Forto Chemical Corporation with failing to submit hazardous chemical information to the Commonwealth of Puerto Rico and local planning and

emergency response organizations in accordance with Section 312 of EPCRA. The 9-count complaint seeks \$139,200 in penalties for these violations. The complaint alleges that the company failed to submit annual inventory forms for hydrofluoric acid present at the facility to the Commonwealth and local emergency planning committees and the local fire department for the years 1991 through 1993. The information is intended to be available to the public and to aid emergency response personnel in responding to any accidental releases of chemicals at facilities.

***In the Matter of Astro Electroplating, Inc.:*** On March 30, 1995, Region II issued an administrative complaint to Astro Electroplating, Inc., a New York company, citing violations of Sections 311, 312 and 313 of EPCRA. The complaint, which seeks a civil penalty of \$318,300, alleges that the company failed to (1) submit to State and local emergency authorities, as required under Section 311, copies of material safety data sheets for nitric acid and sulfuric acid stored at its facility; (2) submit Tier I or Tier II forms for those chemicals, as required by Section 312, for the years 1992 through 1994; and (3) submit forms R for copper, sulfuric acid and nitric acid, as required by Section 313, for the years 1990 through 1992. Several of these chemicals are designated as "extremely hazardous" in the EPCRA regulations.

***In the Matter of Insular Wire Products Corp.:*** On June 6, 1995, Region II issued an administrative complaint against Insular Wire Products of Bayamon, Puerto Rico, alleging violations of EPCRA. The complaint proposes assessment of \$306,000 in fines. The complaint alleges that the company stored and used sulfuric acid—designated an "extremely hazardous" substance under the law—and diesel fuel between 1991 and 1993 in amounts exceeding the EPCRA reporting thresholds. The company failed to submit MSDS forms to State and local emergency authorities; failed to submit Tier I and Tier II forms to those authorities for the years 1991 through 1993; and failed to submit forms R for sulfuric acid for the years 1992 through 1994.

***In the Matter of Ricogas, Inc.:*** On September 26, 1995, Region II issued an administrative complaint to Ricogas, Inc., seeking \$134,640 in penalties for failure to comply with the EPCRA Sections 311 and 312 reporting requirements for its Arecibo, Puerto Rico, facility. Ricogas is a distributor of propane and liquified petroleum gas (LPG). Propane and LPG are hazardous chemicals, and were stored at the facility in excess of the 10,000 pound reporting threshold. Ricogas failed to submit the required Material Safety Data Sheets to state and local emergency planning and response authorities; and it also

failed to submit emergency and hazardous chemical inventory forms (Tier I or Tier II forms) to these entities.

***In the Matter of Puerto Rico Battery Co.:*** On September 29, 1995, Region II issued an administrative complaint to the Puerto Rico Battery Company of Camuy, Puerto Rico, citing it for EPCRA violations and seeking \$204,000 in penalties. The company failed to prepare a Material Safety Data Sheet for the storage of sulfuric acid, an "extremely hazardous substance," at its battery manufacturing facility as required by EPCRA Section 311(a); and it failed to submit hazardous chemical inventory forms (for three reporting years) to the Commonwealth Emergency Response Commission, Local Emergency Planning Commission and local fire department, in violation of EPCRA Section 312(a).

***In the Matter of National Can of Puerto Rico, Inc.:*** On September 27, 1995, Region II issued an administrative consent order to National Can of Puerto Rico, Inc. The order resolves a case initiated a year earlier, in which the company was cited for violations of EPCRA Section 312 for its failure to submit to local emergency planning and response agencies the required emergency and hazardous chemical inventory forms (Tier I or Tier II forms) with respect to sulfuric acid (for the reporting years 1990 through 1993). Under the settlement, the company will pay a civil penalty of \$160,000.

***In the Matter of Parke-Hill Chemical Corp.:*** On September 29, 1995, Region II issued an administrative complaint to the Parke-Hill Chemical Corporation of Mount Vernon, New York, for violations of EPCRA Sections 311 and 312. The complaint seeks \$143,550 in penalties for the company's failure to submit MSDSs to the appropriate federal, state and local authorities for four hazardous or extremely hazardous substances (as required by Section 311 of EPCRA); and for the Respondent's failure to submit Tier I/Tier II forms (as required by Section 312 of EPCRA) to the appropriate authorities in 1992, 1993, and 1994.

***In the Matter of Tropigas de Puerto Rico, Inc.:*** On September 29, 1995, Region II issued an administrative complaint to Tropigas de Puerto Rico, Inc., seeking \$229,500 in penalties for failure to comply with the reporting requirements of EPCRA Sections 311 and 312. Tropigas is a distributor of propane, a hazardous chemical, which it stores at its facility in excess of the 10,000 pound reporting requirement. Tropigas failed to submit the required Material Safety Data Sheets for these chemicals to the state and local emergency planning authorities and the local fire department as required by Section 311. Tropigas also failed to submit emergency and hazardous

chemical inventory forms (Tier I or Tier II forms) to these entities as required by Section 312.

***In the Matter of Ciba-Geigy, Inc.:*** On November 7, 1994, Region II issued an administrative consent order to Ciba-Geigy, Inc., assessing a penalty of \$130,000 for violations of EPCRA at its Toms River, New Jersey, facility. The order was based upon an inspection of Ciba-Geigy's facility that resulted in a sixteen count complaint alleging that Ciba-Geigy failed to report that it used certain of the following: copper compounds; glycol ethers; chromium compounds; cobalt compounds; C.I. Disperse Yellow 3; diethanolamine and ethylene glycol during the calendar years 1988 through 1991.

## OCEAN DUMPING ACT

***United States v. Westchester County:*** On October 3, 1994, a second order amending the consent decree was filed in this Region II case in the Eastern District of New York. Under the terms of the modified consent decree, Westchester County, New York, will, no later than September 15, 1995, achieve long-term compliance with the Ocean Dumping Ban Act (ODBA) through implementation of a beneficial use sludge management program. In addition, Westchester paid \$200,000 in stipulated penalties, to be evenly divided between the United States and New York State. Of this sum, \$100,000 was paid to the State to be devoted to an environmental benefits plan in Westchester County. One million dollars currently in escrow for past noncompliance will remain in escrow pending the County's compliance with the requirements of the amended decree.

## RCRA

***United States v. Mustafa (D. VI):*** On May 18, 1995, a complaint was filed on behalf of EPA Region II in the U.S. District Court of the Virgin Islands against a recalcitrant violator, Fahri Mustafa, alleging violations of Subtitle I of RCRA, governing underground storage tanks (USTs). Mustafa, the subject of a prior EPA enforcement action, ignored a final administrative order issued on September 7, 1993. That order required immediate compliance with UST regulatory obligations and the payment of \$74,105 in civil penalties. Since issuance of the final administrative order, Mustafa not only failed to pay any of the assessed civil penalty, but continued to violate the UST regulations at issue in that matter, and also violated additional UST regulatory requirements. Releases of petroleum into the environment are suspected at each of two gasoline filling stations owned and operated by Mustafa on St. Croix.

The complaint seeks not only collection of the past due amount under the administrative order, plus interest and costs, but also a further civil penalty for continuing and additional violations, as well as injunctive relief. The violations alleged in the complaint include failure to employ a method of release detection, failure to close out-of-service USTs, failure to report and investigate suspected releases, failure to conduct testing following repairs to an UST system, and failure to respond to an information request letter.

***In the Matter of Phillips Puerto Rico Core, Inc.:*** On September 29, 1995, Region II issued a corrective action order under RCRA §3008(h) for the Guayama, Puerto Rico, facility owned and operated by Phillips Puerto Rico Core, Inc. The order requires that Phillips: (1) complete the RCRA facility investigation (RFI) it had undertaken pursuant to an earlier RCRA Section 3013 order; (2) complete a corrective measures study (which requires it to recommend a final corrective measure or measures) and construct, operate and maintain the corrective measure(s) selected; and (3) implement interim measures as necessary. The facility manufactures various petrochemical products, including gasoline and xylenes; and generates, treats, stores and disposes of hazardous wastes including corrosive waste, spent non-halogenated solvents, sludges, toluene and various other aliphatic and aromatic hydrocarbons.

***In the Matter of Mobil Oil Corporation.:*** On September 29, 1995, Region II issued a unilateral RCRA Section 3013 administrative order to Mobil Oil Corporation regarding its Port Mobil facility on Staten Island, New York. The order is based on a determination that the presence or release of hazardous waste at this facility presents a substantial hazard to human health or the environment. EPA found that there had been repeated releases at the facility over several years and that sampling showed contamination—severe in some instances—of the soil and groundwater with benzene and other petroleum-derived wastes. Many of these samples showed benzene at concentrations so high that the samples themselves would be classified as hazardous waste when discarded. The order requires Mobil to perform a RCRA facility investigation and groundwater monitoring around two large surface impoundments.

***In the Matter of Rollins Environmental Services, Inc.:*** In June 1995, Region II amended a RCRA Section 3008(h) corrective action order issued in 1987 to Rollins Environmental Services in connection with its hazardous waste disposal facility in Bridgeport, New Jersey. The amended order designated a corrective action management unit (CAMU) at the facility, the first to be approved in

Region II. The CAMU is expected to result in cost savings of about \$3 million through on-site disposal of up to 50,000 cubic yards of industrial sludge.

***In the Matter of B&B Wood Treating & Processing Co., Inc.:*** On October 25, 1994, EPA issued an order granting Region II's motion for partial accelerated decision against B&B Wood Treating & Processing Co., Inc., a Puerto Rico-based wood preserver. Finding that there existed no genuine issue of material fact, the ALJ decided the Agency was entitled as a matter of law to a judgment on liability for all five counts of the complaint, originally filed in 1993: (1) failure to notify EPA that it generated hazardous wastes; (2) failure to obtain a proper written assessment of its drip pad (used in the wood preserving operations); (3) failure to have a curb or berm around the drip pad; (4) failure to properly document the cleaning of the drip pad; and (5) failure to properly document the procedure for handling the treated wood. The complaint sought nearly \$221,000 in civil penalties, and was the first case commenced in Region II against a wood preserving operation.

***In the Matter of the New York City Department of Transportation and R.J. Romano Co.:*** On February 21, 1995, Region II issued an administrative consent order settling an action against the City of New York Department of Transportation (NYCDOT) and its contractor the R.J. Romano Co. The complaint, issued in December 1992, addressed RCRA violations involving the release of lead-based paint waste during abrasive blasting of the Williamsburg Bridge. The case, which established a national precedent, is believed to be the first such RCRA action to cite the RCRA rule which requires generators to minimize the release of hazardous waste or hazardous constituents to air, water, or soil. Under the settlement, the respondents jointly paid a \$25,000 penalty. Compliance had been secured previously through a separate administrative action. The Region's investigation also uncovered the operation of an illegal hazardous waste storage facility by NYCDOT, in which lead-based paint waste from structures throughout New York City was stored without a RCRA permit after being transported without hazardous waste manifests. These violations were the subject of a second complaint issued to NYCDOT in December 1992, which sought a \$691,500 penalty. Settlement negotiations regarding this action are ongoing.

***In the Matter of Oliver R. Hill and O.R. Hill Fuel Co., Inc.:*** On March 6, 1995, Region II issued a unilateral administrative Order pursuant to §7003 of RCRA to Respondents Oliver R. Hill and O.R. Hill Fuel Co., Inc. On October 8, 1994, the occupant of a residence located near O.R.'s Gas & Grocery detected gasoline fumes while

digging a groundwater well on his property. Site assessment activities confirmed that O.R.'s Gas & Grocery was the source of the release. On February 16, 1995, Hill met with representatives of EPA and NYSDEC to discuss the release and required steps for corrective action. Hill subsequently informed EPA that he would not sign a consent order assuming responsibility for the clean up. Region II then issued the order unilaterally. The order requires respondents to assess the structural integrity of all underground storage tank (UST) systems at the facility; repair and test, or permanently close, any UST system determined to be corroded or potentially subject to structural failure; characterize the rate and extent of vertical and horizontal migration of hazardous constituents in soils and groundwater at and adjacent to the facility; and to remediate such contamination. To date the respondents have failed to comply with any aspect of the order. EPA will be pursuing additional enforcement against the violators.

***In the Matter of Wee Service Centers, Inc.:*** On August 30, 1995, Region II won a motion for partial accelerated decision against Wee Service Centers, Inc., of Brooklyn, New York. The motion sought a finding that the company is liable for underground storage tank (UST) violations documented at a gasoline service station it operates. Wee Service was cited for multiple violations of Subtitle I of RCRA at its Brooklyn facility and assessed a total civil penalty of \$34,603. The violations at the station involved failure to maintain records of release detection for underground storage tanks and failure to provide adequate methods of release detection for underground storage tanks. The violations are considered serious because the facility is located over a sole-source aquifer which would be greatly harmed by a petroleum release. Wee contested the allegations in the complaint and sought an administrative hearing. Region II filed the successful summary judgment motion in response.

Wee is the operator of one of a number of gasoline stations owned by the 1833 Nostrand Avenue Corp. of Baldwin, New York. In a related matter, *In the Matter of 1833 Nostrand Avenue Corp.*, Region II is proceeding to an administrative trial over UST violations at its five service stations in Brooklyn and Queens. The company at 1833 was cited for multiple violations of Subtitle I of RCRA at all five facilities and assessed total civil penalties exceeding \$170,000. The violations involved failure to maintain records of release detection for USTs; failure to provide adequate methods of release detection for USTs; and failure to maintain out of service USTs. The violations are considered serious because all the facilities are located over a sole-source aquifer which would be greatly harmed by a petroleum release.

## TSCA

***In the Matter of CasChem, Inc.:*** On October 13, 1994, Region II issued an administrative consent order to CasChem, Inc., a subsidiary of Cambrex Corporation. As part of the agreement, CasChem has agreed to pay a civil penalty of \$180,000 for violations of TSCA. In the action, EPA had alleged two separate violations: CasChem's failure to have timely submitted a notice of commencement for a chemical substance, and its failure to have timely submitted a report for the partial updating of the TSCA Inventory Data Base for 29 separate chemical substances. The matter was contested in an administrative proceeding. Both parties sought partial accelerated decision with regard to the inventory updating count, EPA seeking a ruling that each separate failure constituted a separate violation and CasChem arguing that whatever multiple reporting failures occurred represent but one cognizable violation.

***In the Matter of Millard Fillmore Hospital:*** On December 5, 1994, Region II issued a four-count complaint against Millard Fillmore Hospital, Buffalo, New York, alleging violations of the TSCA regulations governing the use and maintenance of electrical equipment containing polychlorinated biphenyls (PCBs). The complaint, covering the 1989-1993 period, seeks a total civil penalty of \$233,000. The Hospital owns and operates five PCB transformers, each of which contains PCB concentrations at or above 500 parts per million. The complaint alleges the following violations: (1) failure to prepare and maintain annual documents for the PCB transformers; (2) failure to maintain records for quarterly visual inspections of the transformers; (3) improper storage of combustible materials too close to the transformers; and (4) failure to protect the transformers against low current faults.

***In the Matter of San Juan Cement Co.:*** On December 23, 1995, Region II issued an administrative complaint against the San Juan Cement Co. Inc., for TSCA violations at its facility in Dorado, Puerto Rico. The complaint alleged 72 violations of the TSCA PCB regulations, and proposed a civil penalty of \$347,000. During a 1993 inspection of the facility, EPA representatives determined that since 1978 the company had owned, operated and maintained twelve PCB transformers at its facility in ten separate locations. The inspection revealed that respondent was deficient in submitting required quarterly and annual reports and in the required marking of access doors to the majority of these transformers. In addition, respondent had not notified the local fire department of the location of the transformers, as required by the regulations.

***In the Matter of Johnson & Johnson:*** On March 31, 1995, Region II issued a four count TSCA administrative complaint against Johnson & Johnson, Inc. The complaint alleges that the corporation failed to keep records of its visual inspection of its PCB transformers, that it failed to maintain PCB annual documents, that it improperly manifested PCBs, and that it improperly disposed of PCBs. Arising out of a 1994 EPA inspection of the company's North Brunswick, New Jersey, facility, the complaint proposes that a penalty of \$102,000 be assessed.

***In the Matter of Glens Falls Cement Co., Inc.:*** On June 23, 1995, Region II issued an administrative complaint citing violations of TSCA by Glens Falls Cement Company at its Glens Falls, New York, facility, and seeking \$103,500 in fines. The facility consists of a limestone quarry and a portland and masonry cement manufacturing operation. An EPA investigation revealed that the company owned and used several PCB transformers during the years 1989-1993. The complaint alleged the following TSCA violations concerning those transformers: failure to maintain complete records of visual inspections; failure to maintain annual document logs; failure to mark and to correctly mark specified access areas to the transformers; and failure to mark specified PCB transformers.

***In the Matter of the New York City Board of Education:*** On July 5, 1995, Region II issued an administrative complaint under Title II of TSCA, the Asbestos Hazard Emergency Response Act (AHERA), against the New York City Board of Education. The complaint alleged 375 violations of AHERA, and proposed a \$1.5 million civil penalty. The Board is the Local Education Agency (LEA) for the City and has AHERA responsibility for over a thousand school buildings. The complaint alleges that the head of the Board's Asbestos Task Force, who acted as the designated person (DP) having responsibility for the development and transmission of all of the LEA's AHERA Management Plans to the Governor, knowingly submitted false information on at least 375 of them.

***In the Matter of Degussa Corporation:*** On December 1, 1994, Region II issued an administrative consent order to Degussa Corporation. Degussa agreed to pay a civil penalty of \$170,000 for self-disclosed violations of TSCA alleged in a fifteen count civil administrative complaint. In the action, EPA alleged violations for Degussa's failure to submit Premanufacture Notifications before importing new chemical substances, and its failure to provide a proper TSCA import certification on imported chemicals.

***In the Matter of Nissho Iwai American Corp.:*** On December 27, 1994, Region II issued an administrative consent order to Nissho Iwai American Corporation, a

New York City-based chemical importer. The company agreed to pay \$130,000 in fines for TSCA violations. EPA's 1992 complaint in this matter alleged that the company failed to submit to EPA forms U for several chemicals by December 1986 and February 1991. Respondent had filed the missing forms prior to the issuance of the complaint.

## MULTIMEDIA

***In the Matter of U.S. Dept. of Agriculture and Burns & Roe Services Corp.:*** On December 27, 1994, Region II issued two separate complaints for violations of RCRA to the U.S. Department of Agriculture and its contractor, Burns & Roe Services Corp. of Oradell, New Jersey. The violations occurred at the USDA's Plum Island Animal Disease Center on Plum Island, New York. The complaint against the USDA alleges four separate violations of RCRA, including storage and treatment of hazardous wastes without a permit, inadequate notification, and failure to make a waste determination. The USDA complaint seeks a civil penalty of \$111,100. The complaint against Burns & Roe alleges a single violation—hazardous waste storage without a permit—and seeks a penalty of \$79,600. The violations were documented as part of a 1993 multimedia inspection by Region II at the Plum Island facility. These cases follow an earlier complaint, issued by Region II on October 21, 1994 citing USDA for failing to respond to a RCRA Section 3007 information request letter issued in connection with this investigation; that complaint seeks a penalty of \$18,750.

***In the Matter of Phillips Puerto Rico Core, Inc.:*** On December 29, 1994, Region II issued administrative complaints against Phillips Puerto Rico Core, Inc., seeking penalties for violations under both TSCA and EPCRA. The EPCRA complaint proposed a \$51,000 penalty, and was based on Phillips' failure to file a form R for nickel compounds for each of the years 1989, 1990, and 1992. The TSCA complaint proposed a \$7,500 penalty and was based on Phillips' violations of regulations pertaining to the handling of PCB waste. Later in the fiscal year, on September 29, 1995, Region II issued a corrective action order under RCRA Section 3008(h) for the Phillips Guayama facility. This order requires that Phillips: (1) complete the RCRA Facility Investigation (RFI) it had undertaken pursuant to an earlier RCRA Section 3013 order; (2) complete a corrective measures study (which requires it to recommend a final corrective measure or measures) and construct, operate and maintain the corrective measure(s) selected; and (3) implement interim measures as necessary.

***In the Matter of Puerto Rico Sun Oil Company:*** On September 13, 1995, Region II issued two administrative consent orders assessing a combined penalty of \$170,000 against Puerto Rico Sun Oil (PRSO) of Yabucoa, Puerto Rico, for violations of RCRA and EPCRA. The two orders were based upon independent inspections of PRSO that resulted in coordinated RCRA and EPCRA multimedia cases. The RCRA complaint was based upon the unauthorized storage of hazardous waste and the EPCRA complaint was based upon the failure to file a form R for any of several listed toxic chemicals for the reporting years 1989 through 1992. In addition to the civil penalty, PRSO agreed to submit a new Part A RCRA permit application designating where its hazardous waste will be stored; and PRSO will be submitting to EPA the required form Rs that comprise the basis of the EPCRA complaint.

***In the Matter of Knowlton Specialty Paper, Inc.:*** On June 30, 1995, Region II issued two administrative complaints assessing penalties against Knowlton Specialty Paper, Inc., a Watertown, New York, company. One complaint sought \$93,000 in fines for EPCRA violations, and the other sought \$36,000 in fines for TSCA violations. The EPCRA complaint alleged that Knowlton failed to submit form Rs for methyl ethyl ketone, methanol, acetone and phenols for the 1989 and 1992 reporting years. The TSCA complaint alleged the company's failure to properly mark, label, store and maintain records relating to the storage of one PCB transformer.

***In the Matter of Nepera, Inc.:*** On May 25, 1995, Region II issued an administrative complaint against Nepera, Inc., of Harriman, New York. The complaint sought a penalty of \$30,715 for the company's failure to submit a timely form R for hydrochloric acid for the reporting years 1992 and 1993. The violations were identified as the result of an August 1994 consolidated multimedia inspection performed jointly by Region II and the New York State Department of Environmental Conservation. This was one of the first such joint inspections between EPA and the State of New York.

***In the Matter of American Cyanamid Company:*** On June 28, 1995, Region II issued an administrative complaint against American Cyanamid Company for violations at its Lederle Laboratories facility located in Pearl River, New York. The complaint proposed assessment of a \$272,424 fine for the company's failure to submit timely form Rs for 1,1,1-trichloroethane, naphthalene, phosphoric acid, toluene, manganese compounds and zinc compounds for the reporting years 1990, 1991, 1992, and 1993.

***In the Matter of The United States Department of the Army, U.S. Army Armament Research and Development Command, Picatinny Arsenal:*** In September 1995, Region II and the U.S. Department of the Army executed enforcement and compliance agreements under TSCA, the Clean Water Act and RCRA. The agreements were embodied in two separate documents. A federal facility compliance agreement (FFCA) was issued pursuant to Executive Order 12088 to ensure the Army's compliance with TSCA regulations concerning the handling of PCBs; and the regulations under Section 311 of the CWA for spill prevention, control and countermeasures. The FFCA includes schedules to insure the Army's compliance with these regulations as well as a continued commitment to remain in compliance.

A RCRA consent agreement and consent order was also issued under Section 3008 of RCRA and the Federal Facility Compliance Act of 1992. The order resolved EPA's allegations that the Army stored waste in an unauthorized area and open-burned hazardous waste which did not constitute waste explosives, in violation of RCRA. The order requires the Army to comply with these requirements and to pay a civil penalty of \$41,565.

***In the Matter of New Jersey Transit Bus Operations, Inc.:*** On June 30, 1995, Region II issued an administrative complaint under Section 6009 of RCRA against New Jersey Transit Bus Operations, Inc. The complaint alleged five different types of underground storage tank (UST) violations at 18 company-owned facilities throughout New Jersey. The complaint seeks a penalty of \$322,704 and alleges that the respondent failed to: (1) properly close numerous UST systems; (2) satisfy release detection requirements for tanks; (3) satisfy release detection requirements for pipes; (4) use required spill equipment; and (5) use required overfill equipment.

## FEDERAL FACILITIES

***United States Department of Agriculture (USDA) Plum Island Facility:*** In December of 1994, Region II issued two complaints to the USDA Plum Island Animal Disease Center at Greenport, New York, and to a USDA contractor for illegal storage and disposal of hazardous waste. The administrative orders carry with them proposed civil penalties in the amount of \$111,100 against USDA and \$79,600 against the contractor.

***U.S. Army Picatinny Arsenal:*** Region II completed enforcement activity on September 29, 1995 at the U.S. Army Armament Research, Development, and Engineering Center at Picatinny Arsenal, New Jersey, based on a July



1993 multimedia inspection. The Arsenal is on the NPL and has approximately 150 areas of concern.

Included in the Region's consent agreement and consent order under RCRA was a civil penalty of \$41,565. The inspection found Part B permit violations, including storing hazardous waste in unauthorized locations and open burning of non-explosive hazardous waste. The Region also issued an NOV for failure to clearly mark accumulation start dates on containers in the less than 90-day accumulation areas and satellite accumulation areas, failure to label containers with the words "Hazardous Waste," and for violation of the land disposal regulations storage prohibition. Under the CAA, the Region issued a compliance order for violations of the new source performance standards relating to industrial-commercial institutional steam generating units. Also issued was a notice of violation for violation of the New Jersey State Implementation Plan for constructing equipment and control devices without first obtaining a permit to construct. The Region also completed a federal facility compliance agreement to address TSCA/PCB and SPCC violations.

**U.S. Army Fort Dix:** Region II issued notices of violation on January 24, 1995 to Fort Dix, New Jersey, for Clean Water Act violations. The NOV cited violations of the interim limits contained in Attachment I of the order on consent EPA-CWA-II-91-95 for the alkalinity parameter permit limitation in July and August 1994 and the violations of their permit limit for the pH parameter in August 1993. Under the order, the Army will be responsible for the completion of an environmentally beneficial project (EBP) to offset the effects of the violations. The sum of the EBP due is \$39,000.

**Seneca Army Depot:** Region II issued a proposed administrative order on February 3, 1995, which requires the facility to comply with rules under the Safe Drinking Water Act for installing filtration systems. The facility failed to install filtration required under the regulations by December 25, 1994, the deadline set by an EPA determination with state input.

**Plattsburgh Air Force Base:** Region II issued a notice of violation to Plattsburgh Air Force Base for underground storage tank violations. A consent agreement and consent order was issued March 31, 1995, addressing violations from a June 1988 inspection, including inadequate record keeping and hazardous waste sampling. In February 1995, the Region issued a compliance order for the NSPS violations. The Facility chose to shut down the boilers

that were out of compliance and the violations were resolved as of March 7, 1995.

**Stewart Air National Guard Base:** Region II issued a notice of violation to the Commander of Stewart Air National Guard Base for record-keeping violations under the underground storage tank regulations. A multimedia inspection on March 6, 1995, revealed the facility's failure to maintain the results of release detection monitoring for at least one year. The letter required the facility to correct the violation within 30 days and certify its compliance within 10 days of taking action. A federal facility compliance agreement was executed in July 1995 to deal with the facility's failure to develop its pollution prevention plan, which placed the facility out of compliance with its stormwater-general permit under the CWA. In March 1995 the Region sent a noncompliance letter to the facility for SPCC deficiencies related to tank truck loading areas and overflow protection. The facility's schedule for implementation was received in May 1995 and the facility is developing an entirely new SPCC Plan, which was to be completed by December 1995.



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## REGION III

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### CLEAN AIR ACT

**Consolidated Rail Corporation (CONRAIL) (Third Circuit, E.D. PA):** In what marks the largest negotiated settlement of its kind, the U.S. Department of Justice and the U.S. EPA (Region III) have reached settlement with Consolidated Rail Corporation regarding violations of the asbestos regulations (asbestos NESHAP) established pursuant to the Clean Air Act. The settlement, embodied in a partial consent decree, has been lodged in the Eastern District of Pennsylvania. The asbestos NESHAP violations at issue occurred at an abandoned grain elevator site.

In satisfaction of the alleged asbestos NESHAP violations, Conrail has agreed to pay a civil penalty in the amount of \$800,000—a figure representing the largest settlement of its kind, and the second largest amount ever assessed under the Clean Air Act's asbestos regulations. In addition to penalties, Conrail has also agreed to conduct all present and future renovation and demolition activities in compliance with the Clean Air Act asbestos NESHAP.

**LTV Steel (W.D. PA):** In October 1994, a consent decree was entered in the Western District of Pennsylvania memorializing the settlement negotiated between the United States, Allegheny County, and the Commonwealth of Pennsylvania, Plaintiffs, and LTV Steel Company (LTV), Defendant, in response to violations of the federally enforceable Clean Air Act State Implementation Plan for Pennsylvania by LTV at its Pittsburgh, Pennsylvania coke production facility.

The consent decree required LTV to pay a civil penalty of \$900,000. LTV made changes to its plant and operations during the time between the filing of the complaint and settlement of the matter sufficient to bring the facility into compliance with the provisions of the Clean Air Act that were the subject of the complaint. Nonetheless, the Decree required LTV to make certain significant improvements.

**Shenango, Inc. (Neville Island, PA):** EPA filed a contempt action for Shenango's failure to comply with the requirements of an existing consent decree. Shenango owns and operates a 57 oven by-product coke oven battery located at Neville Island, Pennsylvania. Coke oven gas (COG) is produced by the destructive distillation of coal. Undesulfurized COG when burned can result in sulfur-dioxide emissions of over 10 tons per day. When COG is properly desulfurized, sulfur-dioxide emissions are approximately 1 ton per day. Under the existing consent

decree, Shenango was required to operate the existing desulfurization plant (DSP) at agreed upon efficiency and make certain modifications that would enable it to maintain compliance with applicable regulations. EPA identified that the COG DSP was removed from service on January 6, 1994, and was not operational until May 28, 1994. A complete shutdown of the DSP for almost five months was not reported to EPA immediately. EPA and Allegheny County also identified several consent decree violations that required resolution.

**USX-Clairton and Edgar Thomson Plants (Clairton & Braddock, PA):** On March 1, 1995, Region III issued a CACO (consent agreement/consent order) in settlement of an administrative Clean Air Act complaint for penalty which was filed against USX Corporation on September 30, 1994. The complaint alleged USX was in violation of the Pennsylvania SIP requirement for NO<sub>x</sub> monitoring at large size combustion units at three separate emission sources in the Clairton, Pennsylvania, facility and at three separate emission sources in the Braddock, Pennsylvania, facility. This action was taken by EPA in support of the State program which helps to foster a better partnership between the two agencies. After negotiations, EPA finalized a settlement with USX requiring the installation of appropriate monitoring equipment for NO<sub>x</sub> on an enforceable schedule and the payment of a \$125,000 civil penalty.

**Paragon Environmental Group and Haverford College:** On March 20, 1995, EPA Region III filed a Clean Air Act administrative complaint against Paragon Environmental Group, Inc., and Haverford College for violations of the National Emission Standard for Hazardous Air Pollutants (asbestos). The complaint alleges that Paragon workers violated asbestos NESHAP work practice standards by removing spray-on asbestos from a Haverford dormitory attic without adequately wetting the asbestos. (Paragon operated a HEPA vacuum to collect particulate matter, but this collection system was not adequate to contain asbestos emissions.) EPA proposed a civil penalty of \$25,000 for this violation.

**E.K. Associates (EKCO/GLACO Ltd.) (Baltimore, MD):** On April 27, 1995, Region III filed a consent agreement and consent order (CACO) resolving Clean Air Act violations at a Baltimore bakeware refurbishing facility owned and operated by E.K. Associates, LP (d/b/a Ekco/Glaco Ltd). EPA alleged that the facility violated the regulatory standard governing emissions of volatile organic compounds (VOCs) at miscellaneous metal coating

facilities. The CACO required payment of a civil penalty of \$37,000, which is in addition to a \$15,000 penalty previously paid to Maryland for these violations.

**Mundet-Hermetite, Inc.:** EPA resolved Prevention of Significant Deterioration (PSD) violations against Mundet-Hermetite Industries (MHI) in a consent decree filed on April 25, 1995. The PSD violations are based on construction of Line #8 (rotogravure printing/coating line) at the facility (an existing major stationary source, emitting approximately 840 tons of VOCs per year) in 1988. This construction constituted a physical change to the facility which resulted in a significant net emissions increase. MHI's solvent usage reports for calendar years 1989 through 1992, inclusive, demonstrated that the net emissions increase from Line #8 was greater than 40 tons per year. MHI did not obtain a PSD permit prior to beginning construction of Line #8. MHI initially reported its permit violations to the Virginia Department of Air Pollution Control which issued an notice of violation to MHI. VDAPC and MHI entered into a consent agreement and order to settle the permit violations in which MHI agreed to pay a penalty of \$16,177.40 and conduct a study on the use of reduced solvent coatings. Due to the seriousness of the violation, the uncertain injunctive relief, and the low penalty, EPA took another enforcement action to assure MHI's compliance and to indicate to the regulated community that EPA expects compliance with PSD requirements. MHI has permanently dismantled Line #8 avoiding PSD permitting and paid a civil penalty of \$90,000.

**S.D. Richman Sons, Inc. (Philadelphia, PA):** On May 4, 1995, an administrative complaint was issued to S.D. Richman Sons, Inc., a Philadelphia wholesale scrap metal dealer, for violations of the stratospheric ozone protection requirements of the Clean Air Act. Specifically, the company disposed of numerous small appliances without verifying that the refrigerant had been evacuated from the appliances. This failure to verify prior refrigerant evacuation resulted in the likely release of chlorofluorocarbon (CFC) containing refrigerant to the environment. The complaint seeks a civil penalty of \$186,000.

**PECO Energy and Pepper Environmental Services, Inc. (Chester, PA):** On April 19, 1995, Region III filed an administrative Clean Air Act (CAA) penalty action, alleging that PECO Energy (owner) and Pepper Environmental Services (operator) violated the CAA asbestos NESHAP when they demolished an asbestos-containing building at a PECO facility located in Chester, Pennsylvania. EPA sought a total proposed civil penalty of \$30,000 for these alleged violations. On July 18, 1995,

the Regional Judicial Officer approved the settlement (CACO) between EPA and respondents PECO Energy and Pepper Environmental Services. PECO and Pepper agreed to pay a total civil penalty of \$21,000.

**Harrison Warehouse Services Company, Inc., and Dewey Wilfong (Clarksburg, WV):** On March 6, 1995, the U.S. District Court ruled that the defendants were liable for a total of 276 days of violations of the following requirements: (1) failure to give notice of demolition; (2) failure to remove RACM (regulated asbestos containing material) prior to demolition; (3) failure to wet RACM during demolition; (4) failure to wet RACM awaiting disposal; and (5) failure to dispose of RACM as soon as practicable. The court awarded a \$50,000 civil penalty.

**Kammer Power Plant (Moundsville, WV):** On July 7, 1995, the U.S. District Court for the Northern District of West Virginia approved a modification of a previously negotiated consent decree. The United States and the defendants agreed to extend the deadline for compliance with the federal emissions limit from September 1, 1995, to January 15, 1996. As part of the agreement, the defendants agreed to further reduce the sulfur dioxide emission limitation for Kammer, which reduces the allowable SO<sub>2</sub> emissions by approximately 15,000 to 19,000 tons per year. The Kammer Power Station is in violation of the federally enforceable West Virginia State Implementation Plan (SIP) emission limitations for Units 1, 2 and 3. The West Virginia SIP established a statewide sulfur dioxide (SO<sub>2</sub>) emission limit of 2.7 lbs per million Btu design heat input (lb/mmBTU). For the past several years, SO<sub>2</sub> emissions from Kammer have exceeded the federal emission limit by from 80,000 to 100,000 tons per year.

**Hercules, Inc. (Covington, VA):** EPA and the Department of Justice signed a partial consent decree settling an action between the United States and Hercules, Incorporated, for violations of the Clean Air Act at a facility formerly owned by Hercules in Covington, Virginia. This action was settled as a result of pre-filing negotiations and the partial consent decree will be filed concurrently with the complaint. Hercules, Inc., and Carver Massie Carver, Inc. (CMC), the demolition contractor, violated several of the asbestos NESHAP regulations.

The injunctive relief provisions of the partial consent decree apply to all demolition and/or renovation operations, in which Hercules is the owner or operator, in all states, territories, and possessions of the United States. In addition to complying with all the requirements of the asbestos NESHAP the partial consent decree requires Hercules to perform the following: (1) provide a training program for its safety and environmental specialists to assure awareness of the asbestos NESHAP; (2) appoint an "Official Responsible for Asbestos Compliance;" and (3) distribute the memorandum attached to the partial consent decree to those persons who have responsibilities for the maintenance and demolition of facilities owned or operated by Hercules. For its violations of the asbestos NESHAP, Hercules will pay a \$1.2 million civil penalty. The penalty represents the largest settlement in an asbestos NESHAP case.

**Joseph Smith & Son, Inc. (Capital Heights, MD):** On September 28, 1995, EPA Region III filed a complaint and notice of opportunity for hearing against Joseph Smith & Son, Inc., for violations of the Clean Air Act (CAA) at its Capital Heights, Maryland facility. The complaint alleges violations of the stratospheric ozone protection requirements of Subchapter VI, Section 608 of the CAA, 42 U.S.C. §7671(g) and regulations promulgated thereunder at 40 C.F.R. Part 82. The complaint alleges respondent's failure to evacuate and recover refrigerants from small appliances prior to disposal and seeks a civil penalty of \$27,000.

### CERCLA AND EPCRA NON 313

**Brown's Battery Breaking Superfund Site:** On July 10, 1995, DOJ lodged a consent decree with the U.S. District Court for the Eastern District of Pennsylvania by which the settling defendants resolved their liability to the United States with respect to the Brown's Battery Breaking Superfund Site (Site).

Under the terms of the consent decree, General Battery Corporation (GBC) agreed to do the following: (1)

perform the final site remedy, (2) perform extensive work to protect natural resources, (3) pay \$3 million in EPA's past response costs and EPA's future response costs, (4) pay \$24,217 in past natural resource costs and up to \$10,000 of the Department of the Interior's future costs, and (5) provide financial self-assurances for GBC's consent decree obligations by either GBC or GBC's parent, Exide Corporation.

The consent decree also provides GBC with the opportunity to elect mediation of certain disputes concerning EPA's decisions that additional response actions are necessary or if EPA determines under Section 121(c) of CERCLA that the remedial action is no longer protective of human health or the environment. In addition, the decree provides GBC with a mechanism to prove to EPA that certain groundwater cleanup standards are technically impracticable to achieve and that less stringent standards are appropriate.

**GMT Microelectronics (Montgomery County, PA):** On December 30, 1994, the Assistant Attorney General for the Environment and Natural Resource Division at the Department of Justice concurred on the prospective purchaser agreement negotiated and executed by EPA and GMT Microelectronics (the Purchaser of the Commodore Semi-Conductor Superfund site in Montgomery County, Pennsylvania) which resolves certain potential EPA claims under Section 107 of CERCLA against the purchaser.

The Agreement provides that in exchange for a limited covenant not to sue which relates only to existing contamination at the site, and contribution protection, the purchaser will provide the Agency with a "substantial benefit" which consists of the following: (1) payment of EPA's response costs at the site incurred prior to the effective date of agreement, approximately \$625,000; (2) payment of approximately \$375,000 into an escrow fund; and (3) payments of up to \$65,000 annually for response costs incurred at the site.

**Virginia Scrap, Inc. (Roanoke, VA):** On February 2, 1995, Region III entered a consent order with Virginia Scrap, Inc., for clean up of lead contamination on its property in Roanoke, Virginia. This follows a nearly identical consent order recently entered into between EPA and Cycle Systems, Inc., also regarding lead-contaminated property along the Roanoke River. Both are removal orders under the authority of Section 106 of the Comprehensive Environmental Response Compensation and Liability Act. The lead contamination was discovered as part of an environmental assessment of properties which may be affected by an upcoming Corps of Engineers flood control project.

**Malitovsky Cooperage Company, et al. (Pittsburgh, PA):**

On February 21, 1995, a consent decree for response costs in *U.S. v. Malitovsky Cooperage Company, et al.* was entered by the U.S. District Court for the Western District of Pennsylvania. The consent decree was entered into between the United States and seven defendants pursuant to Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. §9607. The consent decree requires the settling defendants to pay \$750,000 of the costs incurred by the United States in connection with the Malitovsky Drum site located in Pittsburgh, Pennsylvania. EPA had conducted a removal action at the site, where a drum reconditioning and hazardous waste storage and disposal facility had operated.

**Abex Superfund Site (Portsmouth, VA):** On September 28, 1995, the Regional Administrator signed the proposed consent decree with the PRPs, Pneumo Abex Corporation, the City of Portsmouth and the Portsmouth Redevelopment and Housing Authority, for the Abex Superfund site and requested the Department of Justice to execute the consent decree and lodge it in the Eastern District of Virginia. The proposed consent decree requires the PRPs to implement EPA's selected remedy for Operable Unit No. 1 at the site as that remedy is described in the Amended ROD executed in August 1994. The consent decree requires Pneumo Abex to pay 100% of the past response costs incurred in connection with the site totaling \$1,170,131.37 and future response costs associated with the implementation of the remedy.

**Delaware Sand and Gravel (District of DE):** On June 14, 1995, the U.S. District for the District of Delaware entered a consent decree related to the Delaware Sand and Gravel Superfund site (site). The consent decree calls for full performance of the remedial design and remedial action at the site, reimbursement of \$4,328,335.55 out of \$4,962,423.00 in previously unreimbursed past costs, and payment of all of EPA's oversight and future response costs pursuant to the remedial design/remedial action, with the exception of remedial design oversight costs.

On July 27, 1995, DOJ lodged, and on September 22, 1995, the U.S. District Court for the District of Delaware entered two consent decrees by which the settling defendants resolved their liability to the United States with respect to the Delaware Sand and Gravel Superfund site. In the first consent decree Avon Products, Inc., agreed to pay \$375,000 in partial reimbursement of the United States' Superfund response costs incurred at the site after April of 1988. In the second consent decree MRC Holdings, Inc., agreed to pay \$300,000 in partial

reimbursement of the United States' response costs at the site.

**Strasburg Landfill (Chester County, PA):** On February 3, 1995, the United States filed a CERCLA Section 104(e) action, seeking injunctive relief and civil penalties, in the U.S. District Court for the Eastern District of Pennsylvania against David Ehrlich, Buckley & Company and Robert Buckley, Sr. These parties have been identified by EPA as former owners/operators of the Strasburg Landfill site in Chester County, Pennsylvania. They had failed to adequately respond to CERCLA Section 104(e) requests seeking financial information, as well as requests concerning corporate relationships/control and the involvement of the individual officers in the landfill operation.

On May 22, 1995, the United States moved to enter a partial consent decree between the United States and Robert Buckley and Buckley & Company for penalties and injunctive relief in connection with their failure to adequately respond to EPA's CERCLA Section 104(e) requests, in *U.S. v. David Ehrlich, et al.* (E.D. Pa). Buckley and Buckley & Company are PRPs at the Strasburg Landfill site as former owners or operators of the site. The consent decree calls for the payment of a collective penalty figure of \$107,000 and injunctive relief for production of after-acquired year-end certified financial statements.

**Blosenski Landfill:** On July 11, 1995, the Department of Justice entered three consent decrees, settling with 20 defendants in *U.S. v. Blosenski, et al.* The first decree with 17 companies (including ARCO, ICI Americas, Monsanto, Valspar and Occidental Chemical) requires the reimbursement of \$4 million in past response costs and the performance of all future remedial design and remedial action work, which could total \$13 million. In addition, the decree requires that Delaware Container Corp. pay \$15,000 and that ICI pay \$35,000 in penalties for violating a CERCLA Section 106 Administrative Order. The second decree with the site owner and former operator, Joseph M. Blosenski, Jr., his wife and related companies, requires the reimbursement of \$1 million in past costs, the payment of \$100,000 in penalties for failing to comply with a CERCLA Section 106 Administrative Order and the provision of continued access to the site. The final cash-out decree with Alexander Barry, a former owner of a portion of the site, requires \$5,000 reimbursement in past costs. These consent decrees provide for over 90% of EPA's past response costs.

**Union Carbide Chemicals & Plastics Co. (WV):** On January 10, 1995, the Regional Administrator signed



consent orders settling three administrative complaints (filed in September of 1993) and two administrative complaints (filed in March of 1994) issued to Union Carbide Chemicals & Plastics Co., Inc. (Union Carbide). Two of the five complaints concerned violations of the Emergency Planning and Community Right-to-Know Act (EPCRA). The remaining three complaints were issued for violations of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

The complaints relate to Union Carbide's failure to notify the appropriate government agencies of releases of hazardous materials into the environment in a timely manner. The releases occurred at three Union Carbide facilities located in Sistersville, Institute, and South Charleston, West Virginia. Penalties to be paid to settle the five complaints total \$94,000.00.

**Wheeling-Pittsburgh Steel Corporation and Universal Food Corporation:** On August 3, 1995, Region III filed four administrative penalty actions. Two of the actions (one CERCLA/one EPCRA) were commenced against Wheeling-Pittsburgh Steel Corporation for its failure to notify immediately the National Response Center (NRC) and the State Emergency Response Committee (SERC) and the Local Emergency Planning Committee (LEPC) of a 1993 release of spent hydrochloric acid (KO62), in excess of the reportable quantity (RQ), at its Allenport, Pennsylvania, facility. EPA seeks \$75,000 in total penalties (i.e., \$25,000 for the CERCLA action; \$25,000 each for two EPCRA counts.) The other two actions (one CERCLA/one EPCRA) were commenced against Universal Food Corporation for its failure to notify immediately the NRC, SERC and LEPC of a July 1994 ammonia release, in excess of the RQ, at its Baltimore, Maryland, facility. The complaints seek \$8,250 for the CERCLA violation and \$16,500 for the EPCRA violations.

## CLEAN WATER ACT

**John C. Holland Enterprises/Holland Landfill (Suffolk County, VA):** On July 31, 1995, John C. Holland Enterprises, Inc., and EPA Region III entered into a consent agreement and consent order settling a wetlands violation at the Holland Landfill in Suffolk, Virginia. The corporation destroyed approximately 70 acres of wetlands over a 15-year period for the purpose of operating a landfill. The settlement requires the corporation to restore a 22-acre parcel of disturbed wetlands; restore a 25-acre parcel of prior converted cropland, planting approximately 15,000 white cedar seedlings; convey the successfully restored 25-acre parcel to the Great Dismal Swamp National Wildlife Refuge; to acquire title to a certain parcel consisting of 250 acres of wooded swamp along the

North River; and to convey that 250-acre parcel to the North Carolina Nature Conservancy upon the written direction of EPA. The Corporation also agreed to pay a \$45,000 civil penalty, and an additional \$80,000 if it does not satisfactorily perform the restoration/mitigation work contained in the consent order.

**Antoinette Bozievich-Buxton (York County, PA):** On June 13, 1995, the Acting Regional Administrator signed the recommended decision of the Regional Presiding Officer, which found that Ms. Antoinette Bozievich-Buxton was liable for a \$5,000 civil penalty for the filling of wetlands at her horse farm in York County, Pennsylvania, without the necessary Clean Water Act Section 404 permit.

**Allegheny Ludlum Corporation (Pittsburgh, PA):** On June 28, 1995, the Department of Justice (DOJ) filed a complaint against Allegheny Ludlum Corporation, Pittsburgh, Pennsylvania, for numerous violations of the Clean Water Act. The complaint alleges that the specialty steel manufacturer violated, *inter alia*, the effluent limitations in both its industrial user permit (issued by the Kiski Valley Water Pollution Control Authority) and its National Pollutant Discharge Elimination System (NPDES) permit issued to its Vandergrift, Pennsylvania facility. It also alleges that the company violated certain parameters contained in the NPDES permits. The complaint further charges violations as a result of numerous oil spills and other discharges. Moreover, the complaint cites reporting violations and charges Allegheny Ludlum with violating the Clean Water Act at the company's Wallingford, Connecticut (Region I) facility by discharging pollutants without a permit. For these violations, the complaint seeks permanent injunctive relief requiring Allegheny Ludlum to achieve and maintain full compliance with the Act; civil penalties of up to \$25,000 per day per violation; and such other relief as the Court deems appropriate.

**Blue Plains STP (Washington, DC):** On January 24, 1995, the Department of Justice lodged in the U.S. District Court for the District of Columbia a consent decree settling the CWA enforcement litigation against the District of Columbia. The consent decree requires the District to: (1) pay a civil penalty of \$500,000; (2) undertake a 12-month pilot study of an experimental technology called "biological nitrogen removal" (BNR) designed to reduce the levels of nitrogen in the Blue Plains plant's effluent; (3) retain an independent consultant to review the current practices and procedures used by the District to procure parts, equipment, labor and chemicals needed to keep the Blue Plains plant operating within the limits of its NPDES

permit; and (4) undergo a periodic "Operational Capability Review."

**Witco Corporation (Petroia, PA):** On February 14, 1995, EPA issued an administrative complaint to the Witco Corporation of Petroia, Pennsylvania, for violating the Clean Water Act. The complaint alleges that since March 1990, Witco discharged pollutants in excess of limits established in its National Pollutant Discharge Elimination System (NPDES) permit. The limits violated include pH total suspended solids, oil & grease, nitrogen, ammonia, total manganese, fecal coliform, and biological oxygen demand. The complaint also alleges that Witco discharged approximately 3,000 gallons of mineral oil from its facility to the Allegheny River in violation of its NPDES permit and the Clean Water Act. EPA assessed a proposed civil penalty of \$96,000.

**Modular Components National, Inc. (Forest Hill, MD):** On March 20, 1995, the Water Management Division issued an administrative penalty complaint to Modular Components National, Inc., of Forest Hill, Maryland for violations of the Clean Water Act. EPA's penalty complaint alleged that Modular Components had violated EPA pretreatment standards for the metal finishing industry in its discharges into the Hartford County, Maryland Treatment Facility. EPA's complaint proposed a civil penalty of \$65,000.

**Goose Bay Aggregates, Inc. (Washington, DC):** The Region has settled an administrative enforcement action in an NPDES case. Goose Bay Aggregates, Inc., operates an aggregate processing and storage yard in Washington, D.C., which discharges pollutants to the Anacostia River. Goose Bay violated its NPDES permit by failing to file its discharge monitoring reports and by not taking some samples for approximately a year. Goose Bay and the Region agreed to a penalty of \$18,500 for the violations.

**Elk River Sewell Coal Co., Inc. (Monterville, WV):** On April 4, 1995, EPA issued an administrative order (AO) to Elk River Sewell Coal Co., Inc., of Monterville, West Virginia, the operator of a coal-mining facility. The AO cites the company for violations of its NPDES permit as well as various provisions of the Clean Water Act including discharge of pollutants in excess of permit effluent limitations and failure to submit discharge monitoring reports as required by the NPDES Permit. The AO, which was issued as part of the regional data integrity initiative, orders Elk River to: (1) come immediately into compliance with the conditions of its NPDES Permit; (2) submit an evaluation of the treatment system, operations and neutralization chemical usage at the site covered by the Permit; (3) submit discharge monitoring reports as

required by the permit; (4) cease all discharges not permitted by a valid NPDES permit; and (5) provide a written response to EPA of its intent to comply with the order.

**Conagra Poultry Company (Milford, DE):** On June 15, 1995, the Acting Water Management Division Director signed a consent agreement and consent order settling this administrative case against ConAgra Poultry Companies, Milford, Delaware, for violations of Section 307 of the CWA, 33 U.S.C. §1317. This is the first case brought by the Region against an industrial user (IU) in the state of Delaware. The complaint, issued on August 16, 1994, and amended on November 23, 1994, sought an \$18,000 penalty. The complaint alleged that during March 1994, the pretreatment facility at respondent's poultry processing facility malfunctioned and discharged partially treated wastewater into the receiving publicly owned treatment works (POTW) and caused pass through and/or interference with the POTW, in violation of respondent's IU permit. Both respondent and the POTW exceeded their respective BOD limits during March and April 1994. Respondent has agreed to pay a \$14,000 civil penalty.

**Kiski Valley Water Pollution Control Authority (Leechburg, PA):** On June 29, 1995, the Regional Judicial Officer signed a consent order requiring a publicly-owned treatment works (POTW), the Kiski Valley Water Pollution Control Authority, to pay a civil penalty of \$45,000 for violations of both its pretreatment program and effluent limitations contained in its NPDES permit. Specifically, the Kiski Valley Authority, located in Leechburg, Pennsylvania, violated its pretreatment program by failing to conduct sampling visits of its significant industrial users (SIUs) during 1992 and failing to adequately enforce violations of one of its categorical SIUs, Allegheny Ludlum. The POTW also violated its NPDES permit by exceeding effluent limitations for suspended solids and five-day carbonaceous biochemical oxygen demand, and flow limits.

**Potomac Electric Power Co. (PEPCO) (Faulkner, MD):** The Department of Justice, on July 3, 1995, simultaneously filed a complaint and consent decree in the U.S. District Court for the District of Maryland, against the Washington, D.C.-based PEPCO for Clean Water Act violations that occurred at the defendant's fly-ash disposal facility in Faulkner, Maryland. The violations occurred from 1988 to 1993 during which time a site supervisor either pumped or oversaw the pumping of polluted water from holding ponds into an adjacent swamp.

PEPCO discovered the illegal discharge and informed the federal government of its occurrence. The consent decree

provides for a penalty of \$975,000, and the company has taken measures to assure there will be no recurrence of the situation. In part because of the self-confessed nature of this action and subsequent cooperation, no criminal charges were brought against the company or its officers.

**USX Corporation Steel Mill (Dravosburg, PA):** On September 29, 1995, the Director of the Water Management Division signed an administrative complaint issued under Section 309(g) of the Clean Water Act against USX Corporation for violations of its NPDES permit at its steel mill in Dravosburg, Pennsylvania (the Irvin Works). The complaint alleges that the Irvin Works discharged pollutants into the Monongahela River in excess of its NPDES permit limits on eleven occasions since 1990. The complaint also alleges that on May 26, 1994, an equipment malfunction caused the Irvin Works to discharge approximately 4000 gallons of oily, untreated wastewater into the Monongahela River, causing a large oil slick. USX reported this discharge to the National Response Center and hired a contractor to attempt to clean up the spill. However, this discharge was unauthorized by the permit and violated several conditions of USX's 1989 NPDES permit. The complaint also cites a September 22, 1994, discharge of oil which left a sheen of oil on the Monongahela River. The complaint seeks a total penalty of \$40,000 for these violations.

**PEPCO (Benning Generating Station) (Washington, DC):** On September 22, 1995, Region III filed an administrative complaint against PEPCO (Respondent) for violation of Section 301(a) of the Clean Water Act, 33 U.S.C. 1311(a) for discharging water contaminated with PCBs into the Anacostia River from its Benning Generating Station. Respondent reported the incident. For this violation, EPA is seeking a penalty of \$10,000.

**National Railroad Corporation (AMTRAK) (Washington, DC):** On March 17, 1995, the Region issued a CACO in settlement of an administrative CWA complaint for penalty which was filed against National Railroad Corporation - Amtrak for violations of its NPDES General Permit for Storm Water Discharges Associated with Industrial Activity. Amtrak agreed to pay a penalty of \$30,000.

**Columbia Natural Resources, Inc.:** On June 28, 1995, the U.S. EPA filed an administrative complaint against Columbia Natural Resources, Inc., for violations of Section 311(b)(3) of the Clean Water Act, 33 U.S.C. §1321(b)(3), for the discharge of oil into the navigable waters of the United States. The complaint alleged that from November 1993 through April 1994 on four separate occasions, respondent spilled a total of approximately 12 barrels

(approximately 500 gallons) of oil. The complaint sought penalties of \$9,093.75 and offered an incentive of a 15% reduction (\$7729.69) for settlement within thirty (30) days of the date upon which the administrative complaint was issued.

**United Refining Co. (Warren County, PA):** On June 28, 1995, the Associate Division Director for Superfund Programs issued an administrative penalty complaint for violation of Section 311(b)(3) of the Clean Water Act to the United Refining Company seeking \$10,000 in penalties. On December 1, 1993, there was a spill at the Company's refinery in Warren, Pennsylvania, of approximately 2,000 gallons of light cycle oil which entered Glade Run, a tributary to the Allegheny River, and a navigable waterway as defined in the CWA. The company responded quickly and effectively to the spill, and most of the oil was cleaned up by the following morning. The effectiveness of the company's response was reflected in a reduced penalty.

### EPCRA §313

**Owens-Brockway (Erie, PA):** On May 16, 1995, an administrative complaint was filed against Owens-Brockway of Erie, Pennsylvania. The complaint alleges violations of the Emergency Planning and Community Right-to-Know Act. Owens-Brockway failed to submit toxic chemical release forms for four toxic chemicals used at the facility in 1991, 1992, and 1993. The complaint seeks penalties of \$146,132.

**Dayton Walther Corporation (Harrisburg, PA):** On October 21, 1994, a consent agreement and consent order (CACO) was entered wherein Dayton Walther Corporation, Harrisburg, Pennsylvania, agreed to pay a \$27,209 penalty for violations of the Emergency Planning and Community Right-to-Know Act. Walther failed to submit Toxic Chemical Release Inventory forms to EPA and the Commonwealth of Pennsylvania for chromium and xylene for three reporting years, 1989, 1990, and 1991.

**Beaver Valley Alloy Foundry Company (Monaca, PA):** On November 18, 1994, a consent agreement and consent order (CACO) was signed wherein Beaver Valley Alloy Foundry Company, of Monaca, Pennsylvania agreed to pay a \$12,750 civil penalty for violations of the Emergency Planning and Community Right-to-Know Act. Beaver Valley failed to submit a Toxic Chemical Release Inventory form to EPA and the Commonwealth of Pennsylvania for manganese releases for three reporting years.

**Cabinet Industries, Inc. (Danville, PA):** On August 18, 1995, the Regional Presiding Officer signed a consent order requiring Cabinet Industries, Inc., of Danville, Pennsylvania, to pay \$8,000 in settlement of an administrative complaint filed by EPA on April 4, 1995. The complaint alleged that Cabinet Industries committed six violations of EPCRA by failing to submit toxic chemical release forms for six toxic chemicals used at its Danville facilities in 1990 and 1991. Following issuance of the complaint, Cabinet submitted revised usage figures and an affidavit which showed that the company used less than the threshold amount of xylene, MIK, MEK, and toluene in 1990. The \$8,000 civil penalty settles EPA's claim for the remaining two counts.

## FIFRA

**Aquarium Products, Inc.:** On June 30, 1995, Administrative Law Judge Head issued an initial decision in the case of *In the Matter of Aquarium Products, Inc.*, which held that Aquarium Products violated FIFRA (Federal Insecticide, Fungicide and Rodenticide Act) by selling the unregistered and misbranded pesticide "Aquarium Oxygenator" on two occasions, for a total of four violations. Judge Head felt that only a warning was warranted because of Aquarium Products' cooperation in remedying its violation. The decision reaffirms several important FIFRA issues, including the fact that a product is determined to be a pesticide not by what its manufacturers want it to be used for, but what the labelling suggests it may be used for.

**Panbaxy Laboratories, Inc.:** On February 15, 1995, the Region issued a consent agreement and consent order, resolving our FIFRA complaint which cited the sale of the unregistered pesticide products "AIDEX Spray Cleaner" and "AIDEX Soaking Solution" by product developer Dr. Yash Sharma, individually and d/b/a as Panbaxy Laboratories, Inc. The "AIDEX" products had been sold to hospitals with the claim that they contained ingredients effective in killing HIV, and were primarily for use on medical instruments and contact surfaces. The products are no longer produced and the corporation no longer exists. Settlement is for a minimal penalty of \$500 based on an ability to pay analysis assessing Respondent Sharma's very low income for several years.

**Thrift Drug, Inc. (Pittsburgh, PA):** On January 24, 1995, the Regional Administrator signed separate consent orders providing for the payment by Thrift Drug, Inc., of \$5,000, and by Fitzpatrick Brothers, Inc., of \$23,500 for violating FIFRA by the sale/distribution of the unregistered pesticide product "Treasury Brand Cleanser" which claimed on its label that it "disinfects as it cleans."

Pittsburgh-based Thrift Drug asserted that its supplier, cleanser manufacturer Fitzpatrick Brothers, of Chicago, had provided a "guarantee" that the product as supplied complied with FIFRA, thereby relieving Thrift Drug of penalty liability under the Act. Having decided to settle with EPA, and split the payment of the penalty in this action, the Respondents will take their ongoing contractual dispute, over the effect of the "guarantee," into state court.

**Precision Generators, Inc.:** The Regional Administrator has signed a consent order in the *Precision Generators, Inc.*, FIFRA case, in which the respondent has agreed to pay the \$4,000 proposed penalty. The administrative complaint cited the respondent's sale and misbranding of its unregistered pesticide product ethylene fluid used to accelerate the ripening of fruits and vegetables. Such a product is a "plant regulator" falling within the definition of "pesticide" in FIFRA.

**E.C. Geiger, Inc. (Harleysville, PA):** On August 18, 1995, the Regional Administrator signed a consent agreement and consent order finalizing settlement of the administrative proceeding against E.C. Geiger, Inc., Harleysville, Pennsylvania, for violations of Sections 12(a)(1)(A) and (E) of FIFRA, 7 U.S.C. §§ 136j(a)(1)(A) and (B). The complaint alleged that during 1992, Geiger sold or distributed an unregistered and misbranded pesticide product, a rooting hormone called "Indole-3-Butyric Acid - Horticultural Grade." For these violations the complaint sought a \$14,000 penalty. Geiger has agreed to pay a penalty of \$8,900.

## RCRA

**UST NOVs for Violations of the RCRA UST Requirements:** On June 28, 1995, Region III issued 17 UST NOVs to facilities in Pennsylvania and 2 UST NOVs to facilities in Virginia. The NOVs notified the recipients of violations of the RCRA UST regulations and advised non-compliers that further enforcement action may be taken if they did not, within 30 days after receiving the NOV, provide EPA with documentation which demonstrated their compliance with UST requirements.

**General Chemical Corporation (Claymont, DE and Marcus Hook, PA):** The U.S. EPA signed a consent agreement and consent order (CACO) with General Chemical Corporation in settlement of an administrative complaint, compliance order, penalty assessment, and notice of opportunity for hearing issued to General Chemical Corporation. The CACO settles violations of RCRA alleged against respondent's manufacturing plant located at Claymont, Delaware, and Marcus Hook, Pennsylvania. The facility had operated three hazardous

waste surface impoundments without a permit or interim status, had failed to make hazardous waste determinations, and had failed to comply with land-disposal restrictions.

The settlement consists of a penalty of \$350,000. General Chemical will pay \$100,000, and place \$250,000 in escrow until respondent completes, to EPA's satisfaction, a \$2.5 million pollution prevention supplemental environmental project (SEP) in accordance with the conditions stipulated in the CA/CO. A penalty credit will be granted by EPA to respondent upon the completion of the SEP. The ratio of the SEP gross cost to penalty credit dollars is approximately 4:1 for estimated after-tax net present value to penalty credit dollars. In the event respondent fails to complete the SEP, the escrow funds plus accrued interest will be forfeited to the United States.

The pollution prevention SEP will reduce the release of pollutants to the environment by eliminating the current use of a sluiceway where chemicals are treated and subsequently discharged into the Delaware River. The SEP will modify the current industrial process at the Respondent's Marcus Hook manufacturing plant by recirculating and recycling the wastewater for process reuse. The recirculation and recycling of the wastewater for process reuse will decrease the current thermal loadings of approximately 25.0 million gallons per day into the Delaware River to approximately 1 million gallons per day of non-process stormwater.

**AT&T Richmond Works (Richmond, VA):** On December 30, 1994, Administrative Law Judge (ALJ) Thomas W. Hoya issued a ruling on cross-motions for partial accelerated decision in the *Matter of American Telephone and Telegraph Company*. The ruling constitutes a final decision with respect to five of twenty-six counts in a \$4.18 million administrative complaint initiated by EPA on July 31, 1991. The complaint alleges numerous violations of RCRA at the AT&T Richmond Works Facility. The ALJ ruled for EPA on three counts related to inadequacies of AT&T's waste analysis plan in meeting regulatory requirements and ruled for AT&T concerning the required frequency of wastestream analysis and additional analyses when tank systems are proposed for use with substantially different hazardous wastes.

**Amoco Oil Company (Yorktown, VA):** On December 30, 1994, the Regional Administrator signed a consent agreement and consent order resolving a RCRA administrative penalty action against Amoco Oil Company for alleged violations at Amoco's Yorktown, Virginia facility. Under the terms of the CACO Amoco agreed to pay a \$245,715.00 civil penalty and undertake injunctive relief to comply with RCRA, including cessation of

unpermitted treatment, storage, and disposal of hazardous waste, and meeting related waste handling and recordkeeping requirements.

**Alexandria Metal Finishers, Inc. (Lorton, VA):** On February, 2, 1995, the Regional Administrator executed a consent agreement and consent order (CACO) settling a RCRA administrative penalty action filed against Alexandria Metal Finishers, Inc., for alleged violations at Alexandria's Lorton, Virginia, facility. In addition, the CACO requires Alexandria to pay a \$100,000 civil penalty.

**Exide/General Battery Corporation (Reading, PA):** On December 9, 1994, the Acting Deputy Regional Administrator signed a consent agreement and consent order (CACO) resolving a RCRA administrative penalty action against Exide/General Battery Corporation for alleged violations at Exide's Reading, Pennsylvania, facility. Under the terms of the CACO, Exide agreed to pay a \$212,372.50 civil penalty and undertake injunctive relief to comply with RCRA.

**Kaiser Aluminum & Chemical Corporation (Ravenswood, WV):** On April 3, 1995, the Acting Regional Administrator signed a final administrative order on consent for the performance of a RCRA facility investigation (RFI) and a corrective measures study (CMS) under Section 7003 of RCRA, for the Kaiser Aluminum & Chemical Corporation facility in Ravenswood, West Virginia. The respondent was the former owner of an aluminum reduction and fabrication facility located on a 3,000-acre site adjacent to the Ohio River. In 1989, ownership was transferred to Ravenswood Aluminum Corporation, with the exception of two parcels of property, one of which was known as the spent potliner pile. The Section 7003 consent order concerns the real property under the current ownership of the respondent upon which the spent potliner pile is located. (The remaining portions of the former Kaiser operation are being addressed through a separate RCRA Section 3008(h) administrative order on consent issued in September 1994 to Ravenswood for the performance of an RFI/CMS.)

**In re: Beaumont Company:** On April 28, 1995, the Office of Regional Counsel, in conjunction with the OECA RCRA Enforcement Division, filed an appellate reply brief with the Environmental Appeals Board (EAB) in support of the Agency's interlocutory appeal in *In re: The Beaumont Company*. EPA's interlocutory appeal seeks to overturn an adverse ruling by an administrative law judge (ALJ) dismissing, in part, a \$1.2 million RCRA administrative complaint against the Beaumont Company, a West Virginia glass manufacturer.

**Aberdeen Proving Ground Facility (Aberdeen, MD):** On July 25, 1995, EPA entered into a RCRA consent order and consent agreement with the U.S. Army resolving a January 5, 1994, RCRA §3008 complaint issued to the Army for storing 171 containers of hazardous waste subject to RCRA's land disposal restrictions at its Aberdeen Proving Ground Facility in Aberdeen, Maryland for longer than the one year period authorized by statute. In addition, the Army was also cited for failure to properly complete manifests for 22 such containers which were shipped off-site for disposal. The settlement requires the Army to pay a fine of \$92,500 and properly dispose of the containers of hazardous waste cited in EPA's complaint. At the time of settlement, the Army had so disposed of this material. This action was the first enforcement action taken against a federal facility in Region III under the 1993 Federal Facility Compliance Act.

**Rhone-Poulenc, Inc. (Institute, WV):** Region III has reached a settlement with Rhone-Poulenc, Inc., in an Part 22 administrative action brought for violations of RCRA boiler and industrial furnace (BIF) regulations at Rhone-Poulenc's Institute, West Virginia, plant. The settlement calls for Rhone-Poulenc to pay a penalty of over \$244,000 and to undertake numerous compliance tasks.

**Lynchburg Foundry Company (Lynchburg, VA):** On August 24, 1995, the Regional Administrator signed a consent order pursuant to of RCRA which requires Lynchburg Foundry Company to perform tasks set out in the compliance section of the consent agreement, and to pay \$330,000 to EPA. Lynchburg, located in Lynchburg, Virginia, operates two facilities: Radford and Archer Creek, both of which manufacture metal automotive parts. Under the terms of the consent agreement and order, Lynchburg must: (1) list all hazardous wastes handled at both facilities within its hazardous waste notification filed with the Virginia Department of Hazardous Waste; (2) amend or supplement its emergency contingency plans for both facilities to reflect the arrangements agreed to by local emergency services; and (3) permanently cease illegally storing or treating D006 and D008 hazardous wastes in waste piles at either facility.

**Rapid Circuits, Inc.:** On December 19, 1994, The Regional Administrator signed a consent agreement and consent order *In the Matter of Rapid Circuits, Inc.* The consent agreement requires Rapid Circuits to pay a penalty of \$23,250. The consent agreement and consent order represents a settlement of an administrative complaint that charged Rapid Circuits with violating the notification/certification and recordkeeping requirements of 40 CFR Section 268.7.

**Union Carbide Chemicals and Plastics (South Charleston, WV):** On May 16, 1995, the Regional Administrator signed a consent order resolving a RCRA administrative penalty action against Union Carbide Chemicals and Plastics Company, Inc. (UCC), for violations of the BIF Rule (Boiler and Industrial Furnace Rule) at UCC's South Charleston, West Virginia, plant. The complaint alleged failure to: continuously monitor and record operating parameters; accurately analyze the hazardous waste fed into the boiler; and properly mark equipment. Under the settlement terms UCC is required to pay a \$195,000 civil penalty and comply with the requirements of the BIF Rule.

## RCRA CORRECTIVE MEASURES

**AT&T Corporation:** On October 14, 1994, the Associate Division Director for RCRA Programs signed a final administrative order requiring the AT&T Corp. to implement corrective measures at its Richmond Works Facility in accordance with the RCRA Record of Decision and two subsequent explanations of significant differences for the facility. EPA had issued AT&T a unilateral initial administrative order in July 1994, and AT&T thereupon disputed certain provisions of the initial order and requested a hearing.

**Honeywell, Inc. (Fort Washington, PA):** The Regional Administrator signed the final decision and response to comments on proposed corrective measures under RCRA Section 3008(h) for the Honeywell, Inc., facility in Fort Washington, Pennsylvania, on December 16, 1994. The final decision describes the corrective measure selected by EPA to address releases of hazardous waste at Honeywell, presents the concerns and issues raised during the public comment period and responds to all significant comments received by EPA regarding the proposed corrective measure. EPA previously described and evaluated corrective measure alternatives in the statement of basis for Honeywell, which was signed on August 26, 1994.

**Akzo Nobel Chemicals, Inc.:** On December 30, 1994, the Regional Administrator signed a final administrative order on consent in the matter of Akzo Nobel Chemicals, Inc., under Section 7003 of RCRA, 42 U.S.C. §6973. The order requires the respondent to conduct a RCRA facility investigation (RFI) and a corrective measures study. Respondent will also be responsible for an interim measures study initially in the form of sampling. Part of the Akzo facility, originally a chemical manufacturing facility owned by Stauffer Chemical Company, is part of the Delaware City PVC Plant currently on the National Priorities List.

**Allied Signal Inc.'s Baltimore Works (Baltimore, MD):** On October 20, 1994, Judge William R. Nickerson of the U.S. District Court for the District of Maryland signed the "Second Amendment to Consent Decree" for Allied Signal Inc.'s Baltimore Works, a 20-acre site located on a peninsula in Baltimore's Inner Harbor. In September of 1989 the court entered a consent decree between Allied, the United States, and the State of Maryland pursuant to Sections 3008(h) and 7003 of RCRA, under which Allied agreed to remediate chromium contamination at the site, to conduct further studies, and to carry out additional corrective measures based on the results of such studies.

**Honeywell, Inc. (Fort Washington, PA):** On August 18, 1995, the Regional Administrator signed a consent order for the Honeywell, Inc., facility in Fort Washington, Pennsylvania. The order requires Honeywell, Inc., to implement the corrective measures selected by EPA in the final decision and response to comments signed by EPA on December 16, 1994. Among other things, the remedy includes the installation of two recovery wells and continued treatment of contaminated groundwater.

**Allied-Signal, Inc. (Claymont, DE):** On December 29, 1994, EPA issued an administrative complaint, compliance order and notice of opportunity for hearing to Allied-Signal, Inc., located in Claymont, Delaware, for failure to comply with the Resource Conservation and Recovery Act and the federal underground storage tank regulations. The administrative complaint proposes a civil penalty of \$24,324. The alleged violation occurred at the Allied-Signal, Inc., facility, located at 6300 Philadelphia Pike, Marcus Hook, Pennsylvania. In addition to the proposed penalty in the administrative complaint, EPA is also seeking compliance by ordering Allied-Signal to permanently close the underground storage tank located at the facility.

## SDWA

**Leisure Living Estates (Elkton, VA):** Region III issued a Safe Drinking Water Act Emergency Order to David Short, Wayne Moore and Universal of Harrisonburg - Leisure Living Estates. Messrs. Short and Moore own Universal, a mobile home park in Elkton, Virginia, with a community water supply system. The system has had, among its deficiencies, acute violations of the total coliform rule. An improperly operated septic system at the site may have caused the coliform violations. The order requires the system to provide an alternate source of water, increase monitoring for coliform, begin corrective measures, analyze for coliform contamination in surrounding wells and develop a plan to correct the sewage problem.

**Perry Phillips Mobile Home Park, (E.D. PA):** On September 1, 1995, the U.S. Attorney's Office filed a complaint under the Safe Drinking Water Act against Perry Phillips and Jeanne Phillips, d.b.a. Perry Phillips Mobile Home Park, in the U.S. District Court for the Eastern District of Pennsylvania. The complaint alleges that the water supplied to the approximately 60 residents of the mobile home park served by the park's public water system has violated the maximum contaminant level (MCL) for 1,1,1-Trichloroethane (TCA) and 1,1-Dichloroethylene (DCE) for every month since at least June 1993. Although EPA issued an administrative emergency order to the Phillips in May 1993 for these same violations, the Phillips have only partially complied with the terms of that emergency order, prompting the need for injunctive relief. The complaint also seeks a penalty for these violations.

## TSCA

**General Electric Co. (Philadelphia, PA):** On March 21, 1995, the RA signed a partial CACO which was negotiated in partial settlement of a TSCA administrative complaint that was filed against GE for violations of the PCB regulations codified at 40 C.F.R. Part 761. This partial settlement relates to one count of the complaint which alleges GE's failure to properly dispose of PCBs. GE has agreed to pay \$16,000 in settlement thereof. The unresolved counts relate to GE's failure to obtain a permit for its freon flush system; because this freon flush system was used nationwide, these counts have also been pled by Regions IV, V, VI, and X. The Agency's motions on liability having been previously granted by ALJ Nissen and upheld by the EAB.

**ANZON, INC. (Philadelphia, PA):** On March 30, 1995, EPA Region III sent a letter of remittance to Anzon Inc, concluding a TSCA administrative action against Anzon for violations of the TSCA Inventory update reporting requirements. Respondent agreed to pay \$57,800 in settlement of this case, \$43,620 of which was remitted upon completion of two supplemental environmental projects (SEPs).

**Philadelphia Masjid, Inc. (Philadelphia, PA):** On May 15, 1995, the Regional Administrator, EPA Region III, signed an order granting EPA's motion for default in an Asbestos Hazard Emergency Response Act case against the Philadelphia Masjid, Inc. Respondent owns a private, non-profit elementary school located in Philadelphia, Pennsylvania. On December 16, 1994, an administrative complaint was filed against respondent for failure to file an asbestos management plan as required regulations promulgated pursuant to the Toxic Substances Control Act. The default motion was based on respondent's failure

to file an answer to the complaint and failure to seek an extension of time in which to submit an Answer. The order mandates, inter alia, that the respondent pay a \$4,000 penalty and develop an asbestos management plan for the school in accordance with the requirements of TSCA.

## MULTIMEDIA

***Horseshoe Resource Development Company:*** On August 23, 1995, a consent decree was entered by the U.S. Attorney for the Middle District of Pennsylvania. The consent decree resolves the civil action filed by the United States in January 1992 pursuant to Section 3008(a) of RCRA, Sections 301 and 402 of the Clean Water Act and Sections 113(a)(1) and (b)(1) of the Clean Air Act. This consent decree satisfies EPA's goals of bringing the defendants into compliance and deterring other potential violations by defendants and other parties. The injunctive relief, which fully satisfies existing federal and state environmental standards, constitutes a comprehensive upgrading of the entire facility. The defendants have estimated the cost of the injunctive relief to be between 30 and 40 million dollars. The civil penalty of \$5.6 million is substantial, recovering one million dollars more than the full economic benefit calculated in this case.

***Brentwood Industries (Reading, PA):*** Brentwood and the United States (EPA and DOJ) resolved outstanding violations at Brentwood's Reading plant through a consent decree entered on March 24, 1995. The consent decree provided for a penalty payment of \$200,000 and an expedited schedule for reducing VOC

emissions to below 50 TPY by September 30, 1995. During the period of violation, VOC emissions ranged between 120 and 315 tons per year with no control equipment. Brentwood constructed and operated these air contamination sources in an ozone non-attainment area without first undergoing new source review as required by law. This enabled Brentwood to avoid installing required control equipment or process modifications. This case addresses both Clean Air Act and EPCRA violations.





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## REGION IV

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### CLEAN AIR ACT

***United States v. Environmental Resources, Inc. (W.D. KY):*** On May 9, 1995, the U.S. District Court entered a civil consent decree in which Environmental Resources, Inc. (ERI) agreed to pay \$13,000 in civil penalties in settlement of an action brought under the Clean Air Act for violations of the National Emission Standards of Hazardous Air Pollutants for asbestos. The action arose out of ERI's removal of asbestos-containing pipe insulation from three buildings owned by the Louisville Water Company in Jefferson County, Kentucky. The action focused on ERI's failure to adequately wet the asbestos-containing material as required to prevent asbestos from contaminating the air.

### CERCLA

***Peak Oil and Bay Drums Sites (Tampa, FL):*** On June 20, 1995, Region IV referred RD/RA consent decrees for the Peak Oil and Bay Drums Sites to DOJ. Three separate consent decrees have been signed for the two adjacent Superfund sites. Under the first decree, 45 Peak Oil site PRPs will conduct the RD/RA for soils, sediments and surface waters at the Peak site. Under the second decree, 85 Bay Drums site PRPs will conduct the RD/RA for soils, sediments and surface waters at the Bay site. Under the third decree, the PRPs from both sites will conduct the RD/RA for the area-wide ground water underlying both sites, as well as the wetlands monitoring for the south and central wetlands lying adjacent to the abandoned site facilities. Under the first two decrees, the PRPs will reimburse EPA a total of \$7.6 million for EPA's past costs.

***Peak Oil Site (Tampa, FL):*** On July 17, 1995, EPA entered into administrative settlements with 350 *de minimis* PRPs for this site, under which the settling parties are required to pay a share of past and future response costs. Each PRP's payment amount is based on the PRP's volume of waste oil sent to the site. Under the settlement, EPA will retain the first \$4.6 million generated through the *de minimis* settlements and anything in excess of this amount will be forwarded to the PRP group which has signed a consent decree for performance of the remedial design/remedial action, to help pay the costs of that work. Thus far, in excess of \$5 million has been received in payments from the settling *de minimis* parties.

***LCP Chemicals Site (Brunswick, Glynn County, GA):*** On July 6, 1995, Region IV executed a \$122 AOC for

performance of the RI/FS for this site by three (3) of the five (5) corporate PRPs that EPA has identified for the site. The three PRPs that will perform the RI/FS under EPA oversight are Allied Signal, Inc., Atlantic Richfield Co (ARCO), and Georgia Power Company.

***Yellow Water Road Site (Duval County, FL):*** On July 5, 1995, the Department of Justice lodged a consent decree for performance of the RD/RA for this site, in the U.S. District Court for the Middle District of Florida. Under this settlement, ten companies and three Federal Agencies that sent PCB-contaminated oils to this storage site will perform the RD/RA for both the groundwater and soil units, reimburse over \$1,467,000 in past EPA response costs, and reimburse 100% of EPA future response costs. The RD/RA requires on-site solidification of PCB-contaminated soil and monitoring of PCB-contaminated groundwater. If monitoring indicates that the PCBs are migrating in the groundwater, the groundwater ROD requires a pump-and-treat remedy to contain the groundwater plume.

***Maxeys Flats Disposal Site (Fleming County, KY):*** On July 5, 1995, a consent decree for the remedial design/remedial action at the site, and an accompanying *de minimis* consent decree, were lodged in the U.S. District Court for the Eastern District of Kentucky. The parties settling with EPA under these decrees include the Commonwealth of Kentucky, 19 major and *de minimis* federal agency PRPs, 43 private party major PRPs (including corporations, utility companies, hospitals and universities), and more than 200 *de minimis* parties.

The site was operated as a low-level radioactive waste landfill from 1963 to 1978, during which time an estimated 4 to 5 million cubic feet of radioactive wastes were disposed of in unlined trenches. Radioactive leachate was discovered to be migrating from the trenches in the early 1970s. The consent decrees provide for closure and perpetual monitoring of this landfill, and the recovery of more than \$5 million in response costs incurred by EPA in connection with the site.

***Bypass 601 Groundwater Contamination Site (Concord, NC):*** On January 25, 1995, the Middle District of North Carolina entered an RD/RA consent decree at the site in Concord, North Carolina. The consent decree provides for the \$40 million cleanup and collection of 100% of past costs at the site, utilizing preauthorization mixed-funding, as well as a unique *de micromis* settlement.

The site includes an inactive battery "cracking" facility and 10 source areas around the site, where the battery casings were buried after being cracked. Approximately 4,000 PRPs were identified, including approximately 2,400 *de micromis* parties. Of the non-*de micromis* parties, only approximately 500 PRPs were located, creating an orphan share of approximately 1,100 PRPs. The \$40+ million remedy (which could potentially climb to 100+ million) selected for the site includes soil solidification and stabilization, as well as an aggressive pump-and-treat system. Additionally, past costs at the site currently total approximately \$4 million.

**Woolfolk Chemical Site (Fort Valley, GA):** With the concurrence of EPA-Headquarters and the Department of Justice, Region IV has entered into an agreement and covenant not to sue with three parties who plan to redevelop land cleared and cleaned as part of a removal action at the site. The site is a pesticide formulating facility which was placed on the National Priorities List in 1990. During the RI/FS, soil contamination was discovered in residential yards surrounding the operating facility. EPA issued a removal order, and the PRP performing the removal purchased certain of the residential properties, razed the houses, and removed contaminated soil to the expected non-residential cleanup level. That PRP is now willing to donate the land to the Peach Public Libraries, the Fort Valley Redevelopment Authority, and the Peach County Chamber of Commerce, who plan to construct a public library, an adult literacy center, and an office for the Chamber of Commerce and Redevelopment Authority on the property. The covenant not to sue is conditioned upon EPA's concurrence that the redevelopment project will be consistent with EPA's upcoming ROD for this area.

**Aqua-tech Environmental, Inc., Site (Greer, SC):** On July 21, 1995, Region IV entered into administrative *de minimis* settlements with 98 parties for this site. This *de minimis* settlement represents the first phase of the total *de minimis* settlement for the Aqua-Tech site. This phase of the *de minimis* settlement was offered only to those *de minimis* parties who sent gas cylinders to the site. Settlements which resolve drum and lab pack liability will be offered when additional information becomes available concerning the full extent of contamination at the site. Consequently, parties to this settlement who sent both cylinder and drum or lab pack waste are resolving their liability for cylinders only through this settlement and will have continuing liability for other non-cylinder waste. The site underwent a removal action which was completed in January of 1994. On September 25, 1995, the Region and 77 major PRPs entered into an AOC for performance of the RI/FS for the site.

**General Refining Site (Garden City, GA):** On November 23, 1994, the final consent decree settling *United States v. General Refining Company, et al.* was entered in the U.S. District Court for the Southern District of Georgia. Pursuant to the terms of the consent decree, the United States recovered \$2,150,000 in response costs incurred at the site.

The General Refining Company, a closely-held corporation, owned and operated a waste oil re-refining facility at the site from 1961 to 1975. Waste oil, sludges and filter cake containing hazardous substances, including lead, cadmium, chromium and copper, were deposited on-site. EPA conducted a removal action at the site during the period 1985-1987. The Settling Defendants included the owners of the property and forty-six (46) generators.

**Reeves Southeastern Site (Tampa, FL):** On July 17, 1995, the U.S. District Court, Middle District of Florida, Tampa Division, entered the RD/RA consent decree for the site. Under the decree, the Reeves Southeastern Corporation will conduct the RD/RA for three operable unit Records of Decision and will reimburse EPA's past costs in the amount of \$297,000. In the past, wire fence manufacturing operations resulted in the generation of waste waters contaminated with zinc and other heavy metals. The waste waters were stored in unlined holding ponds. Soils and sediments in the ponds, soils and sediments in hot spot areas around the site, ground water underlying the site, and adjacent wetlands became contaminated with heavy metals. The three Records of Decision covered by the consent decree address, respectively, soils, sediments and surface waters; ground water; and the wetlands.

**Shaver's Farm Site (Walker County, GA):** On October 31, 1994, DOJ filed a cost recovery action styled *United States v. Velsicol Chemical Corporation* in the U.S. District Court for the Northern District of Georgia. The action seeks \$5.8 million for past response costs plus a declaratory judgement for future costs. In 1988, after investigation disclosed a large number of buried drums and some releases of dicamba and benzonitrile disposed of by Velsicol at Shaver's Farm, EPA entered into a consent removal order with Velsicol. In 1990, EPA took over the work because of serious performance problems by Velsicol's contractor. The complaint seeks to recover all of the Government's response costs pursuant to Section 107 of CERCLA.

**Para-Chem Southern, Inc. (Simpsonville, SC):** On October 7, 1994, the U.S. District Court for the District of South Carolina, entered a consent decree for RD/RA in connection with the Para-Chem Southern, Inc., Superfund

site in Simpsonville, South Carolina. Under the terms of the consent decree, Para-Chem Southern, Inc., will perform and fund the entire RD/RA, and reimburse the United States for costs incurred by the United States in connection with such work, including, but not limited to, oversight costs. The estimated cost of implementing the selected remedy is \$5,498,000. Para-Chem has already agreed to pay all outstanding past costs incurred in connection with the site in the amount of \$275,563.23 under the terms of a cost recovery agreement entered September 2, 1993.

**Dickerson Post Treating Site (Homerville, GA):** On March 31, 1995, in a case entitled *United States v. Amtreco, et al.*, the U.S. District Court for the Middle District of Georgia approved and finalized a settlement of the United States' \$2.1 million judgment for recovery of direct and indirect response costs incurred in a cleanup of this site. The settlement requires the defendants, the individual and closely-held corporate owner/operators of the site, to pay \$300,000 to the United States in satisfaction of the judgment and resolution of all issues.

**Murray Ohio Dump Site (Lawrenceburg, TN):** On April 20, 1995, Region IV issued a unilateral administrative order to Murray Ohio Manufacturing Company (Murray Ohio) for performance of the remedial design/remedial action at the site. Murray Ohio operates an active bicycle manufacturing facility on approximately 27 acres southwest of Lawrenceburg, Tennessee. Murray Ohio began land disposal of F006 paint and plating sludge in 1963 and continued until 1982, on property then owned by the City of Lawrenceburg, Tennessee. The sludges contained chromium, nickel and zinc, and the landfill poses a threat to groundwater from these contaminants. The UAO requires Murray Ohio to implement a RCRA landfill closure of the disposal area. The City of Lawrenceburg was not named in the UAO because Murray Ohio indicated that they would assume responsibility for the entire cleanup.

**Riley Battery Site (Concord, Cabarrus County, NC):** On December 15, 1994, Region IV signed an AOC with Troutman Land Investments, Inc. (Troutman), which requires Troutman to perform a removal action, as well as reimburse EPA for approximately \$44,000 in past costs, at the site. The site is comprised of two adjoining parcels of property formerly owned by the Riley family and generally located at 5050 Zion Church Road, Cabarrus County, Concord, North Carolina, where excessive levels of lead contamination were discovered, due to the presence of discarded battery casings and associated wastes. Operations at the site, which occurred during the late 1940s and early 1950s, included the cracking of lead

batteries to reclaim lead for scrap. Once the batteries were "cracked," the lead plates were removed for sale as scrap metal, and the lead contaminated battery casings were stockpiled and littered across the site.

**Cedartown Battery Site (Polk County, GA):** On December 5, 1994, the U.S. District Court for the Northern District of Georgia, in a case captioned *United States v. AmSouth Bank N.A., et al.*, entered three (3) consent decrees negotiated by Region IV and the Department of Justice, resulting in the recovery of \$230,760 in response costs for a removal action performed by EPA at the site. Henry Dinger and his sons operated a battery cracking operation from the 1960s through September 1974 in rural Polk County, Georgia, which recovered lead from used automotive batteries. As a result of a citizen's complaint, EPA found levels of lead contamination ranging from 7,080 to 19,300 parts per million. EPA conducted a two-stage removal at the site beginning in January of 1989. The three (3) settling parties are the owner of the land, AmSouth Bank, N.A. as trustee for the W.M. Leary Trust, and two (2) companies which sold batteries to the Dingers: Aaron McMahan, d/b/a Hester Battery, Inc., and Carl Parker, d/b/a Dalton Battery Service, Inc.

**Sapp Battery Site (Jackson County, FL):** A cost recovery action captioned *U.S. v. Ben Shemper & Sons, Inc., et al.* was filed on December 27, 1994, in federal court in the Northern District of Florida against several recalcitrant potentially responsible parties (PRPs) at the Sapp Battery Superfund site. This complaint against viable non-settlers seeks to recover the remainder of EPA's past costs in connection with the site which total approximately \$2.7 million.

**Sapp Battery Site (Jackson County, FL):** On September 18, 1995, the U.S. District Court for the Northern District of Florida entered a Consent Decree in *United States v. Bay Area Battery, et al.*, which provides for eleven businesses and individuals that sent batteries which were disposed of at the site to pay to EPA approximately \$214,500 toward unreimbursed costs (with an additional amount of approximately \$50,000 going to a group of PRPs who have undertaken the cleanup of Operable Unit One at the site). The eleven (11) parties that signed this consent decree are alleged to have sent large quantities of waste to the Sapp site, but due to their financial conditions, are not able to pay their proportionate share of the cost of the clean up. The settlement amounts paid by each of these parties were negotiated on an ability-to-pay basis after a detailed analysis of their financial conditions was conducted by the Department of Justice.

**Kalama Specialty Chemical, Inc. (Beaufort, SC):** The U.S. District Court for the Southern District of South Carolina entered the RD/RA consent decree for the site on December 28, 1994. On August 10, 1994, Region IV referred the RD/RA consent decree to the Department of Justice for lodging and entry. Pursuant to the consent decree, Defendants Kalama Specialty Chemical, Inc., and Kalama Chemical, Inc., will perform soil and groundwater remediation estimated to cost \$3,502,167. In addition, the Defendants agreed to reimburse EPA for all of its past costs and for all of its future oversight costs.

**Sixty-One Industrial Park Site (Memphis, Shelby County, TN):** On January 26, 1995, EPA issued a unilateral administrative order to UT Automotive, Inc., Sixty-One Industrial Park, Lazarov Brothers Tin Compress Company, Inc., and Lazarov Brothers Surplus Sales Company, Inc., and Mr. David Lazarov for removal activities at the site. The UAO requires the Respondents to remove and dispose of contaminated lagoon sludges, drums, drummed waste, batteries, slag piles, explosives, contaminated soils, and associated contamination. Respondents are either current or former site owners or operators.

**Carolina Chemicals Site (West Columbia, SC):** On February 1, 1995, the U.S. District Court for the District of South Carolina, Columbia Division, entered a CERCLA §107 consent decree in *United States v. Carolina Chemicals, et al.*, which provides for the defendants at the site to pay EPA \$5,631,000, approximately 98% of past costs for a 1989-1991 EPA removal. In addition to the payment of past costs, the settlement resolves all claims alleged against the United States and its contractor in a separate but related cause of action, *Richland-Lexington Airport District v. Atlas Properties Inc., et al.* In this lawsuit, one of the PRPs alleged that EPA improperly placed the contaminated stockpile from the 1989-1991 removal on its property.

**Saad Trousdale Road Site (Nashville, TN):** Region IV utilized a combination of two AOCs and one UAO over the last year, with various parties, to effectuate a removal cleanup action at this waste oil site in Nashville, Tennessee. The first AOC was signed October 5, 1994, with approximately 100 PRPs who sent waste oil to the site (the "Steering Committee"), and required limited removal activities. The second AOC was entered into on December 9, 1994, between EPA and Aluminum Company of America (ALCOA), and required additional removal activities of a limited nature. The Steering Committee refused to enter into an AOC for full removal of the remaining source soils and sludges. Consequently, EPA issued a UAO to Steering Committee members on

July 28, 1995, requiring that the remaining removal work be completed.

**Florida Steel Site (Indiantown, Martin County, FL):** On January 24, 1995, the U.S. District Court for the Southern District of Florida entered a consent decree executed by Florida Steel Corporation as settling defendant under which Florida Steel has agreed to conduct RD/RA (Operable Unit 2) for cleanup of metals contamination in groundwater at the site as well as wetlands restoration. Florida Steel also agreed to reimburse all future response costs incurred by the United States. (Past response costs were paid under the first operable unit consent decree which addressed soil and sediment contamination.)

**Rutledge Property Site (Rock Hill, York County, SC):** On February 14, 1995, EPA Region IV, under the authority of CERCLA, issued UAOs to BASF/Inmort Corp., Burlington Industries Inc., CTS Corp., Engraph Inc., FMC Corp., Hoechst Celanese Corp., Reeves Brothers, Inc., Rexham Inc., Textron Inc., Union Camp Corp., W.R. Grace & Co., and William Rutledge, for RD/RA. Potentially Responsible Parties (PRPs) receiving the UAO included 11 generators and the owner/operator of the facility. The selected remedy for groundwater contamination at the site is pumping and discharge to a publicly owned treatment works (POTW).

**Sayles-Biltmore Site (Asheville, NC):** Pursuant to the "Guidance on Landowner Liability under Section 107(a)(10) of CERCLA, De Minimis Settlements under 122(g)(10)(B) of CERCLA, and Settlements with Prospective Purchasers of Contaminated Property," Region IV entered into a prospective purchaser agreement with River Bend Business Park, Limited Liability Corporation (LLC) for the sum of \$165,000. The agreement was signed by the Regional Administrator on March 20, 1995, and was forwarded to Headquarters and DOJ for concurrence. EPA initiated a removal action at the site in May 1, 1994, removing several hundred drums, laboratory containers, and eight vats of caustic material inside the various buildings at the cost of \$745,000.

**Fuels and Chemicals Superfund Site (Tuscaloosa County, AL):** On March 27, 1995, Region IV ratified the first amended AOC with U.S. Steel and 43 other PRPs to complete Phase II of the removal at the site. This action was at the request of the PRPs to facilitate the removal agreement between the PRPs and add 9 additional parties to the existing AOC signed on September 23, 1994. The site, a 57-acre parcel of land located in a sparsely populated area, operated from 1981 to 1992 as a fuels blending and treating facility and was abandoned in September 1992. EPA initially inspected the site on

February 4, 1993. At that time, there was approximately 800,000 gallons of waste stored on-site. On July 20, 1993, EPA entered into an administrative order on consent (Phase I AOC) with 11 parties requiring them to conduct Phase I of a removal action at the site. Phase I of the removal action consisted of the removal of pumpable liquids from on-site tanks and drums and off-site disposal in a manner satisfactory to EPA. On May 2, 1994, EPA executed a unilateral administrative order directing 55 parties to conduct Phase II of the removal action at the site. Following negotiations with EPA and 33 other PRPs, on August 31, 1994, USX submitted a proposed administrative order on consent requesting that it be ratified and act to supersede the Phase II UAO. Region IV ratified this "Phase II" AOC on September 23, 1994. This recent action acts to amend the Phase II AOC to add an additional 9 PRPs to the order.

***Diamond Shamrock Landfill Site (Cedartown, Polk County, GA):*** On March 31, 1995, in a case captioned *United States v. Henkel Corporation*, the U.S. District Court for the Northern District of Georgia entered a consent decree between EPA and Henkel Corporation for RD/RA at the site. Under the terms of the proposed settlement, Henkel will perform and fund the entire RD/RA (estimated to cost \$460,000), and reimburse the United States for past costs of almost \$388,000 and future costs incurred by the United States in connection with such work.

***Brantley Landfill Site (Island, KY):*** On March 21, 1995, Region IV issued a UAO which orders Barmet Aluminum Corporation to conduct the RD/RA selected for implementation at the site. The site consists of approximately four acres used from 1978 to 1980 by Doug Brantley and Sons, Inc., for the disposal of 250,306 tons of salt cake fines generated by the Barmet Aluminum Corporation. High concentrations of chlorides, sulfates and other metals from the salt cake fines threaten the groundwater. The remedy chosen requires that a new cap be installed at the former landfill while groundwater monitoring takes place to determine the extent of leachate contamination migrating offsite. In the event that unacceptable offsite migration is occurring, the remedy requires the installation of a short-term or long-term leachate collection system.

***New Hanover County Airport Burn Pit Site (Wilmington, NC):*** On Wednesday, April 5, 1995, the U.S. District Court for the Eastern District of North Carolina entered a consent decree for the payment of all of EPA's past costs by three PRPs. The signatories to the consent decree include Cape Fear Community College, City of Wilmington, and New Hanover County. The

consent decree involves the reimbursement of \$545,723.52 plus interest of \$19,269.41 for costs spent by EPA and the Department of Justice through August 31, 1994.

***Koppers Charleston Site (Charleston County, SC):*** On May 22, 1995, EPA Region IV, under the authority of CERCLA, issued a UAO to Beazer East Inc., for interim RD/RA. The interim RD/RA will be implemented to mitigate the transport of non-aqueous phase liquid (NAPL), from the former wood treating site into open drainage ditches, marshlands, and the Ashley River. By monitoring the effectiveness of the interim remedial action, information will be gathered that will play an integral role in determining the optimal and most cost effective method of site wide remediation.

***Lexington County Landfill Site (Lexington County, SC):*** On June 13, 1995, EPA issued a UAO to Lexington County, South Carolina in this CERCLA case. Despite extended negotiations between EPA and the County, the parties could not reach agreement on a proposed consent decree. The Record of Decision (ROD) for this landfill site was signed on September 29, 1994. The selected remedy includes the following: consolidation/containment/gas recovery/groundwater Extraction and Treatment and Disposal at POTW/monitoring. The remedy involves excavation of waste in one part of the site and consolidation with waste in another part of the site. An existing landfill cap in yet another part of the site will be modified. Finally, a groundwater leachate collection system will be installed and a gas extraction system will be augmented.

***Pike County Drum Site (Osyka, MS):*** EPA signed a cost recovery agreement for the above-referenced site on September 22, 1995. On September 22, 1995, Region IV signed a cost recovery agreement in which the settling potentially responsible parties are reimbursing the Superfund \$198,292.82. This settlement represents a recovery of 61% of the site's total costs. The statute of limitations expired in February 1995 and the cost recovery agreement was completed pursuant to a tolling agreement.

***Cedartown Municipal Landfill Site (Cedartown, GA):*** Pursuant to an administrative recovery agreement, eight industrial generator PRPs, the City of Cedartown and Polk County have agreed to pay \$668,302.88, which includes all past costs through April 1995 associated with the selected remedy at the site. The PRPs are conducting the RD/RA under a unilateral administrative order issued on March 22, 1994.

***E.C. Manufacturing Property (Pineville, Mecklenburg County, NC):*** On September 20, 1995, EPA Region IV,



under the authority of CERCLA, issued a UAO to Dr. Amir Farahany, the present owner of the property. The UAO requires the removal of drums of plating waste and the removal of lead contaminated soil in a waste disposal area on the property.

**JMC Plating Site (Lexington, NC):** On December 29, 1994, the U.S. District Court for the Middle District of North Carolina, Greensboro Division, entered a second CERCLA 107 partial consent decree in *United States v. Gaither S. Walser et. al.* This decree requires two defendants at the site to pay EPA \$145,000 of past costs for a 1988 EPA removal at the former metal plating facility. Combined with \$446,000 recovered in a 1993 partial consent decree between EPA and other site defendants, EPA's total recovery will amount to 54% of \$1,295,168.50 in past costs.

**Monarch Tile, Inc./Rickwood Road Site (Lauderdale County, AL):** On December 1, 1994, EPA signed the final AOC for an EE/CA and non-time-critical removal action for the site. The AOC provides for expedited investigation and commencement of removal activities, in accordance with the National Contingency Plan (NCP) at 40 C.F.R. Section 300.415, and "Guidance on the Implementation of the Superfund Accelerated Cleanup Model SACM under CERCLA and the NCP," July 7, 1992 (OSWER # 9203.1-03). Investigation of the site, conducted by EPA, Alabama Department of Environmental Management, and Monarch Tile, Inc., showed the presence of hazardous substances at the facility, including barium, nickel, lead, zinc, cadmium, and chromium, which may constitute a threat to the public health, welfare, and the environment.

**Shuron/Textron Site (Barnwell, SC):** On November 21, 1994, Region IV signed an AOC with Textron, Inc., which requires Textron to perform a limited removal action, as well as an early action RI/FS, at the site in Barnwell, South Carolina. The site is comprised of a defunct ophthalmic lens manufacturing facility, which was originally owned by Textron, but was later sold to Shuron, Inc., which recently dissolved after bankruptcy. Because of serious health threats at the site associated with metal contamination in the soils and surface waters, it was determined that a time critical removal action was necessary to address the immediate threat. Additionally, because preliminary data from the site indicated the presence of large amounts of contamination in the groundwater, the option of performing an early action RI/FS was proposed to potentially responsible parties (PRPs). As a result, the AOC provides for a limited removal to address the immediate threats at the site, while an RI/FS is performed concurrently to

determine what remedial alternatives are best suited for remediating the entire site.

**J-Street Site, (Erwin, Harnett County, NC):** On August 9, 1995, EPA issued unilateral administrative orders (UAOs) to Swift Textiles, Inc., and Burlington Industries, Inc. The UAOs require Respondents to conduct an engineering evaluation/cost analysis, expanded site investigation and a removal action for the J-Street Site, located in Erwin, Harnett County, North Carolina (the site). Swift Textiles, Inc., is the present owner/operator of the site and Burlington Industries, Inc., and was an owner/operator of the facility at the time of disposal of hazardous substances. Both Burlington and Swift have been very cooperative and are complying fully with the terms of the UAO.

## CLEAN WATER ACT/SDWA

**United States v. IMC-Agrico Company (M.D. FL):** On November 8, 1994, the Regional Administrator ratified a consent decree between the United States and IMC-Agrico Company (IMC) concerning IMC's violations of Section 301(a) of the CWA. IMC owns and operates phosphate rock mines and associated processing facilities in Florida and Louisiana. Eight of its mineral extraction operations located throughout Florida and its Port Sutton Phosphate Terminal located in Tampa, Florida, were the subject of this referral. The action arose out of IMC's violation of its permit effluent limits for a variety of parameters including dissolved oxygen, suspended solids, ammonia, and phosphorus, as well as non-reporting and stormwater violations at the various facilities—over 1,500 permit violations total. The case was initiated following review of the facility discharge monitoring reports and EPA and state inspections of the sites. The consent decree settlement involved an up-front payment of \$835,000 and a \$265,000 Supplemental Environmental Project (SEP). The pollution prevention SEP involved converting IMC's scrubber discharge and intake water systems into a closed loop system, greatly reducing pollution loading at the Port Sutton facility, by April 1995.

**United States v. City of Marianna, Florida (N.D. FL):** In June 1995, EPA and the City of Marianna settled this civil action brought under the Safe Drinking Water Act. The City agreed to pay \$50,000 in civil penalties to settle the action, which arose out of the City of Marianna's failure to comply with the monitoring and reporting requirements of the lead and copper rule.

**United States v. Metropolitan Dade County, et al. (S.D. FL):** This Clean Water Act enforcement case was filed in June of 1993 to address an emergency situation caused by

the deteriorated condition of a large sewage pipeline (cross-bay line) running under Biscayne Bay, Florida, as well as chronic and widespread overflows of raw sewage into homes, streets, businesses and public waterways, including Biscayne Bay and the Miami River. A first partial consent decree, entered by the court in January 1994, addressed replacement of the cross-bay line, as well as some short term preventative measures, pursuant to the endangerment claim under Section 504 of the Clean Water Act. The second and final partial consent decree, entered by the court in September 1995, addresses the remaining claims under Section 309 of the Act. The settlement provides for a cash penalty of \$2 million and supplemental environmental projects (water reuse and conservation) totaling at least \$5 million. The county is expected to spend more than \$800 million rehabilitating its system to prevent the chronic overflows of sewage. The new cross-bay line has been constructed and is now operational.

***United States v. Perdue-Davidson Oil Company (E.D. KY):*** On November 8, 1994, the court entered final judgment in this multi-media civil referral. Perdue-Davidson is an oil production company which produces crude oil from two stripper-well fields in eastern Kentucky. EPA filed this multi-media civil action pursuant to §§ 301 and 311 of the Clean Water Act, §1423 of the Safe Drinking Water Act (Underground Injection Control) and §311 of the Emergency Planning and Community Right-To-Know Act (EPCRA) to address Perdue-Davidson's and the owner's, Charles Perdue, numerous environmental violations, including: repeated violations of an underground injection control (UIC) administrative order, NPDES permit reporting violations, unpermitted discharges, reporting violations under the spill prevention and control regulations, an illegal discharge of 70 barrels of crude oil, and other EPCRA reporting requirements.

Injunctive relief in the November 1994 judgment required the owner to cease all well injection and disconnect all pipes and lines used to transport fluid to and from the water treatment plant, and submit a plan to ensure that further non-compliance did not occur after injection activities ceased. An earlier judgment, entered May 6, 1994, provided for payment of a \$38 million penalty. This case represents an important decision requiring payment of stipulated penalties for violation of a UIC administrative order on consent, as well as for corporate officer civil liability for company and corporate officer violations of §§ 301 and 311 of the CWA.

***E.I. du Pont de Nemours and Company (TN):*** A consent agreement and final order signed on August 2, 1995, sets forth du Pont's elimination of underground

injection and the plugging and abandonment of the New Johnsonville, Tennessee, facility injection wells by December 1998. Du Pont has set forth a systematic procedure to change waste disposal operations at the facility which will allow for the elimination of underground injection of the eight hundred thousand (800,000) gallons per day of the 0.1 to 1.5 pH injectate into the Knox Formation.

***Truman Griggs, individual (KY):*** A Safe Drinking Water Act §1431 emergency order was issued on June 2, 1995, to Truman Griggs of Henderson, Kentucky, to address three Class II injection wells. The injection process was causing brine and oil waste to enter the drinking water supply of an adjoining resident. The emergency order mandated the respondent to stop injection and immediately provide a temporary source of drinking water to the affected resident. Provisions of the order will also require permanent water to be supplied if the contamination persists. Mr. Griggs has complied with the order and will also seek to permit a new injection well in a lower horizon. The latest sampling shows no improvement in the water well impacted by the injection activities.

***Florida Department of Transportation Rest Areas (FL):*** Six administrative complaints were issued to the FDOT for violations of the CWA at interstate rest areas. Subsequent investigation indicated that two of the facilities had discharges that did not reach waters of the United States, and consequently the complaints will be withdrawn. The typical STP serves an interstate rest area, was constructed when the Florida interstate was built over 20 years ago, and had effluent and non-reporting violations in approximately 1991 and 1992. Both the physical rest areas and the STPs were subject to intermittent overloading until the FDOT installed surge tanks which helped to bring these facilities into compliance. Consent agreements were signed for the remaining four facilities and all of the rest areas and STPs are in the process of being expanded to handle the increase in interstate traffic.

As part of the settlement process the FDOT proposed to eliminate the surface water discharges. Approximately \$600,000 has been appropriated by the State of Florida to combine each set of two STPs into one and to install either percolation ponds or underdrain systems, thus eliminating four point source discharges. The four SEPs (at a ratio of approx. 1:7) were allowed a mitigation value of \$85,000. The FDOT has agreed to pay a cash penalty of \$25,000.

***Clay County, Florida - Ridaught Landing WWTP:*** Clay County, Florida, has owned and operated Ridaught Landing WWTP since January 1994. The respondent violated several NPDES permit conditions and discharged

2 million gallons of wastewater from a break in an onsite pond berm. EPA issued an APO in the amount of \$60,000 for these violations. Clay County will complete an SEP of constructing a force main from the Ridaught Landing WWTP to a nearby re-use facility to eliminate the discharge to Little Black Creek. The after tax net present value of this project is \$1.879 million with a capital outlay of \$2.149 million. The SEP is expected to be complete in early 1998. EPA and Clay County settled for a \$12,000 cash penalty and the completion of the SEP.

**Anheuser-Busch Companies (Jacksonville, FL):** Anheuser-Busch Companies was issued NPDES permits for its Main Street and Lem Turner Sod Farms allowing the discharge of contaminated run-off, irrigation runoff, and field underdrains from stormwater detention ponds. The waste generated during the brewery operation is digested on-site. A part of that waste is discharged into the City of Jacksonville's regional sewer system and a portion of that waste is transmitted via a pipeline to the Main Street Sod Farm. The wastewater is stored at the Main Street Sod Farm and periodically a portion is transferred via pipeline to the Lem Turner Sod Farm, 10 miles away. The wastewater is sprayed onto the various acreage at both sod farms.

Each of these two facilities was issued two AOs allowing for time to pursue a stormwater control program. Administrative complaints were issued for each permit for effluent limitation violations resulting from the pond discharges from May 1991 through October 1994. In addition, wastewater from the brewery was discharged into the stormwater collection system at the brewery site. Wastewater was released into a wetlands area and then into the Broward River.

On March 24, 1995, Anheuser-Busch requested a hearing and filed an answer to the Complaints. The cases were consolidated and negotiations between Anheuser-Busch and EPA resulted in a tentative consent order (TCO) on May 8, 1995, for a combined penalty of \$32,600. This action will be finalized upon execution of the final consent order.

**City of Pensacola, FL:** EPA issued an administrative complaint alleging that the City of Pensacola was in violation of Section 308 of the Clean Water Act. The City of Pensacola owns and operates a municipal separate storm sewer system (MS4), which discharges storm water into Pensacola Bay and its tributaries. The City of Pensacola failed to submit a complete NPDES Part II storm water permit application. EPA issued a Class II complaint, citing the violations, on September 26, 1994, assessing a penalty of \$74,720. EPA and the City of Pensacola reached a

settlement of \$35,000 and EPA issued a tentative consent order on November 10, 1994.

**Jacksonville Suburban Utilities, Jacksonville Heights WWTP (FL):** EPA issued a complaint to the respondent on September 23, 1994, in the amount of \$44,000 for violations of its National Pollutant Discharge Elimination System Permit by failing 27 whole effluent toxicity tests from September 1989 through July 1994 at the facility, which discharges pollutants to Fishing Creek. The respondent is currently under administrative order to perform a TIE/TRE in an effort to identify the toxicant. The final penalty amount of \$35,000 was agreed upon.

## EPCRA

**WoodGrain Millwork, (Americus, GA):** The company agreed to implement a \$2.4 million pollution prevention SEP to redesign and install a coating process to predominantly eliminate the current use of solvent based toxic chemicals, resulting in an overall reduction of volatile organic compounds (VOCs) from 4.8 -5.7 pounds per gallon of paint to 2.4 pounds of VOCs pounds per gallon of paint applied. In addition to the SEP, a penalty of \$36,669 was paid.

**Grief Brothers (Cullman, AL):** The company agreed to implement a \$196,000 SEP to install equipment to eliminate 1,1,1-Trichloroethane from its process, a 100% Section 313 chemical reduction. In addition to the SEP, a penalty of \$28,000 was paid.

**Eufaula Manufacturing Company (Eufaula, AL):** The company agreed to implement a \$110,000 pollution reduction SEP that includes the purchase of a solvent recycling unit for recycling paint solvent wastes and the installation of eight water spray-booth filtration systems to allow capture of 100% emissions eliminating the need to dispose of these solids in a landfill environment. In addition to the SEP, a penalty of \$13,800 was paid.

**Kason Industries (Shenandoah, GA):** This company agreed to implement a \$234,000 pollution prevention SEP that involves the implementation of a closed-loop treatment system which will exceed the required level of compliance stipulated in the company's pretreatment permit and eliminate process wastewater discharge to the POTW. None of these installations are required by law. In addition, a penalty of \$13,430 was paid.

**Memphis/Shelby County Airport, TN:** The County Airport Authority agreed to implement a \$475,000 pollution prevention SEP that involves the purchase of equipment that will assist in the de-icing of runways. The

use of this equipment will reduce the amount of de-icing fluid required, resulting in substantial source reduction in the use of ethylene glycol. In addition, the Authority agreed to pay a \$9,000 penalty to resolve its past violations of EPCRA Section 304 and CERCLA Section 103.

## RCRA

**Union Timber Corporation (GA):** On September 29, 1995, Region IV issued an administrative order under Section 7003 of RCRA to Union Timber Corporation and its President and Vice President. The order was issued to address the potential hazard to health and the environment presented by creosote contamination at a wood treating facility formerly operated just outside the small south Georgia community of Homerville. Over the years, Union Timber was the subject of numerous state notices of violation, administrative orders and consent orders, in response to its compliance failures. However, little progress was made on actual cleanup. To support the State's continued efforts to address this facility, Region IV issued its order to abate the hazard under Section 7003, directed to the corporation and its President and Vice President, Alex K. and Alexander Sessoms, as persons who have contributed to or are contributing to the potential hazard.

**Masonite Corporation (MS):** On September 29, 1995, Region IV issued a RCRA Section 3013 administrative order requiring the Masonite Corporation to perform monitoring, testing, analysis, and reporting to determine the nature and extent of hazards which may be posed by the presence and release of hazardous waste at its facility in Laurel, Mississippi. Masonite is a division of International Paper. A draft RFA and other information gathered by EPA on this facility revealed that 20 SWMUs and 2 AOCs require further investigation due to past or present potential releases of hazardous waste. Jurisdiction is based upon the facility's storage of hazardous waste.

**Takeda Chemical Products USA, Inc. (NC):** On August 31, 1995, Region IV entered into a CACO resolving claims against Takeda Chemical Products USA, Inc., for violations of RCRA at its vitamin manufacturing plant in Wilmington, North Carolina. As part of a solvent extraction process, Takeda generated a by-product referred to as DAS-fuel, which Takeda intended to burn for energy recovery. Prior to receiving any permits to burn the DAS-fuel, Takeda generated DAS-fuel and stored it on-site for a period in excess of 90 days without a permit or interim status, and later shipped it off-site. EPA determined that the DAS-fuel (essentially spent toluene mixed with DAS water and polymers) was F005 hazardous waste. As a result, on September 24, 1994, Region IV issued a

complaint for illegal storage of hazardous waste, failure to make a hazardous waste determination, and failure to manifest the DAS-fuel shipped off-site. The CACO requires Takeda to pay a civil penalty of \$99,000, but allows Takeda to bring DAS-fuel back on-site for reprocessing, provided Takeda manages any waste it produces as a result as a hazardous waste.

**Westvaco Corporation (SC):** September 25, 1995, Region IV entered into a CACO with Westvaco Corporation that requires the company to pay a \$255,150 civil penalty, to perform RCRA closure of a hazardous waste management unit, and to remediate groundwater affected by the unit. The unit consists of a lime mud lagoon whose contents had leached, raising the pH of the surrounding groundwater to above 12.5. Westvaco has agreed to remove the material from the lime mud lagoon and to close the contaminated area beneath the lagoon as a "Subpart X" unit. RCRA closure will be considered complete when the pH of the groundwater is reduced to below 12.5. Westvaco has also agreed to continue remediation until the groundwater pH is 10 or below. If clean closure is not successful, Westvaco will perform post-closure care. This case establishes a precedent for RCRA regulation of Kraft process intermediaries and should encourage industry's trend toward management of Kraft process by-products and intermediaries in above-ground tanks rather than in surface units.

**United States Coastal Systems Station (FL):** On August 30, 1995, Region IV entered into a CACO resolving claims against the U.S. Navy Coastal Systems Station, a federal facility, for violations of its RCRA permit at its facility in Panama City, Florida. The violations related to a late corrective action submission. The CACO requires the facility to pay a civil penalty of \$19,000.

**Central Florida Pipeline Corporation (FL):** A CACO was filed with the Regional Hearing Clerk on September 29, 1995, resolving violations of RCRA alleged in a complaint filed against Central Florida Pipeline Corporation on February 22, 1994. The respondent operates a bulk petroleum products storage and transfer facility in Taft, Florida. The complaint alleged that the respondent had managed a petroleum-contaminated water tank containing benzene, which was discharged into two lined surface impoundments up until September 1991. The respondent had submitted a timely Part A application, although it stated that it did so as a protective filer, questioning whether it was managing a hazardous waste. The allegations in the complaint included exceeding the 90-day accumulation period; failure to comply with closure, financial and groundwater monitoring requirements; and failure to submit an adequate Part A

application. Under the CACO, respondent will pay a penalty of \$150,000. The unit has been closed under State oversight.

**United States Air Force Base at Myrtle Beach (SC):** On September 28, 1995, the Regional Administrator for Region IV issued his final decision regarding the RCRA Section 3008(h) initial unilateral administrative order issued on September 19, 1994, to the U.S. Air Force, requiring corrective action at Myrtle Beach Air Force Base. The Base was closed in 1992, and has been the subject of numerous environmental restoration programs such as the Installation Restoration Program and, more recently, the Base Realignment and Closure Act.

**Georgia-Pacific Corporation (GA):** On September 29, 1995, Region IV entered into a consent agreement and consent order (CACO) with Georgia-Pacific Corporation, requiring the company to pay a \$127,168.50 penalty and to perform RCRA closure of a leaking black liquor storage surface impoundment. Leakage from the impoundment resulted in groundwater with a pH above 12.5 and chromium above the MCL. This case establishes a precedent for RCRA regulation of Kraft process intermediaries and will further encourage industry's trend toward management of Kraft process intermediaries in above-ground tanks rather than in surface units.

**Southland Oil Company, Inc. (Sandersville and Lumberton, MS):** On September 29, 1995, Region IV issued two RCRA complaint and compliance orders to Southland Oil Company, Inc. The orders require Southland to perform RCRA closure of unpermitted surface impoundments managing F037 hazardous waste at its two refineries. In addition, the orders propose a civil penalty of \$920,000 for each of the two refineries, for a total proposed penalty of \$1,840,000. The F037 hazardous waste listing became effective on May 2, 1991. Prior to and after that date, Southland managed its refinery wastes in a series of ditches and aerated and non-aerated surface impoundments. Southland never filed RCRA Section 3010 notifications or Part A permit applications for its management of the F037 waste. After EPA discovered the violations during inspections in April 1995, Southland discontinued use of the ditches and non-aerated surface impoundments. Southland has not yet, however, performed RCRA closure of those units.

**Arizona Chemical Company (MS):** On September 29, 1995, Region IV entered into a CACO with Arizona Chemical Company resolving violations of the Boiler and Industrial Furnace (BIF) regulations, 40 C.F.R. Part 266, Subpart H, at Arizona Chemical's facility in Gulfport, Mississippi. Pursuant to this CACO, Arizona will pay a

penalty of \$442,150, to resolve numerous violations alleged in a complaint and compliance order issued in September 1994. These violations included: submittal of an inadequate certification of compliance; inadequate continuous monitoring; violation of certified maximum feed rates; failure to conduct periodic testing of the monitoring equipment; failure to keep adequate BIF records; and violation of maximum allowable emission limits for carcinogenic metals and for chlorine/chlorides.

**Elf Atochem North America, Inc (AL):** On September 28, 1995, EPA and Elf Atochem North America, Inc, entered into a CACO to resolve allegations contained in an amended complaint and compliance order, filed on September 21, 1995. The amended complaint, as well as the complaint previously filed on June 27, 1994, alleged RCRA storage and permit violations at Elf Atochem's Axis, Alabama, facility. The CACO requires Elf Atochem to pay a civil penalty of \$95,678.

**Florida Solite (FL):** EPA entered into a CACO agreement with Florida Solite Corporation on September 14, 1995, under which the respondent agrees to pay a civil penalty in the amount of \$51,500, to resolve violations of the Boiler and Industrial Furnace (BIF) regulations at the company's facility in Green Cove Springs, Florida. The allegations included failure to continuously monitor the composition and flow rate of all feed streams; failure to develop and implement an adequate waste analysis plan; failure to make a hazardous waste/Bevill determination on a waste pile of lightweight aggregate kiln dust; failure to submit a complete and accurate certification of compliance (COC); and failure to make a hazardous waste determination on a waste pile of refractory brick.

**Gaston Copper Recycling Corporation (SC):** On September 19, 1995, EPA entered into a final administrative order on consent under Section 3008(h) of RCRA with Gaston Copper Recycling Corporation. The consent order requires Gaston Copper to perform corrective action, from initial assessment through implementation, at its facility in Gaston, South Carolina. The importance of the order is underscored by Gaston Copper's recent decision to cease operations at the site in the immediate future. Most of the facility will be dismantled and either sold or moved to other sites. This order will ensure that appropriate remediation occurs during this closure process.

**Everwood Treatment Company, Inc., and Cary W. Thigpen (AL):** On July 11, 1995, an initial decision was entered in a RCRA Section 3008(a) action filed in June 1992 and tried before an ALJ in an 8 day hearing in September 1993. The ALJ's decision found the

respondents liable but reduced the \$497,500 proposed assessed penalty to \$59,700. On September 29, 1995, Region IV appealed the decision to the EAB on the amount of the penalty. The complaint had charged respondents with the illegal disposal of D004 and D007 hazardous waste without a permit and violation of the land disposal restrictions, in the burial of waste at the respondents' wood treatment facility near Mobile, Alabama. This case represents the second administrative initial decision under the 1990 RCRA Civil Penalty Policy.

## TSCA

**National Cement Company, Inc. (Ragland, AL):** On January 17, 1995, Region IV filed a consent agreement/consent order (CACO) signed by National Cement Company, Inc., to settle alleged violations of Section 6(e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. §2605(e). The order required the respondent to pay \$8,500 to the U.S. Treasury and to spend a minimum of \$68,000 to complete a supplemental environmental project (SEP) which involves the removal, transportation and disposal of two PCB transformers. The case resulted from EPA Region IV filing an administrative complaint against the respondent on September 26, 1994, charging the respondent with 26 violations of the TSCA PCB marking and recordkeeping requirements.

**Kentucky Fair and Exposition Center (Louisville, KY):** On January 10, 1995, Region IV filed a consent agreement/consent order (CACO) signed by Commonwealth of Kentucky Tourism Cabinet to settle alleged violations of Section 6(e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. §2605(e). The order required the respondent to pay \$23,120 to the U.S. Treasury and to spend \$92,480 to complete a supplemental environmental project (SEP) which involves the removal, transportation and disposal of two PCB transformers. The case resulted from EPA Region IV filing an administrative complaint against the respondent on September 28, 1994, charging the respondent with violations of the TSCA PCB use, marking, and recordkeeping requirements.

**Brook Run Mental Health Facility (Atlanta, GA):** On August 22, 1995, Region IV filed a consent agreement/consent order (CACO) signed by Georgia Department of Natural Resources to settle alleged violations of Section 6(e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. §2605(e). The order required the respondent to pay \$3,750 to the U.S. Treasury and to spend \$37,500 to complete a supplemental environmental project (SEP) which involves the removal, transportation, and disposal of two PCB transformers. The case resulted from EPA Region IV filing an administrative complaint

against the respondent on September 30, 1994, charging the respondent with violations of the TSCA PCB use and recordkeeping requirements.

## FEDERAL FACILITIES

**Myrtle Beach Air Force Base (MBAFB):** On September 28, 1995, Region IV Administrator issued a final decision regarding the RCRA Section 3008(h) initial UAO issued on September 19, 1994 to the U.S. Air Force requiring corrective action at MBAFB. MBAFB was closed in 1992, and has been under the Base Realignment and Closure Act (BRAC) Program. The base has 254 RCRA solid waste management units (SWMUs) which had been identified as requiring investigation of releases of hazardous waste, including at least two areas where releases from SWMUs will require interim corrective measures. Due to inadequate efforts on the part of the Navy to address environmental concerns and involve EPA and the State, EPA decided to exercise its authority under RCRA. On September 19, 1994, following six months of intensive efforts to negotiate an order on consent, EPA issued the initial UAO to MBAFB. Contaminants including toluene, benzene, methylene chloride, and chlorobenzene at MBAFB pose threats to off-site areas with contamination flowing through drainage ditches to the Intercoastal Waterway, Atlantic Ocean, wetlands, and tidal marsh areas. Extensive contamination is also found in groundwater in many areas of the base. The final UAO requires MBAFB to conduct adequate RCRA facility investigations and where appropriate, RCRA corrective measures.

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## REGION V

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### CLEAN AIR ACT

***United States v. Copper Range Company (W.D., MI):*** On April 6, 1995, the U.S. District Court for the Western District of Michigan entered a civil consent decree in which Copper Range Company (CRC) agreed to pay a civil penalty of \$4.8 million. This action settled a citizen suit filed by the National Wildlife Federation and the Michigan United Conservation Clubs against CRC under the Clean Air Act. The civil action alleged that CRC caused excess emissions of particulate matter and excess stack opacity, in violation of the Clean Air Act. CRC also allegedly failed to report air toxics emissions (metals and metallic compounds), in violation of CERCLA, and EPCRA. There was also concern about substantial smelter emissions of sulfur dioxide and heavy metals, including mercury, in the sensitive Lake Superior ecosystem. The settlement created a private trust fund. From the penalty payment, \$3 million has been directed toward environmentally beneficial projects such as a study of the impact of mercury on the Lake Superior basin.

As a result of the settlement, CRC agreed to either implement an interim program to reduce mercury emissions 40% by February 1995, and to achieve compliance with Michigan's particulate rules by August 1996, or to temporarily close the smelter. Due to economic reasons, CRC chose to close the smelter pending a decision to modernize. The settlement also outlined a schedule for modernizing the smelter or permanently shutting it down by the end of 1999. This program will ultimately result in annual emission decreases of 1,200 pounds of mercury, 50,000 tons of sulfur dioxide, and at least 900 tons of particulate matter, after operations resume.

***Navistar International Transportation Corporation (S.D., OH):*** On January 3, 1995, the U.S. District Court for the Southern District of Ohio entered a consent decree between the United States and Navistar International Transportation Corporation (formerly International Harvester Company), located in Springfield, Ohio. Navistar agreed to settle the case by paying \$2,703,000 in civil penalties for past violations at its assembly and body plants. Navistar violated the allowable emission limits for volatile organic compounds (VOC) under the State Implementation Plan (SIP) for Ohio, at its Body and Assembly Plant in Clark County, Ohio, an area which has been designated as a primary nonattainment area for ozone. The State of Ohio referred the case to U.S. EPA for enforcement. Navistar came into compliance by installing

a robotics painting plant and incineration system, which cost over \$105 million. Navistar's emissions of VOC have been reduced 77% from its 1984 level; the amount of paint required for the operation has been reduced by 80,000 gallons per year; and the amount of solvents used has been reduced by 90,000 gallons per year.

***Clark Refining & Marketing (Hartford, IL):*** On March 9, 1995, Administrative Law Judge Frank W. Vanderheyden issued an initial decision in the matter of Clark Refining & Marketing, Hartford, Illinois. The administrative complaint alleged violations of the New Source Performance Standards (NSPS) at Subparts A and J. U.S. EPA filed an administrative complaint on December 30, 1992, alleging that Clark had exceeded the limit for hydrogen sulfide in its fuel gas; failed to continuously operate its continuous emission monitor; and had failed to, at all times, operate its facility in a manner consistent with good air pollution control practice for minimizing emissions. The complaint was amended on July 19, 1994, based on 26 days of excess hydrogen sulfide readings by Clark's continuous emission monitoring in the first quarter of 1994. Throughout the case, Clark remained very litigious, filing an appeal to the EAB after the initial decision was issued. The appeal was later withdrawn and the \$139,440 penalty paid.

***Oscar Mayer Foods Corporation (Madison, WI):*** On March 13, 1995, a consent agreement and final order was signed by Oscar Mayer Foods Corporation and U.S. EPA resolving violations of the particulate matter emission limit contained in the Wisconsin State Implementation Plan. U.S. EPA alleged that Boiler No. 6 at Oscar Mayer's Madison, Wisconsin, power plant was emitting 1.16 pounds of particulate matter per million BTU which is almost two times the allowable emission limit for a boiler. Facts provided by Oscar Mayer after issuance of the complaint reduced the civil penalty from \$154,000 to \$42,000. In addition, as the result of the U.S. EPA enforcement action and in response to the Wisconsin air toxics rule, Oscar Mayer agreed to cease combustion of coal in Boiler Nos. 5 and 6 and replace them with two new boilers that burn natural gas. This action has eliminated a major source of particulate matter from the Madison area.

***United States v. Coleman Trucking, Inc. (N.D., OH):*** On July 28, 1995, the U.S. District Court entered a civil consent decree in which Coleman Trucking, Inc., agreed to pay \$60,000 in civil penalties in a settlement of the civil actions brought under the Clean Air Act. These actions arose out of Coleman's violation of the National Emission

Standard for Hazardous Air Pollutants (NESHAP) for asbestos at four renovation operations located in and around Cleveland, Ohio. The actions alleged notice and work practice violations of the NESHAP for asbestos.

**Cass River Coatings, Inc. (MI):** A consent agreement and consent order was signed August 10, 1995, concerning Cass River Coating's alleged violation of Michigan's State Implementation Plan. These violations stem from occasions when the company used coating formulations that contained volatile organic compounds in excess of amounts allowed by the SIP. U.S. EPA initially sought a civil penalty of \$50,000 for these violations. During negotiations, Cass River Coatings demonstrated an inability to pay the total \$50,000 penalty. The Agency therefore mitigated the proposed penalty from \$50,000 to \$30,000.

**Schepel Buick & GMC Truck Company (Merrillville, IN):** On May 22, 1995, the Regional Administrator signed a consent agreement and consent order resolving allegations in a complaint issued for violations of the Clean Air Act against Schepel Buick/GMC Truck, Inc., Merrillville, Indiana. U.S. EPA alleged that Schepel Buick/GMC Truck, Inc. allowed persons who were not properly trained and certified by a technician certification program approved by U.S. EPA pursuant to 40 C.F.R. §82.40 to service, for consideration, air conditioners, involving refrigerants for such air conditioners. U.S. EPA sought a civil penalty of \$17,575 for these violations. Schepel Buick/GMC Truck, Inc. certified that it has corrected the violations alleged in the complaint and that it is currently in compliance with Section 609(c) of the Act. Schepel Buick/GMC Truck, Inc. has agreed to pay a penalty of \$3,470 and to perform a Supplemental Environmental Project (SEP) that will cost \$8,766. Schepel Buick will conduct a symposium on air and other environmental compliance topics for regulated automotive industries in northwest Indiana and will conduct 135 free air-conditioning leak tests on cars that do not have a manufacturer's warranty for such work.

## CLEAN WATER ACT

**Buffalo Oilfield Services v. Ohio Division of Oil and Gas:** On June 15, 1995, the Ohio Department of Natural Resources, Division of Oil and Gas entered into a consent agreement with Buffalo Oilfield Services, Inc. regarding operation of the Miller #1 well, saltwater injection well #9 API number 3415521648, located in Bristol Township, Trumbull County, Ohio. This agreement was based on facts and findings that indicated that Buffalo Oilfield Services, Inc. had violated the terms and conditions of the permit by exceeding maximum surface injection pressure

on the Miller #1 well on September 29, 1992, January 1, 1993, and January 26, 1993. With the signing of the consent agreement, Buffalo Oilfield Services, Inc. agreed to pay \$5,000 in penalties.

**Burlington Northern:** Region V entered in a federal consent decree with the Burlington Northern Railroad Company to settle Oil Pollution Act (OPA) claims for three separate oil and hazardous waste spills caused by train derailments (one in Wisconsin and two in Wyoming). The \$1.5 million civil settlement includes: \$1.1 million civil penalty under the OPA (the largest single penalty to date awarded under that statute in a single case); plus \$260,000 to reimburse EPA and other federal agencies for their costs in responding to the Wisconsin spill near Superior; and \$140,000 contribution to a fund managed jointly by the Department of Interior, the Bad River Band of the Lake Superior Chippewas and the Red Cliff Band of Lake Superior Chippewas for injury to natural resources caused by the Nemadji spill. Burlington Northern will also pay \$100,000 into a fund to be used to study internal rail defects of the type involved in the Nemadji River, Wisconsin, and Worland, Wyoming, derailments.

**Akron, OH:** Region V entered into a federal consent decree with the City of Akron, Ohio on July 28, 1995. This decree settles the civil lawsuit filed by U.S. EPA and Ohio EPA against Akron for violations of the Clean Water Act. The consent decree requires the City of Akron to pay a civil penalty of \$290,000, with \$194,300 going to U.S. EPA and \$95,700 to Ohio EPA. The decree requires the city to improve its wastewater treatment facility to meet NPDES permit limits. The decree also requires the city to perform a supplemental environmental project valued at \$1.5 million to eliminate septic tank systems by providing connections to sanitary sewers. This decree will eliminate the discharge of inadequately treated wastewater to the Cuyahoga River from the Akron WWTP, the discharge of raw sewage from the city's separate sanitary sewers during storm events, and the elimination of septic sewers in rural areas.

**115th Street Co., Chicago, Illinois (a.k.a. PMC Specialty Chemical Company):** During August 1995, the subject civil action case was settled in principle, with all issues remaining in dispute agreed upon by company and Agency representatives. The terms of the decree include: the company will pay a cash penalty of \$1.645 million to the U.S. EPA and pay substantial costs to the citizen's group that was co-plaintiff with the government in this case; the company agreed to do a feasibility study and construct a biological pretreatment system; and as a pollution prevention measure, the company agreed to shutdown their

alkali blue process which will eliminate many toxic organic pollutants.

***Southern Ohio Coal Company:*** On August 22, 1995, the Regional Administrator signed and forwarded to Headquarters a consent decree which settles the United States' case against Southern Ohio Coal Company (SOCCO). Due to a structural failure in one of two active coal mines, one of the active mines, Meigs Mine No. 31 filled with approximately one billion gallons of acid mine drainage (AMD). SOCCO went to OEPA seeking permission to dewater the mines and OEPA issued a Director's findings and final order on July 26, 1993, approving SOCCO's dewatering plan which allowed SOCCO to discharge the AMD from the flooded mine into adjacent waterways. The discharges of AMD eventually killed all or virtually all of the aquatic fauna in Leading Creek and caused some mortality in the upper reaches of the Raccoon Creek system. The consent decree requires full restoration of the streams affected by SOCCO's discharge, and extensive biological and chemical monitoring and reporting by SOCCO during and following the restoration efforts. The consent decree also calls for the payment of a \$300,000 penalty, \$240,200 in payments to U.S. EPA and DOI to cover the costs of monitoring field, and laboratory work incurred by the government, \$1.9 million into the Leading Creek improvement fund which was created by the decree to finance projects to enhance leading Creek over and above the restoration efforts, and \$100,000 to the State of West Virginia for projects to benefit the Ohio River. SOCCO will also spend an estimated \$500,000 to develop a plan for implementing the Leading Creek improvement fund, and is expected to spend an additional \$1 million on its monitoring efforts.

***Northwoods Organics, Inc. & Faulk Bros. Construction, Inc. (St. Louis County, MN):*** A consent agreement and consent order was signed on March 25, 1995, requiring Northwoods Organics and Faulk Bros Construction to pay a \$63,000 civil penalty for past violations of Sections 404 and 402 of the Clean Water Act (CWA). The violations included: the discharge of dredged and fill materials into approximately 135 acres of wetlands adjacent to Pirtala Creek, a tributary to the St. Louis River and Lake Superior, without a Section 404 permit from the Corps of Engineers and Northwoods Organics' failure to comply with reporting requirements of its NPDES permit. A parallel CACO was issued, pursuant to Section 309(a) of the CWA, requiring Northwoods Organics to restore approximately 100 acres of additional wetlands and to submit a feasible wetlands reclamation plan for the 135-acre impact to the Corps with a Section 404 permit application. This enforcement action has resulted in a

State-Federal partnership with private industry to establish pollution prevention and best management practices for mining industry in the upper midwest.

***Northwoods Organics:*** An administrative complaint and consent agreement was issued for NPDES permit violations and for dredging and filling wetlands without a permit. Northwoods Organics mines peat from peat bogs. The process of peat mining includes dewatering the bogs removing the peat which is then dried and sold. The water discharges from the bog violated NPDES limitations for iron, aluminum and pH. Since the CACO has been signed compliance with the NPDES permit has improved, but there are still sporadic iron violations which U.S. EPA will encourage MPCA to pursue. The wetlands portion of the agreement required Northwoods Organics to restore 100 acres of previously impacted wetlands, submit a feasible wetlands reclamation plan upon cessation of all mining activity on-site. Northwoods was fined a total of \$63,000 with \$58,000 for wetlands claims and \$5,000 for NPDES.

***A & W Drilling & Equipment Co., Inc. (Gibson County, IN):*** On August 16, 1995, the Indiana Department of Natural Resources and A & W Drilling signed an administrative agreement regarding the failure to demonstrate mechanical integrity on three Class II injection wells. The agreed order also addressed various minor violations associated with eleven oil wells also located in Gibson County. These violations were discovered through file reviews and routine inspections conducted in April 1993. Provisions in the order called for A & W to pay a fine of \$12,100 and perform corrective action on all wells. At this time, A & W has paid their entire fine and corrected violations on all but one well. This should ensure the prevention of contamination of underground sources of drinking water.

***Danny L. Long & Sons Disposal Services, Inc. v. Ohio Division of Oil and Gas:*** On June 2, 1995, the Ohio Department of Natural Resources, Division of Oil and Gas entered into a consent agreement with Danny L. Long & Sons regarding operation of the Creighton #1 well, saltwater injection well #9, API number 3415121920 and the Summers #4 well, saltwater injection well #12, API number 3415124256, located in Sandy Township, Stark County, Ohio. This agreement was the result of investigations that indicated that Danny L. Long & Sons had violated the terms and conditions of the permit by exceeding the maximum surface injection pressure on the Creighton #1 well and the Summers #4 well between September of 1992 and December of 1993. Upon signing of the agreement, Danny L. Long & Sons agreed to pay \$5,000 for its previous noncompliance.

**PPG Industries, Inc.:** Since 1988, the Ohio Division of Oil and Gas in cooperation with Ohio EPA, has been working to get improperly plugged and leaking salt solution mining wells replugged at PPG Industries, Inc.'s abandoned salt solution mining facility and chemical plant at Barberton, Ohio. Additionally, it was suspected that industrial wastes had been disposed of in these solution mined caverns in the 1960s and 1970s. In April of 1991, U.S. EPA, Region V finalized a RCRA corrective action consent agreement with PPG Industries, Inc. regarding this site. In November 1991, U.S. EPA notified PPG that the leaking brine wells were to be included as an additional interim measure to the administrative order on consent. In March of 1994, replugging operations commenced for four leaking wells. The last leaking well was plugged in January of 1995. Sampling and analysis of the solution mining cavern fluids indicated the presence of man-made chemicals associated with PPG waste streams. All wells are now in compliance.

**Tenexco/Terra Energy:** Two final administrative consent orders were issued concerning this case which dealt with two related respondents. Tenexco was the Class II injection well owner, and Terra Energy operated the well. The well was located in Kalkaska County, Michigan. Monitoring reports showed operating and other permit violations, namely injection at a pressure that exceeded the maximum in the permit, and there were also failures to submit various monitoring reports and an acceptable alternative demonstration of financial responsibility. Terra Energy, as the operator, paid a higher penalty than Tenexco. Indeed, this was the highest penalty assessed in the Region V UIC program in FY 1995, \$35,000. Tenexco paid \$7,500 as the owner in a separate FAO issued in FY 1994.

**The Pillsbury Company:** On October 11, 1994, a final administrative consent order was issued to the Pillsbury Company concerning a nonhazardous Class I injection well located their Aunt Nellies Farm Kitchen facility in Buckley, Michigan, and included a unique SEP. The permit violations included operating at an injection pressure which exceeded the maximum and monitoring violations. The SEP consisted of upgrades to their monitoring and alarm systems; adding an automatic shutdown mechanism to the alarm system, so that if the maximum pressure was exceeded again, the well would shut down without requiring a human to act; and replacing the fluid in the annulus with fresh water so if a leak occurred, there would be less harm to the environment, and improving their plant filtration system. None of these are required under the UIC program but will result in better compliance. There was also a \$9,500 penalty assessed and paid.

## EPCRA §313

**United Screw and Bolt Corporation (Bryan, OH):** A consent agreement and consent order was signed on April 17, 1995, concerning the United Screw and Bolt Corporation, Bryan Custom Plastics, Bryan, Ohio, facility's alleged failure to timely file R forms reporting releases to the environment of methyl ethyl ketone, toluene, xylene for 1987, 1988, and 1989; and n-butyl alcohol for 1989; as required by Section 313 of the Emergency Planning and Community Right-to-Know Act. Because of facts provided by United Screw and Bolt Corporation after issuance of the complaint and in consideration of their agreeing to spend \$111,983 on supplemental environmental projects (SEPs), U.S. EPA reduced the penalty to \$47,672. The SEPs involved converting the facility's plastic parts manufacturing process from one in which all parts had to be painted to one in which all parts are molded to the desired color and do not need to be painted. The SEPs also included recycling of solvents still used at the facility.

**Enamel Products and Plating Company (Portage, IN):** A consent agreement and consent order was signed on June 13, 1995, concerning the Enamel Products and Plating Company, Portage, Indiana, facility's alleged failure to timely file R forms reporting releases of glycol ethers, methyl ethyl ketone, naphthalene, zinc compounds, xylene, toluene, ethyl benzene and n-butyl alcohol for 1988, 1989, and 1990, as required by Section 313 of the Emergency Planning and Community Right-to-Know Act. Because of facts presented by Enamel Products and Plating Company after issuance of the complaint, and in consideration of their agreeing to perform a Supplemental Environmental Projects (SEP) costing \$221,900, U.S. EPA reduced the penalty to \$136,610. The SEP is of the pollution prevention type involving new equipment.

## FIFRA

**J.T. Eaton & Company, Inc. (Twinsburg, OH):** J.T. Eaton & Company, Inc., distributed and sold at least 13 unregistered pesticides (mostly rodenticides). These unregistered pesticides resulted from varying the form of the rodent bait and the packaging of several of Eaton's registered products (e.g., registered as a bulk product) but sold in ready-to-use place packs. The company also distributed and sold a misbranded pesticide product and made improper claims in advertising for another product. A stop sale, use, or removal order and an administrative complaint were issued simultaneously on March 23, 1995. The penalty assessed in the complaint was \$67,500. The complaint was settled on August 25, 1995, for \$40,000.

**Citizens Elevator Co., Inc. (Vermontville, MI):** Citizens Elevator Co. repackaged and distributed and sold the pesticide "Preview" in 5 gallon buckets, many bearing pie filling labels, to at least 24 customers, constituting the distribution and sale of an unregistered pesticide. The complaint, issued June 30, 1994, assessed a penalty of \$108,000. In supplemental environmental projects for the prevention of spills of pesticides and fertilizers and the safer, more efficient storage and application of pesticides and fertilizer, respondent spent \$184,771. A consent agreement signed June 30, 1995, settled the case for \$8,400.

## RCRA

**Marathon Oil Company (Robinson, IL):** A consent agreement and final order (CAFO) was signed on May 16, 1995. The CAFO required Marathon Oil Company to implement a supplemental environmental project (SEP) and pay a penalty of \$41,500. The SEP consists of the installation, and continued operation for a period of 5 years, of a closed loop sampling system. The sampling system will reduce hydrocarbon air emissions by 6,200 pounds per year and the liquid hydrocarbon discharge to the facility wastewater treatment system by 9,600 gallons per year, and reduce benzene releases to the atmosphere and wastewater treatment system by 830 pounds per year. The SEP will cost a minimum of \$200,000 and provides significant environmental benefits by essentially eliminating contamination discharges and emissions at a critical part of the facility.

**Great Lakes Casting Corporation (Ludington, MI):** On November 15, 1994, a consent decree was entered in the U.S. District Court for the Western District of Michigan in the *U.S. v. Great Lakes Casting Corporation* case requiring Great Lakes to pay a civil penalty of \$350,000 for illegal hazardous waste disposal under the Resource Conservation and Recovery Act (RCRA).

**Abbott Laboratories:** A consent agreement and final order was signed in September 1995, concerning Abbott Laboratories Corporation's violations of RCRA standards applicable to the burning of hazardous waste in boilers and industrial furnaces (BIF) at its North Chicago, Illinois facility. Negotiations with Abbott Laboratories after issuance of the complaint in February 1994, resulted in a penalty of \$182,654. Abbott also agreed to conduct a supplemental environmental project (SEP) that will allow Abbott to recover and recycle the methylene chloride produced in its manufacturing processes and will reduce fugitive methylene chloride emissions. The SEP involves three separate, albeit similar, operations, replacing "wet" vacuum pump systems with "dry" pumps and high

efficiency condensers. The projected cost of the SEP is \$480,000.

**S.C. Johnson & Sons, Inc. (Sturtevant, WI):** A consent agreement and final order was signed on August 25, 1995, concerning S.C. Johnson's alleged violations of the boiler and industrial furnace (BIF) regulations. S.C. Johnson burns waste solvent from its manufacturing processes in two boilers located at its Waxdale facility in Sturtevant, Wisconsin. Violations cited by the U.S. EPA found during its initial BIF inspection included failure to adequately analyze the waste before burning, and exceeding its certified feed rates for total hazardous waste, chlorine and chloride and ash. S.C. Johnson agreed to pay a cash penalty of \$50,000, and to conduct a supplemental environmental project (SEP). The SEP requires technological process changes, including the installation of a liquid-liquid coalescer that will separate organic solvent from the process waste for reuse. This will result in a decrease in the amount of hazardous waste being produced and burned in S.C. Johnson's boiler. The value of the SEP is estimated to be more than \$500,000.

**Republic Environmental Systems (Cleveland), Inc.:** A consent agreement and final order (CAFO) was signed June 7, 1995, concerning Republic Environmental Systems (Cleveland), Inc.'s (RESI) alleged failure to comply with the corrective action requirements of its RCRA permit. The CAFO requires RESI, a commercial waste treatment facility, to pay a \$60,000 civil penalty and conduct a supplemental environmental project (SEP). The SEP is a pollution reduction project that will minimize permitted air emissions from their non-hazardous waste stabilization process. The SEP involves moving the stabilization process indoors and installing particulate and organic emission control systems. The SEP is projected to cost at least \$380,000 and will eliminate greater than 20 tons/year of uncontrolled particulate and organic emissions from the facility.

**CMI-Cast Parts, Inc. (Cadillac, MI):** A consent agreement and final order was signed on December 22, 1994, which settled an administrative complaint filed concurrently with the CAFO against CMI-Cast Parts, Inc. CMI-Cast Parts, Inc. is a Michigan corporation which owns and operates an iron foundry in Cadillac, Michigan. CMI-Cast Parts, Inc. failed to obtain interim status or a proper operating permit to treat, store or dispose of hazardous waste at its Cadillac facility. From September 1990, to January 1994, the facility failed to comply with the hazardous waste management standards. On January 26, 1995, CMI-Cast Parts, Inc., submitted a certified check in the amount of \$454,600.00, payable to the Treasurer of

the United States of America, for final settlement of this enforcement action.

**Van den Bergh Foods Company Madelia, MN):** On March 14, 1995, U.S. EPA filed a consent agreement and final order to resolve an administrative complaint issued against Van den Bergh Foods Company, a manufacturer of frozen foods in Madelia, Minnesota. The complaint was for alleged violations of the release notification provisions of EPCRA & CERCLA stemming from an October 14, 1993, release of approximately 6,000 pounds of anhydrous ammonia. U.S. EPA had proposed \$75,000 in penalties.

During settlement negotiations, U.S. EPA became aware of two other less egregious releases of ammonia from this facility which also appeared not to have been immediately reported to the proper authorities. In consideration of the quantity released, the turnaround time between the start of the releases and notification, the amount of penalties which could be sought for these two additional releases, the conservation of resources and the litigation risks, it was in the Agency's best interest to fold the potential new violations into the original settlement.

**Metro Recovery Systems d/b/a U.S. Filter Recovery (Roseville, MN):** On March 23, 1995, U.S. EPA filed a consent agreement and final order to resolve a complaint issued against Metro Recovery Systems, a hazardous waste recycling facility in Roseville, Minnesota. On March 25, 1994, U.S. EPA issued an administrative complaint against the facility assessing \$75,000 in penalties for failing to immediately notify the National Response Center (NRC) and the State Emergency Response Commission (SERC) of a release of a hazardous substance greater than its reportable quantity, and failing to submit a written follow-up report to the SERC as soon as practicable after the release. This release was 18 times the RQ and was not reported to the proper authorities until 5 hours after they discovered the release.

During settlement negotiations Metro Recovery provided additional information regarding the quantity of ammonia released which would reduce the proposed penalties. However, during the pre-hearing exchange period, U.S. EPA discovered two additional releases of hazardous substances which occurred during the time period of January 22, 1992, and the date of the filing of the complaint. The facility reported these release under the name of U.S. Filter. These releases were also greater than the reportable quantity and not immediately reported to the NRC and SERC. Rather than amend the complaint and start all over, U.S. EPA and Metro Recovery decided to settle all three releases for \$70,000.

**HRR Enterprises, Division of Kane-Miller Corporation (Chicago, IL):** On November 14, 1994, U.S. EPA, OCEPP, filed a consent agreement and final order (CAFO) to settle an administrative complaint against HRR Enterprises, Division of Kane-Miller Corporation, Chicago, Illinois. On July 9, 1992, the respondent released 800 pounds of anhydrous ammonia into the atmosphere. This release was eight times the reportable quantity. On March 28, 1994, U.S. EPA filed an administrative complaint under the authority of CERCLA Section 109, 42 U.S.C. §9609, and EPCRA Section 325, 42 U.S.C. §11045, with allegations of failing to immediately notify the National Response Center, the Illinois State Emergency Response Commission (SERC), and the Chicago Local Emergency Planning Committee (LEPC) of this release. Additionally, the complaint alleged that the respondent failed to file the annual emergency and hazardous chemical inventory form, as required under EPCRA Section 312, for calendar years 1987-1992 with the SERC and LEPC. The proposed penalty was \$186,450.

The respondent brought forth convincing evidence proving the actual storage quantity was less than originally identified, reducing the penalty to \$113,850. The settlement-in-principle was reached during the week of September 1, 1994, for \$69,795, or 61% of the reduced penalty.

**J. Stephen Scherer, Inc. (Rochester Hills, MI):** On February 15, 1995, U.S. EPA, filed a consent agreement and final order to resolve a complaint issued against J. Stephen Scherer, Inc., Rochester Hills, Michigan. This facility manufactures finger nail polish remover. On October 16, 1991, a flash fire occurred at this facility when static electricity ignited acetone while an employee was transferring acetone from one container to another. The employee sucked the flames into his chest, scorching his throat and lungs. The employee was also burned externally over 30%-40% of his body. As a result of this incident, the Oakland County Local Emergency Planning Committee (LEPC) reviewed their files and found that J. Stephen Scherer, Inc., had not reported the storage of hazardous chemicals as required under EPCRA §§ 311 and 312. The LEPC sent the facility two requests to come into compliance prior to referring the facility to the State Emergency Response Commission (SERC). The SERC also attempted to bring the facility into compliance, to no avail. On March 31, 1993, U.S. EPA issued a complaint against J. Stephen Scherer, Inc., assessing \$277,200 in penalties for failing to report to the SERC, LEPC, and fire department the storage of hazardous chemicals above the threshold quantities by their respective due dates.

**PSI Energy, Inc. (West Terre Haute, IN):** On April 25, 1995, U.S. EPA filed a consent agreement and final order to resolve a complaint issued against PSI Energy, a privately owned utility company in West Terre Haute, Indiana. On September 25, 1992, U.S. EPA issued a complaint against PSI assessing \$100,000 in penalties for failure to immediately report the release to the State Emergency Response Commission (SERC) and the Local Emergency Planning Committee (LEPC), and failure to submit a written follow-up report as soon as practicable after the release. This release was 1,000 times the RQ and was reported to the SERC 4 hours and 55 minutes, and to the LEPC 5 hours, after the release began. A written follow-up report was submitted 73 days after the release.

**Long Prairie Packing, Inc. (South St. Paul, MN):** On March 2, 1995, U.S. EPA filed a consent agreement and final order to resolve a complaint issued against Long Prairie Packing Company, Inc., a cold packing facility in South St. Paul, Minnesota. On October 21, 1993, U.S. EPA issued an administrative complaint against this facility assessing \$75,000 in penalties for failing to immediately notify the National Response Center and the State Emergency Response Commission (SERC) of a release of a hazardous substance greater than its reportable quantity, and failing to submit a written follow-up report to the SERC as soon as practicable after the release. This release was 15 times the RQ and was not reported to the proper authorities until 33 hours after they discovered the release.

During negotiations, Long Prairie Packing, Inc., provided information that reduced the proposed penalties to \$39,500. The settlement includes 4 SEPs and a monetary payment. The SEPs include: 1) the installation of ammonia sensors in all condenser and compressor areas of the facility; 2) the hiring of security personnel equipped with pagers to ensure early detection of releases and coordination with persons in charge of the facility on a 24 hour basis; 3) providing HAZMAT training to appropriate employees; and 4) rerouting the ammonia fill line so that it can be located outside the building. The total estimated cost of the SEPs is \$17,800. In addition, a small portion of the \$125,100 security employees' payroll costs can be credited to the SEP because of their additional duties regarding on-call monitoring. Long Prairie Packing, Inc., will also be making a monetary payment of \$27,000, \$13,500 to the Superfund for the CERCLA violation and \$13,500 to the U.S. Treasury for the EPCRA violations. The SEPs and monetary payment exceed the proposed penalties.

## TSCA

**Ford Motor Company (Dearborn, MI):** A consent agreement and consent order (CACO) settling violations of TSCA was filed on July 20, 1995. As a result of a federal PCB inspection investigating an unmanifested waste report, Ford Motor Company's Research and Engineering Center was found to have improperly distributed in commerce and failed to manifest PCB contaminated wastewater, in violation of the TSCA PCB rules. As part of the settlement, Ford Motor Company agreed to implement a supplemental environmental project (SEP) which entails removing and disposing of five PCB transformers and replacing them with non-PCB transformers. Ford Motor Company is to complete this project by August 1, 1996, at a cost of \$1,225,000.

**H & H Enterprises and Recycling, Inc.:** At the request of the Indiana Department of Environmental Management, Region V conducted a PCB inspection of the above site on August 7, 1992. IDEM suspected contamination at the facility because of the dumping of automobile residue "fluff." Regulated concentrations of PCBs were found at the site. A local court issued a cease and desist order and ordered a site cleanup. The order was not completed and H & H Enterprises was found to be in contempt. Shortly afterward, the site caught fire and emergency response personnel evacuated residents of the area. Region V personnel testified on behalf of IDEM charging H & H Recycling with five criminal counts in Lake County Criminal Court, Crown Point, Indiana, in April 1995. The President of H & H Enterprises and Recycling, Inc. was convicted on two counts of violating Indiana's Environmental Management Act.

**S.D. Meyers, Inc.:** U.S. EPA issued a civil administrative action for violating the TSCA PCB rules against S.D. Meyers, Inc., a corporation specializing in consulting, brokerage and disposal of transformers. A competitor of S.D. Meyers filed a complaint to U.S. EPA Headquarters, charging that S.D. Meyers was importing samples into the United States. The matter was referred to Region V, where a subpoena was issued to S.D. Meyers for information about its sample handling and customers. In response to the subpoena, S.D. Meyers submitted information that showed that oil samples containing PCBs had been, and were still being imported from areas outside the U.S. Customs territories. A civil administrative action was filed April 20, 1995, against S.D. Meyers with a penalty of \$5,000.

**Dexter Corporation:** Region V filed a TSCA civil complaint against the Dexter Corp. facility in Waukegan, Illinois, on October 7, 1993, seeking \$76,300 in penalties for Sections 5 and 12 violations. EPA HQ issued a civil complaint to the Dexter headquarters facility in Windsor

Locks, Connecticut, on December 16, 1992, seeking \$226,875 in penalties for Section 5 violations.

Region V and HQ settled the two complaints with one CACO executed on October 11, 1994. Dexter paid civil penalties to both Region V and HQ, \$51,105 and \$86,400 respectively, and agreed to conduct a TSCA compliance audit at 20 facilities in seven EPA Regions. Dexter also will expend an estimated \$1.5 million on equipment and labor at their plant in Waukegan, IL, to reduce VOC emissions from an aerospace coating manufacturing operation by between 23 and 38 tons per year. Dexter will receive up to \$500,000 credit for the SEP, credit which EPA will apply to the penalties Dexter will owe as a result of violations discovered during its compliance audit. In a memo to AAs and RAs, Steve Herman singled-out this settlement saying, "...it should serve as an example of how we may use traditional enforcement actions to advance these (audit and SEP) projects and encourage forward thinking solutions to environmental pollution."

***Lawter International Corporation (Northbrook, IL):***

The Region simultaneously issued and settled a civil complaint against Lawter International Corp. on September 25, 1995, for 15 separate violations of Sections 5 and 8 of TSCA. To settle Lawter paid a \$280,000 civil penalty and agreed to conduct a TSCA compliance audit at 15 facilities in five EPA Regions. Lawter will pay stipulated penalties for violations it detects and reports in accordance with the CACO up to a maximum of \$300,000.

## **FEDERAL FACILITIES**

***U.S. Army Fort McCoy:*** In February of 1995, Region V issued an administrative order to Fort McCoy, Wisconsin, which is a RCRA hazardous waste generator and a treatment and storage facility. In 1993, Region V cited Fort McCoy for operating an open detonation unit (covered under RCRA Subpart X) without obtaining interim status. The order provides for a penalty of approximately \$6,000, and Fort McCoy will also implement a SEP worth nearly \$11,000. The SEP involves purchasing and utilizing aqueous parts washers instead of solvent cleaners, and will eliminate approximately 2,600 gallons of solvent from the facility's waste stream.

***U.S. Naval Industrial Reserve Ordnance Plant***

***(NIROP):*** In June of 1995, EPA Region V negotiated an agreement in principle with the Navy regarding penalty and site management issues at NIROP in Minnesota. As a result of various violations of the NIROP cleanup agreement, the Navy agreed to pay a

penalty of \$130,000 and develop a site management plan to improve the pace of cleanup at the site, including adding a second project manager. Region V is currently reviewing the Navy's proposed site management plan, and will develop a final document with all provisions of the agreement. The final agreement may result in changes to the existing IAG for the NIROP site.





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## REGION VI

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### CLEAN AIR ACT

***In the Matter of: Nitrogen Products, Inc.:*** On September 25, 1995, a joint stipulation and order of dismissal was filed in the U.S. District Court for the Eastern District of Arkansas. Nitrogen Products, Inc. (NPI), agreed to pay a civil penalty of \$243,600 to the United States for violations of the Clean Air Act, and Subparts A and R of 40 C.F.R. Part 61. The foreign parent corporation, Internationale Nederlanden Bank, N.V., acquired the facility through foreclosure and expended over \$2 million to cover the phosphogypsum stack and regrade.

### CERCLA

***United States v. Gurley Refining Co., Inc., et al. (8th Cir.):*** On December 28, 1994, the U.S. Court of Appeals for the Eighth Circuit issued its opinion on this appeal of the judgment of the U.S. District Court for the Eastern District of Arkansas in *United States v. Gurley Refining Co., Inc. et al.* The defendants in this matter, William Gurley, Larry Gurley, and Gurley Refining Company, Inc. (GRC), leased a one-acre oil sludge disposal pit in Edmonson, Arkansas, in which they disposed of oil sludge wastes containing CERCLA hazardous substances during the early 1970s. In March 1992, the district court found the defendants liable to the United States for \$1.79 million and for future CERCLA costs, estimated at \$12-14 million. Defendants filed notices of appeal with the U.S. Court of Appeals for the Eighth Circuit. The defendants raised issues concerning the "collateral estoppel" or *res judicata* effect of a 1985 decision holding the corporation liable under the Clean Water Act. Also in issue were the admissibility of cost summaries presented at the CERCLA trial and whether retroactive imposition of personal liability upon employee Larry Gurley as an "operator" violated due process.

In its ruling, the Court of Appeals held that the district court did not err when it found that Larry Gurley was liable as an "operator" and that the imposition of liability upon Larry Gurley for conduct that preceded the effective date of CERCLA did not violate due process. The Court of Appeals reversed the district court by holding that under the *res judicata* doctrine EPA's CERCLA action against GRC was precluded by the 1985 Clean Water Act decision, because the CERCLA action was the "same cause of action arising out of the same nucleus of operative fact as the prior claim." The Court also held that the district

court did not err by concluding that the collateral estoppel doctrine does not preclude EPA from proving the elements of CERCLA liability against William Gurley (President of GRC) or Larry Gurley and that the wastes the Gurleys and GRC deposited in the Gurley pits did not fit within CERCLA's petroleum exclusion. Last, the Court of Appeals upheld the district court in the award of objected-to-attorney fees as CERCLA response costs. The Court of Appeals remanded the district court's judgment in part for further proceedings consistent with its opinion. In June 1995, William Gurley petitioned the United States Supreme Court for a writ of *certiorari*, which was opposed by the Solicitor General and summarily denied by the Supreme Court on October 2, 1995.

***United States v. Bell Petroleum Services, Inc. (5th Cir.):*** On September 15, 1995, the Fifth Circuit Court of Appeals issued an opinion in a second appeal of the *Bell Petroleum* cost recovery action. This opinion reversed the judgment of the district court on an earlier remand that found defendant Sequa Corp. liable for only 4% of the Odessa Chromium I Superfund site response costs, to the extent the district court interpreted the prior Fifth Circuit opinion to foreclose taking additional evidence on volumetric apportionment, and remanded for further proceedings. The Circuit Court also affirmed the district court's finding that the United States can recover the costs of the focused feasibility study (FFS), even though its earlier opinion held the design and construction costs of the remedy based on the FFS were not recoverable.

***United States v. Vertac Chemical Corporation (8th Cir.):*** On January 31, 1995, the U.S. Court of Appeals for the Eighth Circuit issued an opinion in which it upheld the U.S. District Court for the Eastern District of Arkansas' rejection of Hercules, Inc., claim that the United States is a liable party under CERCLA Section 107(a) due to Hercules' manufacture of Agent Orange (made up of 2,4-D and 2,4,5-T) for the Department of Defense under the Defense Production Act of 1950 (DPA), 50 U.S.C. §2061 *et seq.* In addition, the Court of Appeals upheld the district court's ruling that Hercules was not entitled to immunity under Section 707 of the DPA, 50 U.S.C. §2157, and therefore, was not entitled to implied indemnity from the United States. The Court of Appeals cited its recent decision concerning operator liability in *Gurley Refining Co., Inc., et al. v. U.S.* (8th Cir. Dec. 28, 1994), noted elsewhere herein, and distinguished the Vertac case from *FMC Corp. v. U.S. Department of Commerce*, 29 F. 3d 833 (C.A. 3rd Cir. 1994) (*en banc*).

The Vertac NPL site was a herbicide and pesticide manufacturing facility in Jacksonville, Arkansas. A ROD for a contaminated off-site area was signed in September 1990. A UAO for off-site remediation was issued to the PRPs in June 1993. In addition, Hercules Inc., the principal viable PRP, agreed to comply with a UAO issued in March 1994, to perform one of the on-site operable units. Under the Order, Hercules will implement a \$28.5 million remedy to dismantle the old manufacturing process plant, and treat residual liquids and sludge left in old tanks and vessels. This marked the fourth of six operable units to reach the clean-up phase of activity. The combined costs to clean up all six operable units is expected to exceed \$100 million. In the civil enforcement action associated with this site, the district court had granted summary judgment to the United States in October 1993 on the issue of Hercules' joint and several liability for past and future costs related to remediation of the Vertac site. Also in late 1993, a jury had issued an advisory opinion that Uniroyal Ltd. be held liable for past and future costs related to remediation of the site. In 1994, the United States entered consent decrees for cost recovery with both Velsicol and Dow Chemical Company in that action. The Vertac case demonstrates among other things, EPA's continuing resolve to obtain both remediation and cost recovery at even the most complex and controversial of sites, benefitting both the public health and public interest.

***United States v. Allied-Signal, et al. (E.D. TX):*** On July 19, 1995, the U.S. District Court for the Eastern District of Texas entered a consent decree for the recovery of costs related to the remediation of the Bailey Waste Disposal site. The parties to the consent decree are potentially responsible parties which did not enter into the previous consent decree providing for site remediation. This new settlement provides for the reimbursement of approximately 85% of the funds paid out by the government under the mixed funding consent decree (for a total estimated recovery of approximately \$2.6 million).

***United States v. American National Petroleum Co., et al. (W.D. LA):*** On June 2, 1995, the U.S. District Court for the Western District of Louisiana entered the consent decree for the Gulf Coast Vacuum Site, Abbeville, Louisiana, remedial design and remedial action involving the United States and 14 potentially responsible parties (PRPs). Implementation of this excavation and on-site biological treatment and disposal remedy is anticipated to take three to ten years. The consent decree also requires that if performance standards set out in the amended ROD are not achieved, the hazardous substances will be incinerated.

***United States v. Bayard Mining Corp., et al. (D. NM):*** On June 15, 1995, the U.S. District Court for the District of New Mexico entered a consent decree in the Bayard Mining case, which settles the United States' claims against Viacom International Inc., Mining Remedial Recovery Company, and the Bayard Mining Corporation for the remediation of the Cleveland Mill Superfund NPL site. Under this consent decree, these companies have agreed to conduct or finance the \$6,214,000 remedial action at the site, to pay all past costs (\$970,000) and to pay all future costs incurred by EPA in the remediation of the site. The consent decree also provides \$200,000 to State and federal natural resource trustees for mitigation of natural resource damages. The New Mexico Office of Natural Resource Trustee is a signatory, as is the U.S. Department of the Interior.

***United States v. Lang, et al. (E.D., TX):*** On November 29, 1994, the United States reached a settlement in principle just prior to trial with defendants Atlantic Richfield Company and ARCO Chemical Company (collectively "ARCO") to resolve in part the U.S. CERCLA cost recovery litigation concerning the Petro-Chemical Systems, Inc., Superfund NPL Site (also known as the Turtle Bayou Site), Liberty County, Texas. Under the terms of the proposed settlement, ARCO has agreed to perform the remedial design and remedial action, as well as operation and maintenance on primary threat areas of the site including the Main Waste Area, as well as a pilot study on the effectiveness of the soil vapor extraction site remedy. These response activities are valued at \$156 million (which may be low due to the complexity of remediating the Main Waste Area) and ARCO will also pay the fund \$1.1 million for past costs, for a total settlement value of about \$16.7 million, representing about half of the estimated total response costs at the site. That same date the United States also reached settlement in principle with individual defendant Donald Lang (now deceased) for \$250,000 based upon his ability to pay, his advanced age and ill health. The United States also agreed to dismiss the remaining other individual defendant, Wallis Smith, without prejudice, due to his inability to pay any amount in settlement.

***United States v. David Bowen Wallace, et al. (N.D. TX):*** On July 17, 1995, the U.S. District Court for the Northern District of Texas issued a memorandum opinion and order entering the consent decree for the Bio-Ecology Systems NPL site, Dallas, Texas. This partial consent decree provides for reimbursement to the fund of over \$8.34 million from state, federal and private defendants, as well as over \$1.13 million in cost recovery by the State of Texas. The Court based its decision to enter the decree upon its findings (vigorously contested by non-settling

defendants United Technologies Corp. [UTC] and CTU of Delaware [CTU]) that the consent decree is fair, reasonable, and consistent with the purposes of CERCLA. In its memorandum, the court discussed in detail the factual bases for its findings.

**Hillsdale Drum Sites:** On March 30, 1995, the Region issued a CERCLA administrative cost recovery (CR) agreement pursuant to Sections 107(a) and 122(h)(1) of CERCLA, 42 U.S.C. §§ 9607(a) and 9622(h)(1). Under this CR agreement, EPA will recover \$548,500 in CERCLA response costs.

**Hi-Yield Chemical:** On April 13, 1995, the Director of the Region VI Hazardous Waste Management Division signed an administrative order on consent (AOC) with potentially responsible party (PRP) Voluntary Purchasing Groups, Inc. (VPG) for removal action at the Hi-Yield Chemical Superfund site, Commerce, Texas, estimated to cost over \$3,000,000. Releases of arsenic from the Hi-Yield plant had resulted in the contamination of neighboring residential areas. The removal action required by this AOC addressed arsenic contamination at the nearby residences by removal of soils contaminated above 20 ppm arsenic and either off-site disposal or re-consolidation of the soils on the former plant site.

On September 27, 1995, the Director of the new Superfund Division signed an action memorandum providing for the construction of a cap and slurry wall on the site of the former Hi-Yield Chemical Plant, as well as for the removal of contaminated sediments in nearby Sayle Creek. On September 29, 1995, Region VI and the site PRPs (including VPG) entered into an AOC providing for PRP performance of removal action and reimbursement of all EPA oversight costs, as well as providing for PRP monitoring and maintenance activities for a period of thirty years.

**Lithium of Lubbock:** On July 21, 1995, the Regional Administrator for Region VI executed an administrative order on consent providing for recovery of over \$595,000 in past costs for the Lithium of Lubbock Superfund site, Lubbock, Texas, representing approximately 94% of the total CERCLA response costs incurred in connection with the site.

Region VI initiated a CERCLA emergency removal action at the Lithium of Lubbock site in June 1992. This response action consisted of stabilizing batteries involved in a fire at the site and disposing of or recycling the batteries. The response action at the site was completed in November 1992, and all batteries have been disposed of or recycled. Parties responsible for reimbursement of costs

included two federal agencies, the U.S. Coast Guard and the Defense Logistics Agency, as well as California Institute of Technology, Altus Corporation, West Texas Warehouse and the Burlington Northern Railroad, demonstrating a multi-sector federal, state, and private cooperative commitment to reimbursement of the fund for the costs of expeditious Superfund cleanup.

**In re: Reliable Coatings, Inc. (U.S.B.C., W.D. TN) (Liquidating Chapter 11):** On February 15, 1995, in confirmation of a plan of liquidation for Reliable Coatings, Inc., debtor Reliable settled its liability to EPA and the United States for \$93,288 as an administrative priority claim for removal costs at the Reliable Coatings site in Euless, Texas. The United States received about 93% of the available estate assets. On August 9, 1994, the Region forwarded to DOJ an urgent letter referral of this matter, seeking immediate assistance in opposing an unsecured creditor's motion for allowance of administrative priority claim and in filing EPA's own priority administrative claim against the estate. Region VI Emergency Response Branch had initiated a time-critical removal action pursuant to CERCLA Section 104(a) at the site on July 25, 1994, where about 1,800 drums of hazardous wastes, sludge, and resins were stored, as well as numerous totes, tanks, and vats containing the same waste materials and solvents, and thousands of smaller containers.

## CLEAN WATER ACT

**United States v. Mr. Roger Gautreau (S.D. LA):** On October 25, 1995, a complaint and consent agreement were filed with the court concerning Gautreau's discharge of dredged and fill material on 2.75 acres of cypress swamp in St. Amant, Louisiana. The consent order resolves the matter through Mr. Gautreau's agreement to perform onsite restoration of hydrology, removal of fill, revegetation, and payment of penalty of \$2,500. The case was referred to EPA from the Corps of Engineers. Gautreau initiated a construction project in waters of the U.S. (wetlands) prior to obtaining authorization under CWA §404.

**In the Matter of: City of Albuquerque, NM:** In 1995, EPA initiated an enforcement action against the City of Albuquerque for failing to properly operate its approved pretreatment program in accord with Section 402 of the Clean Water Act and with its own NPDES permit. The action was settled by an agreement for the City to pay a civil penalty and to conduct a study of the feasibility of doing direct injection of treated effluent from the sewage treatment works into the aquifer underlying the facility and the City of Albuquerque. The study is hoped to be the

precursor of a project to accomplish the groundwater injection sometime in the near future.

## EPCRA

***In the Matter of: Formosa Plastics Company:*** EPA filed suit against the facility alleging thirty counts of failure to report releases pursuant to Section 103(a) of CERCLA, three incidents of failure to report releases as required under EPCRA Section 304(a), and two failures to file follow-up reports as required under EPCRA Section 304(c). The complaint sought nearly \$600,000.00 in penalties.

The settlement with Formosa consisted of various supplemental environmental projects (SEPs) and the payment of a penalty. The primary SEP was the installation of a \$1.68 million containment system designed to capture releases from the emergency release valves at the facility. The implementation of this SEP should substantially decrease the release of hazardous pollutants into the environment from the facility. In addition, the company agreed to allow EPA to perform a chemical safety audit at the facility to determine whether there were training or process changes the company could implement to alleviate other types of releases from the facility. The company also agreed to implement the Section 112(r) risk management program requirements well in advance of the required implementation date. The company further agreed to perform a SEP for the City of Point Comfort, the SEP to identified by the LEPC and the City Council, to have a nexus to the violations and cost no less than \$10,000.00, and to donate \$35,000.00 to the Regional LEPC conference. In addition, the company paid \$40,000.00 penalty.

***In the Matter of: Koch Refining Company:*** On August 18, 1995, Region VI filed a fully executed consent agreement/consent order (CA/CO) to settle an administrative action against Koch Refining Company for alleged data quality violations of EPCRA §313(a) and 40 C.F.R. §372.30. Koch agreed to pay a penalty of \$192,000 and submitted revised form Rs prepared in accordance with an agreed methodology for specified chemicals for calendar years 1989, 1990, and 1991.

***Formosa Plastics Co.:*** On May 31, 1995, a Class I CERCLA 103(a) and EPCRA 304(a) consent agreement and consent order (CACO) was entered with Formosa Plastics for numerous releases of vinyl chloride from its Point Comfort, Texas, facility between February 1989 and August 1992 that were not reported to the National Response Center (NRC) in a timely manner following the release. Additionally, respondent experienced a release of

ethylene dichloride in September 1990, and a release of hydrochloric acid in July 1991. Respondent did not report these releases to the NRC, State Emergency Response Commission (SERC), and Local Emergency Planning Committee (LEPC) in a timely manner. Respondent agreed to pay a civil penalty of \$50,000 and agreed to construct and maintain a secondary containment system which will prevent large pressure releases of vinyl chloride from the facility. The system cost is estimated to be \$1.68 million with an anticipated start-up date of January 1996. Additionally, as part of a SEP, respondent agreed to complete the following actions: (1) implement a chemical safety project for the citizens of Point Comfort, Texas at a cost of \$10,000; (2) permit a chemical safety audit to be performed by a team led by EPA personnel to review facility emergency response procedures and plans; (3) develop and implement a risk management program; and (4) provide funding (\$35,000) to support a Region-wide LEPC conference.

***Shell Chemical Company:*** A CERCLA §103, Class I, consent agreement and consent order (CACO) was entered on April 12, 1995, with Shell Chemical, requiring it to pay a civil penalty of \$58,200 for substantial releases of 1,3-pentadiene sulfuric acid, sulfuric acid, hydrogen sulfide, and phenol in 1990 and 1991 from its Deer Park, Texas, facility that were not timely reported to the National Response Center. The penalty was based on the quantity of the material spilled in excess of reportable quantities and the time period from when the release occurred to when it was reported to the NRC. During settlement discussions, respondent provided information on modifying reporting procedures at the facility to ensure that this type of violation will not occur in the future.

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## RCRA

**In the Matter of: Altus Air Force Base:** On March 24, 1995, Region VI filed a unilateral RCRA Section 3008(h) order against Altus AFB, Altus, Oklahoma. This is the first Region VI unilateral RCRA Section 3008(h) order against a federal facility, and is only the second unilateral RCRA Section 3008(h) order against a federal facility in the nation. The order requires the Air Force to perform interim measures, a RCRA facility investigation, a corrective measures study, and corrective measures implementation.

## SDWA

**Cushman, Arkansas:** The Town of Cushman, Arkansas, owned and operated a public water system that used an unprotected spring for its source of water and provided no water treatment except for disinfection. Rain adversely affected the water quality of the spring, resulting in

consumers being served inadequately treated water not meeting federal nor state standards. As a result, in October 1990, the Arkansas Department of Health ordered the town to install filtration treatment to correct the problem. The town received a grant of \$600,000 to perform the work from the State but still violated the State order. As a result of the civil complaint, the Town of Cushman settled with EPA and DOJ by agreeing to install filtration treatment and hire a State certified operator. The new treatment plant began operation in September 1995 and has significantly decreased the risk to consumers of consuming water that does not meet all of the Federal requirements of the Safe Drinking Water Act. The Town also paid a penalty of \$15,000 for the violations and its recalcitrance.

**Colonias in Texas:** Colonias are severely distressed, rural, residential developments along the U.S./Mexico border that are characterized by substandard housing, lack of paved roads, and inadequate or no water and wastewater facilities. The environmental conditions at these developments pose a serious health risk to the residents of the border region, largely due to a failure on the part of the developers to install necessary infrastructure. A partnership was established with the U.S. Department of Justice (DOJ), EPA Headquarters and Region VI, and Texas Office of the Attorney General (TX AG) to address the problems existing in the Colonias.

This resulted in a civil referral to DOJ against a major Colonia developer. EPA is seeking as relief through the civil referral an injunction requiring the developers to provide on a temporary basis an alternative drinking water supply for the residents of Cuna del Valle. In addition, the developer would be required to take permanent action to prevent further endangerment to the health of residents of the Colonia, preferably through the installation of essential but lacking infrastructure.

## TSCA

**In the Matter of: PPG Industries:** In a settlement with PPG Industries for violations of TSCA, PPG agreed to conduct a SEP with the following components: (1) replacement of the heat transfer fluid in the Oxyhydrochlorination Reactor at the Vinyl Chloride II Unit with a "white oil" material called XCEL THERM 600. This switch in fluid eliminated the source of inadvertently produced PCBs in the LP EDC reactor; (2) removal of PCB capacitors from the facility, and replacing them with 36 non-PCB capacitors; and (3) retrofitting and reclassification of five PCB contaminated transformers located at the facility. PPG spent \$324,318.53 on these three SEP projects.



***In the Matter of: El Paso Electric Company:*** In a settlement with El Paso Electric Company for violations of PCB regulations promulgated under

TSCA, the company agreed to remove and dispose of in an authorized facility 614 capacitors containing over 500 ppm PCBs from its electrical substations. These capacitors were replaced with non-PCB capacitors. This project removed from service a substantial quantity of PCB oil which could have been released into the environment in the event of leakage or other failure, and removes certain El Paso Electric facilities from regulated status.

***United States v. USS Cabot/Dedalo Museum Foundation:*** On November 17, 1994, the United States filed for a permanent injunction to prohibit the Foundation from selling and exporting the *USS Cabot/Dedalo* to India for dismantlement. The ship is subject to TSCA regulations because it has on board PCBs in concentrations above 50 parts per million. The U.S. District Court granted a permanent injunction against the Foundation on March 30, 1995.

## **FEDERAL FACILITIES**

***Lackland Air Force Base:*** In early 1993, EPA Region VI discovered that Lackland was illegally operating an open burning ordinance disposal unit for waste ordinance. This operation posed a potential threat to San Antonio's drinking water supply. In an administrative complaint issued against Lackland, EPA sought a penalty of \$346,500, closure of the open burning/open detonation unit, and an environmental audit of the facility.

On May 12, 1995, Administrative Law Judge Spencer Nissen ruled that EPA was not estopped from enforcing because Lackland had relied on a letter from the state regulator incorrectly advising the installation that it had interim status. Judge Nissen also ruled that even though Lackland had not disposed of additional hazardous waste at the disposal facility after the effective date of the Federal Facility Compliance Act, which ended federal facility penalty immunity under RCRA, the failure to obtain a permit was a continuing violation.

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## REGION VII

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### CLEAN AIR ACT

***IES Utilities, Inc. (Cedar Rapids, IA):*** During FY 1995, Region VII settled the first acid rain administrative penalty action in the country. The complaint alleged IES Utilities, Inc., of Cedar Rapids, Iowa, failed to complete timely certification testing of the acid rain continuous emission monitors required for sulfur dioxide, nitrogen oxides, carbon dioxide and volumetric flow at the Sixth Street Power Station and Prairie Creek Generating Station, Cedar Rapids, Iowa; Ottumwa Generating Station, Chillicothe, Iowa; and at the Sutherland Generating Station, Marshalltown, Iowa. A penalty of \$124,100 was proposed in the complaint for these violations of the CAA.

As part of the settlement, IES agreed to a supplemental environmental project involving the purchase and permanent surrender by the utility to EPA of 589 sulfur dioxide (SO<sub>2</sub>) allowances as defined under the Acid Deposition Control provisions of Title IV of the Clean Air Act. Each allowance constitutes an authorization to emit during or after a specified calendar year, one ton of SO<sub>2</sub>. Value of the allowances permanently removed from the market was \$76,570 at the time of the settlement. IES was also required to pay a penalty of \$25,630 to settle the claims.

***Stupp Brothers Bridge & Iron Company:*** The State of Missouri requested Region VII's assistance in regard to air emission violations by Stupp Brothers Bridge & Iron Company in St. Louis, Missouri. EPA issued a notice of violation on April 1, 1995, pursuant to Section 113(a)(1) of the CAA, finding Stupp Brothers in violation of Section 110 of the CAA. Stupp Brothers operates an industrial coating operation and emits more than 2.5 tons of VOCs a year. Stupp Brothers violated the state implementation plan by failing to comply with the emission limit for miscellaneous metal parts. EPA encouraged Stupp Bros. to work out a compliance schedule with the State. The State and Stupp Bros. thereafter entered into a consent agreement/consent order addressing the violations and bringing the facility into compliance with the Act.

***Barton Nelson Inc.:*** A printer of miscellaneous products, including stick-on notes, undertook construction without a permit of a facility in Kansas City, Missouri. At the time of construction, Kansas City was a non-attainment area but has since been designated as in attainment. The City of Kansas City, Missouri, asked Region VII to assist with the permitting and enforcement actions. EPA personnel performed an inspection to determine the applicability of

NSPS Subpart RR - Standard of Performance for Pressure Sensitive Tape and Label Surface Coating Operations. After evaluating the permit requirements and the NSPS applicability, EPA assisted the City with calculating the economic benefit and gravity components of the penalty.

After obtaining a permit from the Kansas City, Missouri, Pollution Control Agency, the source refused to enter into a consent order to resolve its violations. The city referred the source to the State, but the source continued to refuse to enter into a consent order. At the State's request, EPA initiated an enforcement action against the source, whereupon the source, on receiving word of this pending action, entered into acceptable consent orders with both the State and local agency.

### CERCLA

***United States v. Bliss, 28 DIOXIN-Contaminated Sites, Eastern Missouri:*** On April 14, 1995, EPA and the Missouri Department of Natural Resources issued a permit to IT Corporation, Syntex Agribusiness, Inc. and Foster Wheeler Environmental Corporation for a thermal treatment facility to be located at the disincorporated city of Times Beach for thermal treatment of dioxin contaminated soil and non soil materials from Times Beach and other eastern Missouri dioxin sites under the provisions of the CERCLA *Consent Decree and Final Order Between the United States of America; the State of Missouri; Syntex Corporation; Syntex (U.S.A.) Inc.; Syntex Laboratories, Inc; and Syntex Agribusiness, Inc.* entered by the U.S. Court for the Eastern District of Missouri in the case of *United States v. Bliss*, Civil Action No. 84-200C(1). The facility will consist of a hazardous waste incinerator as well as associated facilities for storing and processing contaminated and treated material.

***United States v. Bliss, Horse Arena, et al., 28 Dioxin-Contaminated Sites, Eastern Missouri:*** On August 15, 1995, Judge Nangle issued a favorable order in ruling on motions by the defendant Syntex to construe, effectuate and enforce the consent decree entered by the court on December 31, 1990, and the motion of St. Louis County to intervene in the existing litigation as plaintiff and its memorandum opposing the Syntex defendants' motion. The original motion filed by Syntex was necessitated by the County's issuance in February 1995, of an air permit setting limits on emissions from the incinerator which Syntex has constructed at the Times Beach Site. Such limits are at odds with the limits set in the joint EPA-State RCRA permit.

**United States v. Monsanto Company, et al.:** On May 31, 1995, the United States, on behalf of the EPA, filed a civil action for recovery of over \$700,000 in costs under Section 107(a) of CERCLA. The action was filed against Monsanto Company, Allied-Signal, Inc., Missouri Pacific Railroad Company, and Superior Oil Company, Inc., d/b/a Superior Solvents and Chemicals, Inc. The United States seeks to recover past costs and oversight costs incurred by EPA in response to releases and threatened releases of hazardous substances at the Thompson Chemical Superfund site in St. Louis, Missouri. A number of different industrial facilities have operated at the site since the late 1800s, which is currently in use as a bulk terminal facility for solvent products.

**United States v. Cooperative Producers Inc. and Farmland Industries, Inc.:** On September 29, 1995, a consent decree was signed and forwarded to DOJ for lodging with the District Court of Nebraska. The consent decree requires the settling defendants, Cooperative Producers, Inc. (CPI, the current owner/operator), and Farmland Industries, Inc. (Farmland, the former owner/operator), to pay \$954,019 in past costs and to continue operation of a soil vapor extraction (SVE) system to remediate the source control operable unit at the FAR-MAR-CO subsite of the Hastings ground water contamination site.

**Rogers Iron and Metal Corporation (Jasper County, MO):** As part of the Superfund Brownfields initiative, the Regional Administrator entered into a prospective purchaser agreement with Rogers Iron and Metal Corporation (RIMCO), Rogers, Arkansas, on June 18, 1995. The Agreement involves RIMCO's purchase of property located within the Jasper County Superfund NPL site. This agreement meets the criteria discussed in the Agency's new guidance for prospective purchaser agreements issued in May 1995.

**Mason City, IA and Bob McKinness Grading & Excavating, Inc. (Mason City, IA):** On July 28, 1995, an administrative order on consent was filed with the Regional Hearing Clerk wherein Interstate Power Company and Kansas City Power & Light Company (the "Performing Respondents") agreed to conduct a non-time critical removal action of coal tar buried at the site and to pay a specific amount of EPA's past costs and all of EPA's oversight costs. In addition, by signing the order, two additional parties, the City of Mason City, Iowa, and Bob McKinness Grading & Excavating, Inc. (the "Non-Performing Respondents") agreed to contribute money toward the costs of the response action and payment of EPA's costs.

**Pacific Activities, Ltd. (Davenport, IA):** On June 6, 1995, an administrative order on consent (AOC) for the performance of a time-critical removal action at this site was filed with Region VII's Hearing Clerk. The site was formerly occupied by a locomotive foundry as well as by a company that conducted smelting operations for the production of nickel alloys. Site soils are extensively contaminated with lead (at levels up to 160,000 ppm), cadmium (at levels up to 2,400 ppm), and nickel (at levels up to 120,000 ppm). The removal action provides for the in-situ solidification of contaminated soils, with off-site disposal of any media which is not amenable to solidification. PAL has agreed to reimburse EPA for all of its past and future response costs for this removal action. In addition, as PAL entered into a consensual RCRA order with EPA in 1991 which it failed to comply with, we have required that PAL establish and fund a financial assurance mechanism prior to EPA entering into the order. The AOC also provides for the use of ADR in the form of non-binding third-party mediation in the event that PAL disagrees with the resolution of certain delimited disputes by the Superfund Division Director.

**West Lake Landfill NPL Site (Bridgeton, MO), OU-2:** An administrative order on consent (AOC) for the performance of an RI/FS for OU-2 was signed by the owner/operator of the landfill, Laidlaw Waste Systems (Bridgeton), Inc., on December 9, 1994. This operable unit addresses the nonradiologic hazardous substances present at the site. Laidlaw, along with three other PRPs, are currently conducting an RI/FS for OU-1, which is the radiologic contamination contained in two cells at the landfill. Studies have indicated that VOC, metals, and pesticides are present in the landfill. This is a municipal solid waste landfill that has operated since 1962. Pursuant to this AOC, Laidlaw has agreed to reimburse EPA for its past and future response costs for this operable unit.

**I.J. Stephens Farm Site (Newton County, MO):** On September 28, 1995, EPA and Sunbeam Products, Inc, formerly Sunbeam Corporation d/b/a Sunbeam Outdoor Products (Sunbeam), entered into an administrative order on consent for removal response activities and reimbursement of response costs at the I.J. Stephens Farm Site. The consent order was issued pursuant to Sections 106(a) and 122 of CERCLA, 42 U.S.C. §§ 9606(a) and 9622. The settlement will result in Sunbeam's performance of a clean-up that will provide significant environmental benefits. In accordance with the consent order, Sunbeam must pay \$30,000 for past response costs; remove and dispose of all drums, drum components, and waste containers from the site; excavate and dispose of soils contaminated by the materials contained or formerly contained in the drums; test drum contents, soil, and any

other contaminated materials prior to disposal; and restore site to its pre-removal condition by backfilling and seeding the soil.

**Peerless Industrial Paint Coatings (St. Louis, MO):** In July and August 1995, EPA entered into four separate *de minimis* administrative settlements pursuant to Section 122(g) of CERCLA, 42 U.S.C. §9622(g). Pursuant to the administrative orders on consent, the *de minimis* parties are responsible for the following costs: (1) Peerless-Premier Appliance Company has an attributable share of 1.20% and is responsible for \$13,236.65 in past costs and \$1,193.24 in future costs; (2) Canam Steel Corporation has an attributable share of 1.29% and is responsible for \$14,238.45 in past costs and \$1,283.55 in future costs; (3) St. Louis Steel Products has an attributable share of 1.665% and is responsible for \$18,412.20 in past costs and \$1,659.80 in future costs; and (4) Henkel Corporation has an attributable share of .30% and is responsible for \$3,453.48 in past costs and \$311.32 in future costs.

**The Aluminum Company of America Site (Riverdale, IA):** On August 10, 1995, EPA Region VII issued an administrative order on consent for removal action and remedial investigation/feasibility study to the Aluminum Company of America (Alcoa) to address contamination at its Davenport Works facility, which is located on the Mississippi River in Riverdale, Iowa. The removal actions will address each area of potential contamination at the facility, most of which were identified in a facility site assessment (FSA) performed by Alcoa pursuant to a 1990 CERCLA Section 106 AOC. The FSA identified over 75 potentially contaminated areas (FSA units). The unique aspect of the removal portion of the AOC is that it establishes a risk-based process by which Alcoa will assess each area of potential area contamination and, if necessary, conduct removal actions to abate endangerments to human health or the environment. Alcoa will conduct a FSA unit evaluation in accordance with the AOC's attachments and prepare a risk-based concentration report for each unit or group of units, which will serve as the basis for Alcoa's recommendation for further investigations, a time-critical removal action, an EE/CA, or no further action. Upon EPA approval of Alcoa's recommendation, the company will implement the required work.

**Doepke Holliday Site (Johnson County, KS):** On February 16, 1995, Region VII issued an administrative order to 34 parties directing them to begin implementation of the remedial action for this site. The main requirement of the order is to construct an impermeable cap over an old disposal area on the site. The order also requires environmental monitoring and operation and maintenance

activities. EPA is committed to resuming and completing consent decree negotiations promptly. It was used for disposal of industrial and commercial wastes in the 1960s and early 1970s. The principal component of the site clean-up is installation of an impermeable cap over the former disposal area. The cap will prevent contact with any of the contaminated materials in the old disposal area. It will also reduce infiltration of surface water through the old disposal area, thereby minimizing movement of contaminants away from the site.

**29th and Mead Superfund Site (Wichita, KS):** On July 20, 1995, EPA, the Kansas Department of Health and Environment and the City of Wichita, Kansas, announced that the 29th and Mead site in Wichita, Kansas, would be removed from the National Priorities List (NPL) based on the State and City agreeing to address the contamination at the site. This action is being carried out as a state delisting pilot project. The site will be removed from the NPL based on a determination by EPA that no further response action under CERCLA is required at the site, contingent upon the finalization of an agreement between the City of Wichita and the Kansas Department of Health and Environment (KDHE), which requires the City to take responsibility for clean-up activities at the site with KDHE oversight.

**Emory Plating Company (Des Moines, IA):** In July 1995, EPA entered into a CERCLA Section 122(h)(1) settlement agreement with the owners of the site. EPA had performed a fund-lead removal costing \$325,000 at this abandoned electroplating facility located in Des Moines, Iowa. EPA filed a Superfund lien against the site. Notice of the settlement was published in the Federal Register and the agreement became effective on September 25, 1995. The agreement provides that the site owners will make their best efforts to sell the site and turn over the net proceeds to Superfund. At the request of EPA, both Polk County, Iowa, and the City of Des Moines agreed to write off a major portion of the outstanding real estate taxes. A sale was pending at the end of October 1995, and it is anticipated that EPA will recover approximately \$25-27,000 in costs that otherwise would have been written off. The sale will likewise get this commercial site back into productive use and on the tax rolls.

**Fremont Pesticides Superfund Site (Fremont County, IA):** In December 1995, EPA entered into a CERCLA Section 106 consent order with the Randolph State Bank of Randolph, Iowa, to perform a removal action. The site consisted of two proximate parcels in rural Iowa, with the first parcel being surrounded by a state nature preserve. The bank acquired the first parcel through deed in lieu of foreclosure and proceeded to move containers of hazardous

waste pesticides from the first parcel to the second parcel (owned under contract for deed by the debtor), where the containers were abandoned. The removal order required the bank to dispose of the containerized waste and test for soil contamination at the first site as well as contamination in on-site farm structures. The containerized waste was shipped off-site for disposal. Contaminated building debris will be shipped off-site for incineration.

**Helena Chemical (Hayti, MO):** In November 1994, EPA issued a unilateral order for removal site evaluation and engineering evaluation/cost analysis and removal action to Amoco Corporation, Helena Chemical Company, and Rupert Crafton Commission Company. This site is contaminated with pesticides as a result of pesticide formulation and storage activities that occurred from approximately 1965-1978. Amoco and Helena were in business at the site until 1969, when Amoco sold its interest to Helena. Rupert Crafton Commission Company acquired the site in 1978. Contamination is highest in the soils, but migration to the groundwater has been detected.

**Waterloo Coal Gasification Plant (Waterloo, IA):** In May 1995, EPA and Midwest Gas (a division of Midwest Power Systems Inc., Sioux City, Iowa) entered into a CERCLA administrative order on consent for remedial investigation/feasibility study. A coal gasification plant operated at the site for the first half of this century. Waste handling practices at the site resulted in spreading coal tar residue, ash and associated wastes on unlined soils, and filling topographical lows on the site. Removal work has been done at the site to reduce the migration of contamination from source areas.

**Irwin Chemical Company (Des Moines, IA) and Emory Plating Company (Des Moines, IA):** At both these urban sites where fund lead removal actions have resulted in cleanup costs being incurred by the United States, Region VII has executed innovative administrative CERCLA 122(h) settlement agreements which will result in partial reimbursement of government costs and return the properties to beneficial use. Each agreement provides that the respondents will make their best efforts to sell the respective site and turn the proceeds over to EPA (net of certain expenses). At EPA's request, the County and City agreed to compromise taxes and special assessments on the Emory Plating Site property.

## CLEAN WATER ACT

**St. Columbkill Association and Berra Construction Co.:** On September 29, 1995, a CWA administrative order on consent was issued to the St. Columbkill Association and Berra Construction Company requiring the removal of a

river crossing which had been placed in a creek, without first obtaining a Clean Water Act Section 404 permit. Because of the crossing's inability to pass expected high flows, water had backed up during storm events, damaging property both upstream and down. After extensive negotiations, St. Columbkill and Berra entered into an administrative order on consent with the Agency requiring the removal of the crossing and the restoration of the scour hole. Removal and restoration has been timed by the order to allow the bridge to continue to be used for a short period while the only other access bridge to a small adjacent community is being replaced.

## EPCRA

**Texaco Refinery (El Dorado, KS):** An innovative settlement was reached with Texaco Refinery located in El Dorado, Kansas, to resolve reporting violations of EPCRA Section 313. As part of settlement, the company agreed to the accelerated development and completion of risk management programs for each of the following regulated substances at the El Dorado refinery: ammonia, sulfur dioxide, hydrogen sulfide, hydrofluoric acid, propane and butane.

In addition, Texaco agreed to develop and submit to EPA a generic risk management plan for each of the above listed regulated substances. These generic plans will be available for use as models by other members of the regulated community to assist them in developing plans for their own facilities when the requirements become effective under the Clean Air Act. The estimated costs of the programs and plans by Texaco is \$247,000.

**K.O. Manufacturing, Inc.:** On April 13, 1995, the Environmental Appeals Board (EAB) issued its decision in *K.O. Manufacturing, Inc.*, EPCRA Appeal No. 93-1. The EAB reversed and remanded the original decision by Judge Greene and held that respondent violated EPCRA Section 313 by failing to file a form R for glycol ether compounds 1987. The case was remanded for the assessment of a penalty. Region VII appealed the February 28, 1993, initial decision as to the issue of liability for failure to file a form R for glycol ether compounds for 1987. In the initial decision, the Presiding Officer granted respondent's motion for accelerated decision and found that respondent was not liable to file a form R for 2-Butoxyethanol because 40 CFR §372.65 did not provide adequate notice that reporting was required. On appeal, Region VII argued that the initial decision was based upon an incorrect legal conclusion and that the final rule and the 1987 instructions for form R provided adequate notice of the meaning of the requirement. The EAB agreed with the Region and adopted the reasoning in Region VII's brief on appeal and reversed the initial decision.

**Heyco, Inc. (Garden City, KS):** As part of the settlement to resolve reporting violations under EPCRA §313, Heyco, Inc. agreed to undertake a supplemental environmental project (SEP) which entails the installation of a new paint system and the use of new chemical formulations, at a cost to the company of approximately \$228,000. The new process will totally eliminate the use of xylene in the company's operations. Furthermore, Heyco agreed to limit its use of all EPCRA Section 313 chemicals to under 5,000 pounds per year per chemical.

## FIFRA

**Farmers Cooperative Grain Company (Merna, NE):** As part of settlement of a complaint issued against for violations of the FIFRA bulk repackaging requirements, Farmers Cooperative Grain Company, Merna, Nebraska, agreed to install and operate oilers in the legs of their grain facilities. The project results in the reduction of fugitive dust emissions from the facility by approximately 90%. Community-based environmental and public health benefits were achieved at a total cost of the project to the facility at \$8,392.

## OIL POLLUTION ACT

**Koch Industries, Inc.:** On April 17, 1995, a complaint was filed in federal district court against Koch Industries, Inc. and a number of its subsidiaries for violations of the Clean Water Act, as amended by the Oil Pollution Act of 1990. The case was filed by the Department of Justice in the Southern District of Texas, and represents a cooperative effort among Regions IV, VI, and VII, EPA Headquarters, the U.S. Coast Guard, and DOJ. The Complaint proposes penalties of \$1,000 per barrel of oil discharged in over 300 spill events over the course of the last 5 years. The total amount of oil discharged is in excess of 50,000 barrels. The Region VII portion of the complaint addresses over 30 separate discharges of oil totalling in excess of 2500 barrels. The parties are now involved in the discovery process.

## RCRA

**University of Nebraska:** Pursuant to a consolidated settlement of two RCRA §3008(a) complaints, the University of Nebraska agreed to implement a system-wide chemical and waste tracking program. As part of the system-wide program, departments are able to offer unneeded chemicals, that would have otherwise been shipped offsite as waste, to other University departments, resulting in a reduction in the amount of waste required to be shipped offsite.

## SDWA

**Kansas Public Water Supplies:** During FY 1995, EPA negotiated and issued administrative compliance orders on consent to nine (9) public water systems (PWS) for exceedances of the nitrate Maximum Contaminant Level of 10 mg/l for public water supplies. Each of the nine orders require the PWS to undertake certain tasks within a twenty-four month period to achieve compliance. These tasks include the provision of an alternative water supply

to pregnant women and children aged six months or less and the provision of public notification for each prior violation of the Act. Consent orders were entered into with the following Kansas Public Water Supply Systems: City of Abilene, City of Axtell, City of Attica, City of Beverly, City of Kirwin, City of Osborne, City of Portis, City of Preston, and City of Raymond.

**Kansas Bureau of Water:** Kansas' Bureau of Water issued 25 wastewater treatment orders against various municipalities and trailer courts located within the State. Particularly noteworthy were orders issued to the cities of Lawrence, Topeka, and Leavenworth and to four trailer courts in Pittsburgh. The consent orders with the three cities initiate projects to eliminate the discharge of water treatment sludges to streams. The orders to the trailer courts have resulted in ongoing efforts to form sewer districts that will have collection

and pumping facilities connected to the Pittsburgh wastewater treatment plant, eliminating sewage discharges into abandoned mine shafts.

## MULTIMEDIA

**Iowa National Guard, AASF #2, Waterloo, IA:** A multimedia consolidated consent agreement and consent order effective December 16, 1994, concluded three complaints against the Iowa National Guard. The complaints concerned facilities located in Johnston, Waterloo, and Davenport, Iowa, and violations of RCRA and SDWA. The settlement requires the respondent to return to compliance with respect to the violations, pay \$35,000 in penalties, and to perform \$500,000 in SEPs for two city sewer connections and RCRA/SDWA environmental audits at 21 facilities.

In response to the RCRA violations, the respondent, a state militia helicopter reserve unit, asserted that it was a federal facility as opposed to a state facility and that under the Federal Facilities Compliance Act it was not subject to penalties for those RCRA violations. However, respondent had no such defense in the SDWA case. By consolidating the three cases, the Region and respondent were able to negotiate a satisfactory global settlement allowing both the EPA and the respondent to avoid the time and expense of litigating the state militia/FFCA issue.



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## REGION VIII

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### CLEAN AIR ACT

**South Main Texaco:** A consent agreement settled charges against South Main Texaco (1101 S. Main, Torrington, Wyoming) for allegedly violating ozone protection requirements of the Clean Air Act. At issue were EPA charges that the company serviced automotive air conditioners without using proper freon recovery or recycling equipment. The penalty included money the company saved by ignoring requirements. South Main Texaco has since obtained chlorofluorocarbons (CFC) recovery equipment and ensures technicians are properly trained and certified in its use.

**Plum Creek Manufacturing:** On August 22, 1995, a civil consent decree was lodged in the U.S. District Court in Helena, Montana, in which Plum Creek Manufacturing L.P. (Plum Creek) agreed to pay \$106,000 in penalties for releasing visible contaminants from their veneer dryers. These violations took place from at least September 1989, until April 1992, at its Kalispell, Montana, plywood plant. The State of Montana had previously brought an enforcement action against Plum Creek for veneer dryer violations which resulted in Plum Creek paying a \$7,000 penalty and installing an air pollution control device on the dryers. Plum Creek has a history of non-compliance with the requirements of the Clean Air Act. EPA concluded that the State's penalty was insufficient to recover the economic benefit realized by Plum Creek, and brought its own action. This action demonstrates EPA's commitment to see that violators do not profit from their violations.

**Colorado Refining Company:** Colorado Refining Company (CRC) agreed to pay a \$320,000 penalty and will spend about \$1.7 million upgrading equipment to reduce air pollution from its oil refinery in Commerce City, Colorado. As part of a settlement with EPA and the U.S. Department of Justice, CRC—a subsidiary of Total Petroleum—will modify equipment to prevent excessive amounts of sulfur dioxide (SO<sub>2</sub>) from escaping into the air when the oil refinery is operating. To achieve this, CRC will upgrade its "Claus Plant," or sulfur recovery unit to boost its sulfur removal capability.

The Agency's complaint alleged two Clean Air Act (CAA) permit violations. One claimed the refinery degraded air quality when its SO<sub>2</sub> emissions surpassed allowable levels several times between 1989 and 1994. At one point the refinery registered emissions of 16,000 parts per million (ppm).

**Asarco, Inc.:** Alleged lead and particulate pollution has cost Asarco, Inc., \$200,000 according to an agreement between the company and the federal government. In the consent decree lodged November 29, in U.S. District Court in Helena, Montana, the U.S. Environmental Protection Agency and the Department of Justice maintained that Asarco violated national clean air standards for several months in 1992. According to the EPA, the company exceeded acceptable levels for lead and small particle emissions at its East Helena lead smelting facility.

**ARCO, Snyder Oil Corporation:** Atlantic Richfield Company (ARCO) and Snyder Oil Corporation paid an \$875,000 penalty for Clean Air Act (CAA) violations committed at the Riverton Dome gas plant on the Wind River Indian Reservation. The CAA settlement is the largest reached in EPA Region VIII's six-state region. As part of the agreement, EPA issued Snyder a PSD permit last July, which required it to reduce nitrogen oxide emissions by installing control equipment. The equipment was installed and tested, and met acceptable emissions limits. ARCO and Snyder agreed to pay the penalty and comply with all applicable laws in the future.

### CERCLA

**United States v. Alumat Partnership, et al.:** On July 10, 1995, a proposed consent decree in *United States v. Alumat Partnership, et al.*, was lodged with the U.S. District Court for the District of Colorado. The settling defendants agreed to pay the United States \$7,283,104 in return for a covenant not to sue relative to all past and future costs, excluding potential costs associated with the standard statutory reopeners included in the consent decree. The settlement amount includes a premium payment to cover a variety of risks such as cost overruns and uncertainties of litigation. Hence, the contribution protection granted by the consent decree covers all response costs incurred by PRPs at the site, as well as the past and future costs of the United States.

**Portland Cement Company:** EPA and the State of Utah reached a settlement agreement with Portland Cement Company (Lone Star Industries, Inc.). The settlement agreement has been entered in the U.S. Bankruptcy Court in the Southern District of New York. The agreement provides that EPA and the State of Utah will receive cash and securities worth approximately \$18.5 million.

This settlement was filed by the U.S. Department of Justice on behalf of EPA, the Department of the Interior, and the State of Utah. The settlement funds will be used to pay for past and future cleanup costs at the Portland Cement Company Superfund site. The site was used for the deposit of cement kiln dust, a by-product of cement manufacturing, from 1965 through 1983. Cement kiln dust is caustic in nature and contains high levels of lead and arsenic, which pose a threat to health and the environment.

**Lowry Landfill Superfund Site:** On November 18, 1994, EPA-Region VIII issued a unilateral administrative order (UAO) for the performance of remedial design/remedial action (RD/RA) to 34 potentially responsible parties (PRPs) at the Lowry Landfill Superfund site. From 1965 to 1980, the City and County of Denver, the owner of the site, accepted liquid, solid industrial, and municipal wastes there. Approximately 138 million gallons of wastes were disposed of in 75 unlined waste pits and covered with refuse, native soils, and/or used tires. Waste Management of Colorado, Inc. (WMC), under contract with Denver, assumed landfill operations in 1980. Chemical Waste Management (CWM) is a successor-in-interest to one or more persons who accepted hazardous substances for transport to the site. After two years of RD/RA settlement negotiations with Denver, WMC, and CWM, the Region issued the UAO to those parties and 31 *de maximis* PRPs based on the refusal of Denver, WMC, and CWM to implement the remedy selected in the ROD and pay more than 76% of the United States' past response costs. Most of the 31 *de maximis* PRPs have been sued by Denver, WMC, and CWM in private cost recovery litigation and have settled with those parties.

**Rockwell International:** On March 28, 1995, EPA-Region VIII issued and made effective administrative order on consent, *de minimis* settlement, Docket No. CERCLA VIII-94-26 (AOC), with Rockwell International Corporation (Rockwell), a PRP at the Lowry Landfill Superfund site (site). Under the terms of the AOC, Rockwell is required to pay \$3 14,587 to the Superfund by April 27, 1995, to settle its liability as a generator at the site.

The Rockwell settlement is nearly identical in its terms to, and is considered an extension of, the previous 27 *de minimis* settlements negotiated relative to the site. The settlement is based on the amount of waste sent by Rockwell to the site from the Rocky Flats Plant (55,630 gallons). The U.S. Department of Energy, which owns the Rocky Flats Plant, will make payment on behalf of Rockwell, which operated the plant. The Region will apply the settlement monies to past response costs incurred at the site. Past response costs originally totalled \$26

million; to date, the Region has recovered approximately \$13 million.

**City and County of Denver:** On September 18, 1995, EPA proposed a stipulation of compromise between the United States and the City and County of Denver regarding Civil Action No. 84-JM-1507. The City and County of Denver were in noncompliance with the modified consent decree on August 11, 1993, October 14 and 19, 1993, and November 8, 1993; arising from operating and reporting obligations related to the testing performed on such dates. The alleged violations included: exceedance of performance standards by air emissions from the treatment plant on two occasions; failure to notify EPA and the Colorado Department of Public Health and Environment of discovery of noncompliance with the performance standards within 24 hours and follow-up in writing within 72 hours; failure to recycle vapor-phase carbon units and implement changeout procedures; and failure to submit a schedule for proposed corrective measures within 14 days on an event requiring corrective measures. Within 45 days of approval of this stipulation of compromise by the court, Denver shall pay \$79,550 to the United States in full and complete satisfaction of the claim of the United States.

**Denver Radium/Robco Project a Brownsfield Redevelopment Success Story:** On July 26, 1995, the prospective purchaser agreement between EPA, the State, and Home Depot was signed by Bill Yellowtail, EPA Region VIII Regional Administrator. The agreement was sent to Department of Justice for their signature and publication in the Federal Register for a 30-day comment period.

This agreement represents a major Brownfields redevelopment success. In exchange for a covenant not to sue from the United States and the State, Home Depot has committed to share in the work at the site. The projected cost of the remedy for operable unit IX was approximately \$1.7 million. Out of this total, the work Home Depot will perform will save EPA and the State approximately \$900,000.00. Home Depot plans to redevelop this site by construction of one of their home improvement supply stores.

**Utah Power & Light/American Barrel:** The RD/RA consent decree was entered on April 26, 1995. This will implement a cleanup estimated to be worth up to \$105 million, plus all "future response costs." Soils at the site contaminated with polyaromatic hydrocarbons (PAH) will be excavated and recycled into asphalt to be use in paving roads offsite. PAH-laden soil which fails TCLP will be incinerated. The only unusual aspect of the consent decree

is that the covenants explicitly cover asphalt that may be used in paving projects offsite.

**Colorado School of Mines Research Institute Site:** On December 15, 1994, EPA issued unilateral administrative orders for removal action at the CSMRI site, a former mining research facility, the State of Colorado, Colorado School of Mines, and fifteen private potentially responsible parties (PRPs). The unilateral administrative orders (UAOs) require respondents to conduct an evaluation of off-site disposal options for stockpiled radioactive soils at the site, and implement the removal option selected by EPA after EPA's review of respondents' evaluation. Under the terms of the UAO, the parties will complete the removal action, estimated to cost approximately \$4 million, by April 1996.

December 20, 1994, was the effective date of the administrative order on consent for *de minimis* settlement for the above-referenced site. The settlement partially resolved the liability of 47 generator PRPs, each of whom contributed less than 2% of the total waste at the CSMRI site. The value of the settlement is \$1,340,584.00, which represents approximately 13% of the total estimated cost of completion of the Superfund removal activities at the site. In keeping with Agency policy, EPA did not offer complete cash-out settlements to *de minimis* parties because it lacked sufficient information about the possibility and cost of future remediation actions at the site.

The wastes were left over from some 40 years of research that CSMRI conducted for the mining industry. Wastes and soil excavated during the 1992 emergency response total about 15,000 cubic yards. EPA's order calls on the parties to arrange for off-site disposal at a facility approved by EPA and the State and designed to safely manage such wastes by December of 1995.

**Hansen Container Site:** On September 22, 1995, EPA entered into a *de minimis* settlement with 147 of the 205 generator PRPs who sent waste to the Hansen Container site, a former drum recycling facility located in Grant Junction, Colorado. A total of \$1,328,358.04 will be recovered as a result of this settlement; this represents 22% of total estimated site costs. The settlers are responsible for 17% of the total volume of waste sent to the site.

**Layton Salvage Yard Site:** On September 21, 1995, EPA signed the Layton settlement agreement to resolve liability of potentially responsible parties for the United States' past response costs at this military surplus/salvage yard site. Under the terms of the settlement agreement, the owner/operator of the facility, Mr. Marvin Allgood, paid \$5,000 (based on an ability to pay analysis) and the two

federal respondents (the U.S. Air Force and the U.S. Defense Logistics Agency) paid \$445,936.28. This settlement resulted in the recovery of 78% of EPA's past response costs. The settlement was reviewed as part of a 30-day public comment period and became effective in early November.

**Broderick Wood Products Site:** The Broderick Investment Company will pay nearly \$25 million for the government's past cleanup costs and for future cleanup of contamination at the Broderick Wood Products "Superfund" site at 58th and Galapago in South Adams County. That agreement was part of a settlement lodged in U.S. District Court in Denver involving EPA, the U.S. Department of Justice, Broderick Investment Company (a trust-operated Colorado limited partnership) and Tom Connolly, a trustee for BIC and several Broderick family trusts.

The company will pay for and, with EPA oversight, conduct the cleanup of the site at an estimated cost of \$13 million. In addition, they will reimburse the Superfund and the State of Colorado for past response costs of \$107 million and \$630,000, respectively. The defendants agreed to pay future EPA oversight costs, estimated at \$700,000.

**S.W. Shattuck Chemical Company:** DOJ filed a complaint against the S.W. Shattuck Chemical Company, Inc., to recover response costs incurred in connection with the remediation of operable unit VIII of the Denver radium site. Those costs total approximately \$2.8 million. The complaint also sought a declaratory judgment that Shattuck is liable for response costs incurred at OU VIII. Discussions are ongoing among DOJ, EPA and Shattuck to settle this matter.

**Smuggler Durant Mining Company:** A cashout consent decree with Smuggler Durant Mining Company was entered by the U.S. District Court on August 2, 1995. SDMC was the last party to settle in the *United States v. Smuggler*, and the case is now completely closed. SDMC paid \$400,000 to the United States and guaranteed work at OU2 worth approximately \$30,000. An administrative consent order for work at OU2 (guaranteed by SDMC) was entered on May 8, 1995. Work under the AOC is not yet complete.

## CLEAN WATER ACT

**United States v. John Morrell Company:** On August 31, 1995, John Morrell signed the partial consent decree to address injunctive relief. The consent decree stays the civil penalty portion of the complaint due to parallel proceedings that have been invoked since August 12,

1994. On September 27, 1995, the Region signed the partial consent decree to address injunctive relief.

Region VIII referred this matter as an emergency referral in the Spring of 1993, after Morrell came forward to the Agency and revealed that persons at Morrell had been falsifying documents and destroying documents indicating that Morrell was not meeting its NPDES permit effluent limits. A criminal investigation of this matter is ongoing, and therefore, Region VIII pursued only injunctive relief during negotiations with the defendant. The Region fully expects to negotiate penalties, in excess of \$2 million, upon completion of the criminal case, assuming there are no double jeopardy concerns.

**United States v. Excel Corporation, Fort Morgan, CO (CD, CO):** On July 18, 1995, the U.S. District Court entered a civil consent decree in which Excel Corporation, a beef slaughterhouse located in Fort Morgan, Colorado, agreed to pay \$ 245,000 in civil penalties to the United States, and \$205,000 to the City of Fort Morgan. The civil action alleged that Excel had failed to comply with federal and local pretreatment standards developed to prevent pass through and interference.

In mid-1991, Excel Corporation underwent an expansion, and increased the number of cattle slaughtered at its Fort Morgan plant. Excel failed to provide the additional level of pretreatment required by its increase in pollutants, and overloaded the City's publicly owned treatment works, causing the City to violate effluent limits contained in the City's National Pollutant Discharge Elimination System discharge permit.

**United States v. City of Fort Morgan, CO (CD, CO):** On May 31, 1995, the U.S. District Court entered a civil consent decree in which the City of Fort Morgan, Colorado, agreed to pay \$268,000 in civil penalties in addition to taking significant steps to achieve compliance with federal pretreatment regulations under the Clean Water Act. The civil action alleged that the city had failed to implement its pretreatment program, to the degree that one of its industrial users caused the city to violate its own discharge permit. The Colorado Department of Public Health and Environment took its own action against the city's effluent violations and settled with the city for a \$110,000 penalty.

**City of Watertown, South Dakota:** A consent decree for the resolution of the injunctive relief portion of the United States' judicial case against the City of Watertown, South Dakota was lodged with the court on October 3, 1995. Any civil penalty settlement will be addressed under the terms of a separate consent decree (CD). The city agreed

to come into full compliance with the terms of its permit by December 31, 1997. It was estimated that the new POTW the city envisions will cost in excess of \$17.3 million. Concerning operation and maintenance of its POTW, the city agreed to properly staff, operate and maintain the facility, including the performance of timely and appropriate replacement of malfunctioning and broken equipment. The city shall adopt legal authority to enforce the requirements of Sections 307 and 402 of the Clean Water Act (CWA) and shall thereafter implement its industrial pretreatment program as approved by EPA, including the implementation of certain local limits. The city must also issue permits to all significant industrial users (SIUs) providing for the payment of not less than \$500 per day per violation for any noncomplying SIU. The city shall also conduct and document inspections and independent compliance monitoring of all of its SIUs.

**Sheyenne Tooling and Manufacturing Company:** The U.S. Department of Justice filed a complaint on behalf of the EPA against Sheyenne Tooling and Manufacturing Company for alleged violations of the Clean Water Act. Periodic compliance reports have shown that Sheyenne Tooling has violated the monthly average and daily limitations for zinc on numerous occasions from at least April to November of 1993, and possibly earlier. From July 1986, to April 1993, the company failed to conduct sampling and analysis of its wastewater streams before discharge into the Cooperstown sewage treatment plant. The complaint sought civil penalties against Sheyenne Tooling for discharging pollutants in violation of national pretreatment standards, failing to submit timely and complete reports, and failing to sample and analyze its wastewater for cadmium, lead, zinc, copper and chromium, before discharging it to a publicly-owned wastewater treatment facility.

**Trail King Industries:** On behalf of EPA, the U.S. Department of Justice filed a civil action against Trail King Industries, located in Mitchell, South Dakota, for alleged violations of the Clean Water Act. Trail King Industries, Inc., a metal finishing operation which manufactures long-haul trailers, was cited for alleged failure to comply with industrial pretreatment limits. The complaint alleged that discharges violated national wastewater pretreatment standards for metal finishing operations.

**Pettingill:** Action by EPA has helped restore a portion of the San Juan River and its shoreline about seventeen miles south of Pagosa Springs, New Mexico, damaged by two riverfront property owners and an earthmoving contractor. EPA ordered landowners and their contractor to perform restoration work to return the river and wetlands to their original condition. EPA also fined the contractor for

withholding information on the unauthorized dredge and fill work.

**Zortman Mining/Pegasus Gold:** On June 6, 1995, the U.S. Department of Justice filed a civil lawsuit, on behalf of EPA, alleging that the Pegasus Gold Corporation and Zortman Mining, Inc., failed to comply with the Federal Clean Water Act at its Zortman and Landusky Montana mines. The complaint alleged that Pegasus Gold Corporation and Zortman Mining, Inc., failed to comply with the Clean Water Act by discharging pollutants without National Pollutant Discharge Elimination System (NPDES) permits. Specifically, the complaint alleged that Zortman Mining Inc., and Pegasus Gold Corporation had discharged metal-laden mine drainage without NPDES permits for at least five years.

**F.L. Thorpe & Company:** A consent order was issued in which F.L. Thorpe and Company agreed to pay a \$5,000 cash penalty and perform a supplemental environmental project (SEP) worth approximately \$5,000. The SEP included a complete environmental compliance audit of respondent's facility by an approved environmental consultant, along with an agreement to correct any noncompliance identified by the audit. EPA reviewed financial information submitted by respondent and made a determination that respondent had an inability to pay the proposed penalty of \$25,000.

EPA issued a Class I APO to respondent on July 18, 1994, for violations of the Clean Water Act's National Pollutant Discharge Elimination System (NPDES) requirements. Specifically, respondent failed to submit required monitoring reports, and upon submission of the reports, monitoring revealed violations of the effluent limitation for cadmium, lead, and cyanide. Respondent is currently in compliance with applicable reporting requirements and effluent limits for its wastewater.

**Twin City Fan & Blower Company:** On July 13, 1995, two consent agreements were filed for National Pollutant Discharge Elimination System (NPDES) violations at two separate Twin City Fan & Blower Co. (TCF) facilities. The total sum of penalties was \$150,000. The violations consisted of zinc and pH in excess of categorical effluent limits.

On April 4, 1994, EPA filed a complaint against TCF at its Brookings facility for violation of pretreatment regulations. On July 1, 1994, EPA filed a complaint against TCF at its Mitchell facility for violation of pretreatment regulations. Compliance orders were also issued to each facility and the violations have been addressed by TCF. The Brookings

facility settled for \$85,000, and the Mitchell facility settled for \$65,000.

**Newman Signs Company:** A consent order was signed May 15, 1995, concerning Newman's alleged violations of federal pretreatment regulations for metal finishers. In the complaint, EPA Region VIII had proposed a \$25,000 penalty for the company's failure to submit a baseline monitoring report (BMR), a 90-day compliance report, and semi-annual monitoring reports. In the final settlement the respondent agreed to pay \$6,000 for the economic benefit enjoyed by not monitoring its industrial wastewater discharge and submitting the reports on time. Also, the company launched a year-long billboard campaign throughout North Dakota promoting user protection of wastewater treatment plants. This campaign was valued at \$33,000.

**FKI Industries:** On June 13, 1995, a consent order was issued to the Faultless-Nutting Division of FKI Industries for alleged reporting violations of the federal pretreatment regulations for metal finishers. The company paid \$4,500 in penalties and agreed to install a total reuse treatment system valued at \$37,200. This treatment system was a valuable tool for studying pollution prevention. The company provided monthly evaluation reports on the operation and maintenance of the treatment system, which functioned as it was designed.

**Gopher Sign Company:** On June 1, 1995, a consent order was issued resolving a Class I penalty proceeding under the Clean Water Act. Gopher Sign Company (GSC) agreed to pay a \$15,000 cash penalty and perform a supplemental environmental project (SEP) valued at \$1,500. The SEP required GSC to re-engineer its wastewater disposal system by installing a specialized holding tank used for separating pollutants prior to discharge. This new system was designed to decrease the amount of regulated pollutants in the wastewater by significantly increasing the retention and monitoring time which allows for separation of the solids prior to discharge. Additionally, the new holding tank provides the opportunity to recycle this water back into the manufacturing process.

On February 21, 1995, EPA issued a Class I administrative penalty order for violations of the Clean Water Act and regulations implemented under the National Pollutant Discharge Elimination System program. Specifically, respondent failed to submit required monitoring reports and exceeded the effluent limitation for zinc on one occasion after it began to submit the required reports.

## EPCRA

***United States v. Pennzoil Products Company:*** A consent agreement and final order for *United States v. Pennzoil Products Company* (Roosevelt Refinery) was signed on May 4, 1995, by EPA and Pennzoil Products Company. Violations included failure to submit EPCRA Section 313 form Rs for sulfuric acid for three years, failure to submit timely form Rs for ammonia for two years, failure to maintain records and documentation for several toxic chemicals, and failure to report reasonable estimates of releases to the environment for several toxic chemicals. The final assessed penalty agreed to in the consent agreement was \$93,900. Since this facility has shut down, there was no supplemental environmental project (SEP) proposed.

***KBP Coil Coaters:*** Alleged failure to notify authorities of hazardous materials stored at their establishment could cost KBP Coil Coaters \$35,790. In an administrative complaint EPA's Denver regional office charged that KBP violated EPCRA when it failed to disclose the presence of over 1,000 pounds of extremely hazardous sulfuric acid, and more than five tons of the flammable white enamel paint, known as Dynakote, provide facility chemical inventory, release information to State and EPA officials, and submit health and safety information about chemicals used on location to State and local emergency officials and fire departments.

***Pillow Kingdom, Inc.*** A consent agreement and consent order was signed October 10, 1995, concerning Pillow Kingdom's alleged failure to report under EPCRA §§ 311 to 313. Pillow Kingdom, a wood furniture manufacturer, is one of the five largest emitters of toxic chemicals in Colorado as reported in the National Toxic Release Inventory database. Pillow Kingdom caught the attention of a Denver fire inspector when he was informed that the local fire department was repeatedly responding to dumpster fires at the facility caused by disposal of rags used at the facility; EPA was contacted and a multimedia inspection was conducted. OSHA and State Health (RCRA) inspectors participated in the inspection with the EPCRA program. An administrative complaint was issued for the EPCRA violations; OSHA found deficiencies in the areas of the OSHA hazardous communication standard and in the respirator standard and issued a citation; RCRA/State Health issued a warning letter. Pillow Kingdom, Inc., will pay a \$26,960 penalty and will spend a minimum of \$255,400 as a pollution prevention SEP to significantly reduce VOC emissions.

## FEDERAL FACILITIES AGREEMENT

***F.E. Warren Air Force Base:*** On December 27, 1993, the Region notified F.E. Warren Air Force Base that they had violated the Federal Facilities Agreement (FFA) by failing to containerize investigation-derived waste as required by the field sampling plan. EPA and the Air Force have entered a settlement agreement, effective January 4, 1995, that required the Air Force to request appropriation and authorization from Congress to pay a penalty of \$10,000. Additionally, the Air Force implemented a supplemental environmental project, instituting a base-wide recycling program for glass, newsprint, aluminum, plastics, and steel/tin cans.

## OIL POLLUTION ACT

***United States v. Burlington Northern Railroad:*** On April 3, 1995, the consent decree was lodged in *United States v. Burlington Northern Railroad* for \$1.7 million in penalties in settlement of three violations of §311 of the Clean Water Act (CWA). The violations included two oil spills in the State of Wyoming and a hazardous waste spill in the State of Wisconsin. Burlington Northern settled for \$1.5 million in cash and the remaining in a supplemental environmental project and cost recovery. The SEPs included the purchase of three rail cars to detect fractures in the rail and a \$100,000 academic study on improving early detection of spills in the industry.

***Phillips Petroleum Company:*** On April 3, 1995, a consent order was filed for Phillips Petroleum for settlement of the first Oil Pollution Act (OPA), Section 311 Class I penalty action under the Part 28 rules in Region VIII. The matter was concerned a spill of 10 barrels of oil. The matter was settled for \$4,500.00. There was no injunctive relief necessary as the company responded immediately to the spill. This action was a part of the national OPA initiative coordinated out of headquarters last year.

## RCRA

***United States v. Stanley L. Smith, et al.:*** On June 8, 1995, the U.S. District Court for the District of Wyoming entered a civil consent decree in which Stanley L. Smith, et al., agreed to pay \$24,000 in civil penalties over a two-year period. The case was initially issued as a RCRA civil administrative order on February 28, 1989, with a proposed civil penalty of \$45,000. The two RCRA violations, which were retained in the subsequent enforcement action, were for failure to notify of hazardous waste activity and for failure to obtain a RCRA hazardous waste permit to conduct disposal activities.

**Powder River Crude Processors:** This case arose from the contamination of an abandoned oil recycling facility commonly referred to as Big Muddy Oil Processors (BMOP) and most recently, Powder River Crude Processors (PRCP), located near Glenrock, Wyoming. BMOP was originally established for recycling petroleum wastes. BMOP was poorly operated and went into bankruptcy in 1983, at which time it ceased operations. The facility was not operated again until 1988, at which time Richard Wallace leased the facility from Dale Valentine and commenced operations under the name Powder River Crude Processors (PRCP). After approximately six months of operation, PRCP ceased operations in September 1988. What remained were large open pits, leaking tanks, railroad cars, and drums containing petroleum wastes. EPA investigators discovered bird and small mammal carcasses at the site and observed some mammal carcasses trapped in oily wastes. In addition, the area is a known bald eagle feeding and nesting area.

A review of scientific abstracts indicated that this facility could have substantial adverse impacts on wildlife. EPA therefore issued orders under RCRA §7003, in September and October 1991, to Valentine, Wallace, and the generators and transporters known to it at the time: Texaco, Conoco, Phillips, True, and 88 Oil Companies, Jim's Water Service, and Valentine Construction Company.

The provisions of the §7003 administrative order included: (1) secure the site for both the public and wildlife; (2) assess the integrity of all tanks and impoundments; (3) prevent the release of any additional contamination; (4) characterize the extent of contamination from any of the units; (5) submit a work-plan to cleanup the site; and (6) submit various reports for review.

Some of the respondents, including Conoco, Phillips, True/88 and Texaco, grouped together and provided security around the processing and storage part of the facility and installed netting and chain link fences around the surface impoundments, but failed to comply with the other provisions of the order. The case, based on the lack of complete compliance with major provisions, was referred to the Department of Justice (DOJ). DOJ filed its §7003 order on February 19, 1993, seeking injunctive relief and penalties for failure to comply with the order. Conoco, Phillips, True/88, and Texaco entered into a settlement with the United States, agreeing to cleanup a substantial majority of the site at a cost of \$4.2 to \$89 million, and pay a total penalty of \$300,000. Wallace subsequently settled for a penalty of \$30,000, based on his ability to pay, and Valentine lodged a consent decree with

the court on which included paying a December 21, 1994, \$25,000 penalty. Litigation against the non-settling defendants is currently underway for the remaining injunctive relief and penalties.

**Cordero Mining Company:** In 1992, Region VIII filed a complaint against Cordero Mining Company alleging that Cordero had committed approximately 70 violations of Resource Conservation and Recovery Act (RCRA). Most of the violations were made in connection with twenty three shipments of used oil and spent solvents off their facility.

Cordero evidenced a willingness to settle by, among other things, instituting a number of voluntary practices at the mine which have resulted in the use of less chlorinated solvents, and better management of each hazardous waste stream. Cordero also made two gifts to community colleges in Wyoming and Colorado, to develop programs which will educate the community about various aspects of solid and hazardous waste management. Cordero also agreed to a penalty of \$100,000.

**Worland Laundry and Cleaners, Inc.:** In a complaint filed February 2, 1995, in Denver, Colorado, EPA charged Worland Laundry and Cleaners, Inc., and its officers and directors, Dan and Gail Dover, and Duke and Jane Dover, with seven counts of violating the Resource Conservation and Recovery Act.

According to the complaint, WLC employees dumped water contaminated with spent solvents (perchloroethylene (PCE)) down city sewers every day of operation. About four times a month workers dumped PCE-contaminated "still bottoms" into city dumpsters in an alley between WLC and the Stockgrowers Bank. Still bottoms are wastes created when dry-cleaning machines are "cooked down" and cleaned.

**Amoco Oil Company:** EPA and Wyoming's Department of Environmental Quality, on November 21, 1994, ordered Amoco Oil Company to begin the formal studies that will shape environmental cleanup at the company's shut down refinery on West Yellowstone Highway at Casper, Wyoming. Studies will concentrate on refinery property that lies south of the North Platte River, on Soda Lake, and the Soda Lake caustic pit northeast of the "operations" portion of the refinery. Preliminary investigations over the past several years have found high levels of lead and floating hydrocarbons on the refinery grounds. At Soda Lake, oil grease, benzene, carbon tetrachloride, chloroform, tetrachloroethylene, and dichloroethylene have been found in inlet water and sludges. Water samples from Soda Lake showed low levels of chloroform and methyl-



ethyl ketone. Amoco is required to provide information on the extent and depth of contamination of various kinds, on any migration of wastes off the site, and to describe past releases. At the end of the studies, the agencies will give Amoco the opportunity to enter into an order "on consent." The company would then undertake the cleanup as described in the order and agreed to by EPA, the State, and the Company.

## SDWA

**Fort Thompson Water System, Fort Thompson, SD and Lower Brule Water System, Lower (Brule, SD):** On May 25, 1995, EPA conducted inspections of the filtration treatment plants at the Fort Thompson and Lower Brule water systems. During the inspections, it was determined that the filtration treatment being used at both systems was ineffective. As a result of these findings, Region VIII issued emergency administrative orders under Section 1431 of the Safe Drinking Water Act (SDWA), on May 26, 1995.

The source of water for the Fort Thompson and Lower Brule water systems is Lake Sharpe on the Missouri River, and is of sufficiently poor quality that it must be filtered. Missouri River water is microbiologically a high risk source, because of the presence of livestock and other sources of contamination within the watershed.

**Clark Electric Motor Co. UIC-VIII-95-07.** Clark Electrical Motor Co. is an electrical motor repair facility located in an unsewered area of Billings, Montana. This area lies above a high quality, shallow aquifer, and there are many private wells utilizing groundwater in this area. Based on Class V well inventory information, EPA required that the facility either permit or close their drain, which was accepting waste fluids from cleaning and repairing electrical motors. The Region issued several notices of noncompliance for failure to respond to the deadlines for permitting or closing. The Region has attempted to involve the RCRA program in these efforts and has issued a proposed administrative order that requires closure of the Class V well, cleanup of the surrounding area, acceptable alternative disposal, and a penalty in the amount of \$125,000. This is one of the Region's first Class V cases, where a respondent has actually admitted to pouring highly contaminated waste into the drain. This area of Billings may be considered an environmental justice area.

**Bobby Smalley, Donald Creager, Petroleum Products, Inc., and Straight Arrow Oil Company—Wyoming Oil and Gas Conservation Commission:** On March 10,

1995, the Wyoming Oil and Gas Conservation Commission (WOGCC) filed an administrative order revoking \$50,000 in financial bonding from Mr. Bobby Smalley, Mr. Donald Creager, Petroleum Products, Inc., and Straight Arrow Oil Company. This action was taken against these four well owners for numerous violations including failure to plug and abandon two wells near Evanston, Wyoming, failure to file a change in well ownership, and failure to file monthly monitoring reports. The WOGCC order required the \$50,000 to be used to plug the wells and remediate the well sites. The WOGCC also barred these parties from doing business in Wyoming and referred them to the Wyoming Department of Criminal Investigations on suspicion of falsifying information requested by the WOGCC.

**Missoula Bottling Company, Inc.:** Missoula Bottling is a mid-sized business located in Missoula, Montana, and serves as a Pepsi-Cola distributor. On January 3, 1995, Missoula Bottling formally agreed to pay EPA an administrative civil penalty of \$17,500 for failing to prevent fluid movement into or above an underground source of drinking water. EPA targeted this facility because it had discharged auto service related wastewater above the Missoula Valley Sole Source Aquifer. This UIC settlement was reached within eight weeks of Missoula Bottling receiving EPA's proposed administrative order, fully recovered economic benefit, and levied a substantial fine reflecting the gravity of the violation.

## TSCA

**Frontier Refining Corporation:** EPA issued a complaint to Frontier Refining Corporation alleging violations of the partial updating requirements of inventory update rule requirements promulgated pursuant to TSCA. This case was filed as part of a nationwide initiative against a large number of members of the oil and gas industry, all of whom failed to comply with the partial updating requirements by February 21, 1991. The parties agreed to a settlement which requires Frontier to pay a \$90,000 penalty. The penalty is comprised of a \$30,000 cash penalty payment and a supplemental environmental project which will cost \$120,000. A consent agreement reflecting these terms was filed with the Regional Judicial Officer requesting that it be incorporated into a consent order.

**Gary-Williams Energy Corporation:** EPA issued a complaint to Gary-Williams Energy Corporation, alleging violations of the partial updating requirements of inventory update rule requirements promulgated pursuant to TSCA. This case was filed as part of a nationwide initiative against a large number of members of the oil and gas industry, all of whom failed to comply with the partial

updating requirements by February 21, 1991. The parties agreed to a settlement which requires Gary-Williams to pay a \$28,800 penalty. A consent agreement reflecting these terms was filed with the Regional Judicial Officer requesting that it be incorporated into a consent order.

**Western Slope Refining Company:** EPA issued a complaint to Western Slope Refining Company, alleging violations of the partial updating requirements of inventory update rule requirements promulgated pursuant to TSCA. This case was filed as part of a nationwide initiative against a large number of members of the oil and gas industry; all of whom failed to comply with the partial updating requirements by February 21, 1991. A penalty of \$102,000 was proposed. The parties agreed to a settlement which requires respondent to pay a \$15,300 penalty, based on a documented inability to pay the penalty as proposed. A consent agreement reflecting these terms was filed with the Regional Judicial Officer requesting that it be incorporated into a consent order.

**Montana Resources Company:** Presiding Officer Smith has lodged a consent order relating to Region VIII's and Montana Resources' execution, a consent agreement whereby Montana Resources agreed to pay a civil penalty in the amount of \$10,000 and expend \$35,000 over the next year to implement a pollution prevention supplemental environmental project (SEP) involving early retirement of PCB transformers to resolve the above-captioned administrative complaint, which sought \$27,625 in civil penalties for alleged violations of TSCA §15 for illegal disposal of PCB and significant paperwork omissions.

## MULTIMEDIA

**Weld County Waste Disposal, Inc.; Amoco Production Company; and HS Resource, Inc.:** Three companies cleaned up oily ponds that have killed birds and contaminated soil and water near Ft. Lupton in Weld County, according to the U.S. EPA in Denver. Weld County Waste Disposal, Inc., a San Antonio, Texas, corporation, Amoco Production Company, and San Francisco-based HS Resources, Inc., immediately began a series of actions aimed at ending the threat posed by oily ponds at 4982 Weld County Road 35, east of Ft. Lupton.

On May 11, 1995, working with the USF&W, the Colorado Department of Public Health and Environment, and the Weld County Health Department, EPA issued an order to the companies specifying actions to correct problems at the facility. EPA issued orders to Amoco and HS Resources because they were the two largest contributors of waste during the last six years of operation.

Soon after the orders were issued, Weld County Waste Disposal decided to close the facility, and the companies proposed a number of short-term measures beyond those set out in the order. EPA agreed and modified the orders on June 7 to incorporate these measures.

**Rocky Flats IAG:** In July 1995, in resolution of 14 violations of the Rocky Flats IAG, DOE agreed to pay \$700,000 in cash penalties and to expend \$2.1 million for supplemental environmental projects, with both the cash and SEP components to be split evenly between EPA and Colorado. The settlement agreement required DOE to request a specific authorization and appropriation for payment of the \$350,000 cash penalty to EPA. DOE made this specific request, and in anticipation of receiving this line-item appropriation in its FY 1996 budget, sent a letter to the Treasury in late September 1995, requesting payment of this sum into the EPA Hazardous Substances Response Trust Fund.

Also in late September, DOE sent letters to effect the transfer of funds for all of the \$2.1 million set aside for SEPs. These transfers included approximately \$15 million for purchase of open space surrounding Rocky Flats. Most of these funds support an effort by Westminster/Jefferson County to establish a wildlife corridor between the Rocky Flats Buffer Zone and Standley Lake. These property acquisitions may also ensure the protection of habitat of the Preble's Meadow Jumping Mouse, which has been proposed for the Endangered Species List.

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## REGION IX

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**McColl Superfund Site:** On December 9, 1994, the district court approved a consent decree embodying a past cost settlement for the McColl Superfund site in Fullerton, California. Co-plaintiffs the United States and the State of California had reached agreement with four oil company defendants—Shell, Union, ARCO and Texaco, for the payment of \$18 million to cover costs incurred by the governments from 1980 to mid-1990. The governments' total claim for the ten-year period was \$25.7 million including interest. The governments had filed a motion for summary judgment on costs following the court's favorable summary judgment ruling on liability. The governments are pursuing further cost recovery against the site landowner, who has also been found liable, and will later be seeking recovery from all defendants for costs incurred since 1990.

**Dunsmuir Spill:** In July 1991, a Southern Pacific train derailed near the town of Dunsmuir in Northern California causing a tank car filled with the herbicide metam sodium to be spilled into the Sacramento River. Hundreds of thousands of fish were killed along with virtually the entire food chain of the river. Within 48 hours of the derailment, EPA issued a Section 106 order under CERCLA to oversee the removal action. EPA worked in cooperation with approximately 60 local, state and federal agencies to monitor the contamination as it flowed downstream and ultimately to develop a treatment method to dissipate the contamination once it reached the Lake Shasta reservoir.

Following the initial response action, EPA, with the Department of Justice, worked in conjunction with the State of California and other federal agencies to pursue a coordinated enforcement action to recover response costs, penalties, natural resource damages and other compensation from the PRPs. After extensive efforts to assess natural resource damages, in 1994, a joint settlement was reached totaling \$38 million. The settlement recovers approximately \$14 million for natural resource damages, to be managed by a joint federal and state trustee committee, and an additional \$5 million for on-going monitoring studies. Approximately \$13 million was for all of the agencies' response costs. EPA recovered all of its response costs as well as a \$500,000 penalty under Section 311 of the Clean Water Act. This penalty recovered approximately the statutory maximum and was one of the first to be assessed under the increased penalty authority enacted by the 1990 Oil Pollution Act.

Although the consent decree was entered by the federal District Court for the Eastern District of California, the

consent decree has not gone into effect because of an appeal by intervenors which is still pending before the Ninth Circuit Court of Appeals.

**KRDC, Inc., and Sundance International, Ltd.:** EPA negotiated an administrative settlement for violations of Clean Water Act permitting requirements at Vail Lake located in Riverside County, California. The defendants, KRDC, Inc., and Sundance International, Ltd., had discharged fill material through dumping and grading activities below the ordinary high water mark of Vail Lake without obtaining a Section 404 permit from the Army Corps of Engineers as required by the Clean Water Act. The discharges impacted approximately 22 acres that contained potential habitat for endangered and threatened species, including the least Bell's Vireo and Southwestern Willow Flycatcher.

This case was resolved with an administrative order on consent that required approximately 13.3 acres of on-site revegetation and restoration and approximately 16.25 acres of off-site mitigation. A conservation easement for the off-site acreage was deeded to the California Department of Fish and Game and protected a downstream portion of the same watershed. In addition, the defendants agreed to pay a \$60,000 administrative penalty to the EPA and a \$40,000 penalty to the County. This joint settlement was marked by a high level of cooperation and coordination between EPA, the County, California Department of Fish and Game, Army Corps of Engineers, and U.S. Fish and Wildlife Service.

**Jibboom Junkyard:** On March 17, 1995, the U.S. District Court for the Eastern District of California entered a consent decree in the Jibboom Junkyard cost recovery case. The consent decree requires six potentially responsible parties to reimburse the United States in the total sum of \$4,463,438, and the California Department of Toxic Substances Control in the total sum of \$711,562, for past costs incurred by the United States and DTSC at the Jibboom Junkyard Superfund site in Sacramento, California. The settlement amount represents approximately 90% of the past costs incurred by the United States and DTSC at the site. The six PRPs are Levin Enterprises (the successor in interest to the owner/operator, Associated Metals Company); Southern Pacific Transportation Company; Pacific Gas & Electric Company; the Sacramento Municipal Utility District; the U.S. Department of Defense; and the California Department of Transportation. To date, approximately

75% of the settlement amount has been paid. The balance will be paid in FY 1996.

The fourth partial consent decree for the Operating Industries Superfund site was entered by the U.S. District Court for the Central District of California on April 3, 1995. This consent decree, valued at more than \$60 million, resolved the liability of numerous municipal entities, including 14 cities, one county, five garbage disposal districts, and the California Department of Transportation (Caltrans), and 29 municipal solid waste transporters. These parties had been sued for contribution by settlers under prior consent decrees, for arranging for the disposal of municipal solid waste which allegedly contained CERCLA hazardous substances. Additional claims had been brought against the cities of Monterey Park and Montebello based on a theory of owner/operator liability, and against Caltrans for the construction of the Pomona Freeway through the site. The consent decree culminated a three-way negotiation between EPA, the municipalities and their transporters, and the prior settlers. A portion of the proceeds was retained by the prior settlers as reimbursement for litigation expenses, and approximately \$4 million was paid for state and federal past costs and to fund work under prior settlements. The balance of the settlement proceeds is being held in escrow to fund future cleanup efforts at the site, including final remedy.

**California Almond Growers Exchange:** California Almond Growers Exchange (CAGE) is a cooperative of almond growers. CAGE processes the almonds of its members at a processing plant located in Sacramento, California. At an adjacent facility, CAGE owns and operates a biomass fired cogeneration facility. Most of the biomass fuel for the cogeneration facility is almond shells from the processing plant. The cogeneration facility produces steam for the processing plant and electricity which is sold to the local utility company. The cogeneration facility emits carbon monoxide (CO) and oxides of nitrogen (NO<sub>x</sub>) into the atmosphere.

The Sacramento area is nonattainment for CO. Prior to EPA's enforcement action, the cogeneration facility emitted CO at a rate exceeding 6,000 tons per year and could, by itself, cause localized exceedences of the national ambient air quality standard for CO. A minor source permit issued by the Sacramento Metropolitan Air Quality Management District (the "District") limited the cogeneration facility to 99 tons per year of CO, but the District refused to enforce the limits contained in that permit. As a result of EPA's enforcement action, CO emissions at the cogeneration facility are less than 250 tons per year and the cogeneration facility is now a relatively minor source of CO for the area.

In addition, NO<sub>x</sub> emissions were lowered from approximately 180 tons per year before controls were added to approximately 135 tons per year after controls were installed. While the Sacramento area is in attainment for nitrogen oxide, NO<sub>x</sub> is a precursor for ground level ozone and the Sacramento area is in nonattainment for ozone. This enforcement action also resulted in CAGE paying a civil penalty of \$675,000.

**Witco Corporation (Oildale, CA):** Earlier this year, a district court entered a consent decree which successfully resolved an EPA multi-media enforcement action against Witco Corp.'s Oildale, California oil refinery. Witco has been disposing its wastewater into a deep disposal well, risking contamination of an aquifer that may have some long-term resource value. The wastewater recycling project will allow Witco to terminate this practice and to conserve large amounts of water (2,400 barrels of water per day) in a water-scarce region. This recycling project will serve as a model of innovative wastewater management for other refineries and will help EPA's efforts to promote water recycling and pollution prevention.

Witco is also: (1) continuing an on-going investigation of subsurface contamination at its refinery site resulting from leaking storage tanks and waste disposal in injection wells, (2) installing and maintaining a continuous emissions monitoring system for monitoring the H<sub>2</sub>S content of fuel gas burned at its refinery, and (3) installing and operating a scrubber to lower the H<sub>2</sub>S content of fuel gas burned at its refinery. Witco has also paid \$700,000 civil penalty for its violations of the Safe Drinking Water Act, the Resource Recovery and Conservation Act, and the Clean Air Act.

**Masonite Corporation:** Masonite Corporation has operated a hardboard manufacturing facility in Ukiah, California, since the early 1950s. Beginning in January 1989, Masonite modified its facility to add a new production line. Region IX determined that the new production line resulted in a significant net emissions increase for volatile organic compounds. Section 165 of the Clean Air Act, therefore, required Masonite to conduct an air quality review and obtain a Prevention of Significant Deterioration (PSD) permit prior to construction to determine if the modification would effect ambient air quality. A second violation arises from Masonite's exceedence of a permit limitation on fuel oil consumption. Region IX issued a notice of violation to Masonite in March 1992, and a compliance order in May 1992. Masonite installed a regenerative thermal oxidizer (RTO) in June 1992.

Region IX also negotiated a resolution of the enforcement action with Masonite. On January 17, 1995, the United States filed a civil complaint and concurrently lodged a consent decree requiring Masonite to pay a civil penalty of \$600,000, and providing for injunctive relief including continuous operation of the RTO pending issuance of a final permit. The citizen group objected to entry of the consent decree on the grounds that it did not take into account the issues on which the EAB remanded the permit and because the group believed that the civil penalty should be paid towards further pollution reductions rather than to the U.S. Treasury. Region IX and the Department of Justice are currently preparing a motion for entry of the consent decree which will respond to the citizen groups' comments.

**Minerec Mining Chemical:** EPA issued a precedential emergency order under Section 303 of the Clean Air Act terminating the Minerec Mining Chemical's production operations after the Minerec facility released a cloud of hydrogen sulfide gas into the environment in June 1994 resulting in approximately thirty-five individuals seeking medical treatment. The Minerec facility has a history of odor complaints, minor spills, and other incidents. State and local officials, however, could not act to shut down the facility or modify the company's operations because the facility is located on Tribal land.

After lengthy negotiations and Minerec's implementation of revised safety and production procedures subsequent to EPA's shutdown order, EPA amended the order to allow limited chemical production. The company, however, again released hydrogen sulfide gas in May 1995, resulting in sixteen individuals seeking medical care. At this time, EPA requested that the company voluntarily shut down production operations pending judicial arbitration to resolve the parties' disputes concerning ongoing Minerec operations, plant shutdown, and site remediation. Subsequent to arbitration proceedings in June 1995, U.S. District Court Judge Richard M. Bilby issued an order allowing Minerec to produce one chemical until September 30, 1997, subject to strict operational, safety, and air monitoring provisions. Further, Minerec is required to vacate the premises, have remediated any hazardous contamination, and have removed all improvements from the site by December 31, 1997. Finally, the order provides that any further releases of hydrogen sulfide gas into the environment shall result in an immediate, final, and complete shutdown of the plant.

## FEDERAL FACILITIES

**Department of Interior (DOI), Bureau of Reclamation (BOR) Yuma Facility:** In August 1995, Region IX issued

a complaint and compliance order to the BOR's Yuma Desalting Plant located in Yuma, Arizona, assessing over a \$250,000 penalty. The Yuma Desalting Plant engages in the desalination of Colorado River water. On March 6, 1995, EPA conducted an inspection of the facility. EPA inspectors observed approximately 61 containers (equal to thirty-five full 55-gallon drums) of hazardous waste at the facility stored in and around the storage area. The containers contained ignitable waste, corrosive waste, reactive waste, chromium, lead, etc. These containers had been stored on-site for up to 40 months without a permit. Considering these wastes were largely characteristic wastes that explode or ignite and that the storage area was subject to extreme desert heat and cold, the likelihood of release to the environment and danger to BOR employees is potentially significant.

**U.S. Army Schofield Barracks:** Schofield Barracks, headquarters for the 25th Infantry Division and the 45th Support Group, is located in Wahiawa, Hawaii. The Army operates numerous motorpools and maintenance shops located at the facility that generate wastes such as waste paint, waste solvents, and contaminated waste oils which are RCRA regulated hazardous wastes. On July 14 and 15, 1995, EPA and the Hawaii Department of Health (DOH) conducted a RCRA compliance evaluation inspection to evaluate compliance with RCRA regulations. EPA/DOH discovered numerous conditions throughout the facility indicating Schofield was illegally operating as a RCRA storage facility and violating numerous generator requirements. Moreover, EPA/DOH noted repeat violations already identified during earlier visits by DOH. On May 6, 1994, Region IX issued a complaint and compliance order assessing a \$543,900 penalty. On September 26, 1995, EPA settled the case with the Army for \$77,347 in civil penalties plus 4 SEPs worth a total of \$1,245,135.

**U.S. Army Johnston Atoll:** On March 13, 1995, Region IX issued a complaint and compliance order to the Army in response to a release of chemical nerve



gas from the incinerator at the Johnston Atoll Chemical Agent Disposal System (JACADS). The incinerator, located on Johnston Atoll in the Pacific Ocean, is the world's first full-scale, modern chemical weapons destruction facility, and was built as a prototype for eight proposed facilities on the U.S. mainland. Region IX inspected the facility in August 1994. As a result of the inspection and other information provided by the Army, the Region assessed a \$122,300 penalty for three violations.

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## REGION X

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### CLEAN AIR ACT

***United States v. Potlatch Corporation (D. ID):*** Consent decrees with Potlatch Corporation and Olshan Asbestos Removal Corporation were entered January 24, 1995, in the U.S. District Court for the District of Idaho to resolve alleged violations of the asbestos NESHAP regulations during demolition activities at the Potlatch Pulp and Paper facility in Lewiston, Idaho. Potlatch agreed to pay a civil penalty of \$250,000 and to implement an extensive internal asbestos control program at all its facilities nationwide. Olshan agreed to pay a civil penalty of \$353,800 and to not conduct any further NESHAP regulated asbestos operations. The total penalty of \$603,800 reportedly is the largest negotiated penalty to date for asbestos NESHAP violations.

***United States v. Nu-West Industries (D. ID):*** The Idaho District Court approved a consent decree resolving Region X's claims that Nu-West had violated the Idaho State Implementation Plan and new source performance standards at its fertilizer production facility in Conda, Idaho. The decree assesses a \$150,000 penalty, requires expenditure of \$3.5 million to reduce sulfur dioxide air emissions by 20,000 pounds per day and requires the recycling of tons of waste material.

***United States v. Daw Forest Product Company (D. ID):*** A consent decree was entered in the U.S. District Court for the District of Idaho settling Clean Air Act claims against DAW Forest Products Company, Huetter, Idaho. The allegations involved violation of the Idaho State Implementation Plan opacity limits. DAW agreed to a penalty of \$215,000. The case was part of a geographic initiative assessing effectiveness of the rule in the Idaho Panhandle. In response to our enforcement action, DAW installed controls reducing its particular emissions by about 100 tons per year.

### CLEAN WATER ACT

***United States v. Alaska Pulp Company (D. AK):*** EPA's action to collect penalties for violations of the Clean Water Act and of the terms of a prior consent decree by the Alaska Pulp Company settled for \$1,274,500.

***James Roland:*** For alleged Clean Water Act permit violations, James Roland, an Alaska placer miner, agreed to pay \$4,000 and to remediate previously mined land. Runoff from the mined land had reduced the water quality

of a creek. This is believed to be the first time that an administrative enforcement settlement agreement with an Alaskan placer miner includes performance of a supplemental environmental project. The SEP is valued at about \$11,000.

***Alaska Pipeline Service Company:*** For alleged Clean Water Act permit violations at its sewage treatment plant in Valdez, Alaska, Alyeska Pipeline Service Company agreed to pay \$25,000 and to undertake supplemental environmental projects at a cost of \$160,000. The SEPs include non-required training of the plant operators and the training of other non-certified sewage treatment plant operators in Alaska.

### EPCRA

***Leer-Gem Top and American Cabinet Concepts:*** EPCRA cases against Leer-Gem Top and American Cabinet Concepts were resolved. Leer-Gem agreed to pay \$5,782 and to replace surface coating guns with high volume low pressure spray guns that would reduce solvent use at its Clackamas, Oregon, facility in return for a credit of \$1,927 towards the assessed penalty. American Cabinet agreed to pay \$6,577 and to alter its Longview, Washington, facility to support a water base coating system, which would reduce its annual use of 25,000 pounds of xylene by approximately 75%, in return for a credit of \$3,288.

***Hopton Technologies:*** For alleged EPCRA reporting violations, Hopton Technologies, a resin manufacturer in Oregon, agreed to a penalty of \$84,700. Half will be in cash. The rest will be waived if the company installs a dust control scrubber system, which will substantially reduce fugitive dust and vapors, and an improved sump system, which will reduce discharges to the local sewage treatment system. The SEP is valued at over \$60,000.

***Patrick Industries:*** For alleged EPCRA reporting violations, Patrick Industries, a cabinet manufacturer in Oregon, agreed to a penalty of \$120,389 and installation of a finishing system to cure coating using ultraviolet light. This project will cost about \$304,000. It is expected to reduce by 95% air emissions of xylene, methyl isobutyl ketone and toluene by enabling the company to switch to low-solvent coatings.

***Cascade General:*** Cascade General, a ship repair facility in Portland, Oregon, agreed to a penalty of \$78,568 for alleged EPCRA violations. The company agreed to pay

\$39,284 in cash and install air filtration dust collector and solvent recovery systems and to switch to water-based paint to remediate the balance of the penalty. The SEP will cost about \$117,000 to implement. The dust collector will improve air quality in the facility by reducing dust in work areas. The solvent recovery system will reduce by 90% the amount of solvents discharged to the air by recovering batch solvents for reuse in the facility. For TRI reporting years 1988-1993, total releases were reported at 253,000 pounds.

**Nosler, Inc.** Nosler, Inc., a bullet manufacturer, agreed to a \$54,798 penalty for failing to file toxic chemical release reports. The amount of \$33,704 is to be paid in cash. The balance is to be remediated by eliminating the company's use of trichloroethylene in the production of lead slugs and by reducing the amount of lead dust generated during ballistic testing. Project costs are estimated at \$42,000.

**Gary Loomis, Inc.:** Gary Loomis, Inc., a sports equipment manufacturer in Washington, settled an EPCRA action for \$18,100. Half the penalty will be waived when the company installs a new technology distillation unit reducing its use of acetone by 90% and reducing air emissions by about 65 barrels of acetone a year. The SEP will cost about \$18,400 to implement.

## RCRA

**Alaska Pollution Control, Inc., Palmer, Alaska:** The Regional Administrator signed a consent agreement and consent order resolving RCRA violations at Alaska Pollution Control, Inc. (APC). APC operated a used oil processing plant, a contaminated soil incinerator, and hazardous waste boiler in Palmer, Alaska. APC agreed to pay a cash penalty of \$270,000. The facility has since closed its hazardous waste operations (storage and incineration), thus eliminating population exposure to pollutants emitted from its hazardous waste combustion activities. The hazardous waste generated by the facility will be shipped elsewhere for similar treatment.

**United States v. Taylor Lumber & Treating, Inc. (D. OR):** The U.S. District Court for the District of Oregon entered the consent decree between the United States and Taylor Lumber & Treating, Inc. The decree in this RCRA enforcement action requires that Taylor close an unpermitted surface impoundment, conduct facility-wide corrective action, and pay a civil penalty of \$70,000.

**Northwest Enviroservice, Inc. (WA):** EPA alleged Northwest Enviroservice, Inc. (NWES), violated RCRA by unauthorized storage and disposal of hazardous wastes in unlined pits and in containment sumps, failure to fully

monitor for air leaks from hazardous waste processing equipment, and improper management of hazardous waste containers which could result in explosions or releases to the storm drain. EPA determined the facility was no longer eligible to receive CERCLA wastes. The facility had a history of violations for federal and state hazardous waste, water, and PCB requirements, and concerns about local fire and worker safety issues.

During negotiations EPA and NWES entered into a Section 3008(h) agreement for site-wide investigation and clean-up of contamination. Independent of the enforcement action, the company sold the hazardous waste portion of the business and will only operate as a non-hazardous waste processing facility at the site. The company is closing out and decontaminating the hazardous waste portion of the facility.

## TSCA

**Northwest Aluminum Company:** For alleged TSCA violations, Northwest Aluminum Company in Oregon agreed to pay \$22,525 and to perform a project worth \$45,050 involving the early removal and disposal of PCB large capacitors or reclassification to non-PCB status of PCB-contaminated transformers. The project will eliminate the potential risk of PCB exposure to human health and the environment.

**Peoples Utility District, Tillamook, Oregon:** The Tillamook, Oregon, People's Utility District settled a TSCA PCB action for \$9,350; half of which will be waived if the utility completes early disposal of PCB equipment.

**Willamina Lumber Company:** Willamina Lumber Company of Oregon settled a TSCA PCB action for \$12,750, half to be paid in cash and the other half suspended if the company completes early disposal of the PCB equipment remaining at its facility.

**Caterpillar, Inc.:** Caterpillar, Inc., of Oregon resolved a TSCA PCB complaint by agreeing to a penalty of \$28,900, half to be paid in cash and the other half suspended in recognition of the company's early disposal of PCB equipment. The SEP will cost approximately \$32,000 to implement.

**Washington Department of Social and Health Services:** For violations of TSCA PCB regulations, the Washington Department of Social and Health Services agreed to a penalty of \$16,660. Region X agreed to mitigate half the assessed penalty in exchange for the early removal and

disposal of PCB transformers and PCB contaminated electrical equipment.

## MULTIMEDIA

*United States v. Ketchikan Pulp Company (D. AK):* A consent decree was entered in the U.S. District Court for the District of Alaska on September 19,

1995. The case involves Clean Water Act and Clean Air Act violations at the Ketchikan Pulp Company mill in Alaska. The Clean Water Act allegations include numerous violations of KPC's discharge permit and unpermitted discharges of red liquor, magnesium and cooking acid. The Clean Air Act part of the case involves violations of the new source performance standards. The air violations resulted in excess emissions of more than 1,600 tons of sulfur dioxide.

The consent decree requires KPC to pay a civil penalty of \$3,111,000 and to spend up to \$6 million to remediate contaminated sediments in Ward Cove. KPC also agreed to eliminate direct discharges from its water treatment plant, develop and implement a spill contaminant program, use state certified wastewater treatment operators and improve its monitoring and laboratory program. Specific to air, KPC agreed to conduct additional performance tests and conduct a facility mass balance for sulfur. Finally, KPC agreed to conduct a facility-wide multi-media environmental audit and pollution prevention study and to develop an operation and maintenance plan incorporating the results of the audit.



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## FEDERAL FACILITIES ENFORCEMENT OFFICE

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**Department of Interior (DOI), Bureau of Indian Affairs (BIA) Fort Defiance Facility:** On September 27, 1995, EPA issued a complaint and compliance order to the BIA for RCRA violations at the Fort Defiance, Arizona, facility, including: operating a storage facility without a permit, storing LDR waste beyond allowable deadlines, and failure to file a notice of hazardous waste activity. Total civil penalties assessed for the violations were \$269,019.

**RCRA/Naval Nuclear Propulsion Program:** In September of 1995, EPA transmitted five consent orders to the Naval Nuclear Propulsion Program (NNPP) for final negotiation and signature. On October 5 and 6, 1995, EPA and the NNPP signed all five consent agreements and compliance orders for facilities in Regions I, III, and IX in accordance with the requirements of RCRA as amended by the Federal Facility Compliance Act (FFCA) of 1992. The facilities involved were Knolls Atomic Power Laboratory-Windsor Site in Connecticut, Portsmouth Naval Shipyard in Maine, the Bettis Atomic Power Laboratory in Pennsylvania, the Norfolk Naval Shipyard in Virginia, and Pearl Harbor Naval Shipyard in Hawaii.

The FFCA also provided a limited three-year exemption from the assessment of fines and penalties for Section 3004(j) land disposal restriction storage prohibition violations involving radioactive mixed waste at DOE facilities. The FFCA specified that DOE must develop an inventory of mixed waste and develop comprehensive site treatment plans (STPs) for mixed waste. All the Naval Nuclear Propulsion facilities and DOE facilities that generate or store mixed waste were required to develop and submit STPs to EPA or an authorized state for approval. The STPs were required to: (1) identify the appropriate treatment facilities which will treat each mixed waste stream, and (2) develop schedules for treating each identified waste stream generated by the facilities.

The FFCA further provided that EPA or a state with the requisite RCRA authority had to approve the site treatment plan and issue an Order pursuant to Section 3008(a) of RCRA by October 6, 1995, that required adherence to and implementation of the approved site treatment plan. The failure of a facility to have an approved site treatment plan would result in the loss of sovereign immunity for fines and penalties.

**Groom Lake:** On May 19, 1995, the Director of the FFEO and the Deputy Assistant Secretary of the Air Force signed a memorandum of agreement ensuring that EPA has continued access to the operating location near Groom

Lake for administering environmental laws. Moreover, due to national security concerns, the Air Force agreed to provide reasonable logistical assistance to EPA. Finally, EPA agreed that any classified information obtained by EPA would be treated in accordance with applicable laws and executive orders regarding classified materials.

**U.S. Army Aberdeen Proving Ground (APG):** On June 19, 1995, a consent order was signed by the Army for violations of RCRA land disposal restrictions pursuant to a multimedia inspection conducted by NEIC at APG in June of 1993. The Army was assessed with a penalty of \$100,000 for the violations and reached a settlement amount of \$92,000 as part of the order.

**Altus Air Force Base:** On March 24, 1995, EPA issued a unilateral administrative order under Section 3008(h) for RCRA corrective action, including a RCRA facility investigation and corrective measures, if needed. Altus requested a hearing on the order. In July 1995, a hearing was held, with the Regional Judicial Officer (RJO) presiding. The Region awaits a recommendation by the RJO to the Regional Administrator.

**U.S. Army Picatinny Arsenal:** Region II completed enforcement activity on September 29, 1995 at the U.S. Army Armament Research, Development, and Engineering Center at Picatinny Arsenal, New Jersey, based on a July 1993 multimedia inspection. The Arsenal is on the NPL and has approximately 150 areas of concern.

**U.S. Army Natick Research Facility:** The U.S. Army has agreed to pay a \$49,000 penalty for mishandling hazardous wastes at its Natick Research, Development, and Engineering Center, Massachusetts. The facility specializes in food engineering, aero-mechanical engineering, and clothing, materials, and equipment engineering. The Army failed to properly identify wastes generated on site, and failed to label, date, and mark hazardous waste containers. The facility was recently named to the National Priority List.

**F.E. Warren Air Force Base:** As a result of contamination of ground water, surface water, and soils, F.E. Warren Air Force Base was listed on the NPL in 1990. EPA, Wyoming, and the Air Force subsequently signed a FFCA in 1991. In the fall of 1993, the Air Force violated the terms of the cleanup agreement. EPA discovered these violations in December and notified the Air Force that it was assessing stipulated penalties for failure to containerize and test sampling and field



investigation-derived wastes. The Air Force has agreed to undertake a supplemental environmental project implementing a recycling program for glass, newsprint, aluminum, plastics, and steel/tin cans and to pay a cash penalty of \$10,000.

**U.S. Army Rocky Mountain Arsenal:** The Army manufactured chemical weapons, such as napalm bombs and mustard gas, and conventional munitions, until the 1960s and destroyed weapons at the Arsenal through the early 1980s. In addition, the Army leased a portion of the Arsenal to the Shell Oil Company from 1952 to 1987 to produce herbicides and pesticides. The Arsenal has been described by courts as "one of the worst hazardous waste pollution sites in the country" due to extensive soil and groundwater contamination from more than 750 different hazardous wastes spilled or improperly disposed of in several areas. Three plumes of contaminated groundwater migrated off-site before intercept systems were installed, contaminating local wells and forcing EPA and local authorities to provide residents with bottled water. The Arsenal was placed on the NPL in 1987, and in 1989 a CERCLA cleanup agreement was signed between EPA, the Army, and other stakeholders. However, the State did not sign the agreement because of ongoing litigation with the Army and Shell.

On June 13, 1995, EPA's Region VIII Administrator, the Lieutenant Governor of the State of Colorado, the U.S. Army, the Shell Oil Company, and the U.S. Fish and Wildlife Service signed a conceptual agreement for the cleanup of the Arsenal. Based on the agreement, the Army estimates the cleanup will cost \$2.1 billion and will be

completed in about 2010. Prior to the agreement, the Army estimated cleanup would cost \$2.8 billion to \$3.6 billion. Once the cleanup is certified completed by EPA, the arsenal is to become a national wildlife refuge managed by the Fish and Wildlife Service.

**Army Materials Technology Laboratory:** EPA and the Army agreed on the terms of a federal facility agreement for the Army Materials Technology Lab (AMTL) in Watertown, Massachusetts. AMTL is a BRAC I, fast track base, slated for closure in September 1995. The Army and EPA agreed on ways to accelerate the schedule of the remedial process at this BRAC I base to reach a ROD date of August 30, 1996. The Army and EPA also agreed on new language in the FFA on the land transfer issue that addresses EPA's concern regarding protecting the ongoing cleanup and ensuring the activities of subsequent transferees do not interfere with cleanup efforts. The FFA is accompanied by a side letter from the Army reinforcing its commitment to ensure that the substance of protective language worked out with EPA is actually included in the appropriate land transfer documents. The AMTL site was placed on the NPL in May 1994. In anticipation of NPL listing and because it was a BRAC site, EPA became actively involved in the fall of 1993.

**Defense Distribution Depot Memphis, Tennessee (DDMT):** A three party CERCLA Section 120 cleanup agreement addressing cleanup at the DDMT NPL site was finalized during FY 1995. The three parties were EPA, the State of Tennessee, and the Defense Logistics Agency. DDMT encompasses 642 acres, four miles from Memphis's central business district in a mixed residential, commercial, and industrial land use area of Shelby County, Tennessee. This agreement, entered into under both RCRA and CERCLA authorities, was significant in that it gives the state authority to assess a penalty and if a dispute can't be resolved at the Regional level, the Regional Administrator may delegate resolution to the Assistant Administrator for Enforcement and Compliance Assurance.

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## OFFICE OF CRIMINAL ENFORCEMENT

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***United States v. William Recht Company, Inc., et al (M.D. FL):*** On January 3, 1995, the statutory maximum fine of \$1.5 million was levied on the William Recht Company, doing business as Durex Industries, and the company was placed on probation for five years for violations of RCRA that ultimately led to the deaths of two nine year old boys in Tampa, Florida. On June 13, 1992, the boys were overcome by toluene fumes emanating from a trash dumpster in which they were playing. The boys died as a result of their exposure to the toluene, which had been illegally dumped into the dumpster. A criminal investigation revealed that for many years it had been the routine practice of the William Recht Company to dispose of waste toluene in the facility's dumpster and to treat and dispose of hazardous waste on site without a permit. The company had been warned in 1988 by Hillsborough County officials to discontinue its pouring of waste toluene generated in Durex's urethane roller manufacturing process into its trash dumpster. William Whitman, Durex's plant manager, and Duane Whitman, shop foreman, were previously convicted by a jury on July 28, 1994, of knowingly treating, storing, and disposing of hazardous waste without a permit; and was each sentenced to serve 27 months in prison.

***United States v. Roggy (D. MN):*** F. George Roggy, owner of Fumicor, Inc., of Edina, Minnesota, was sentenced in St. Paul to five years in prison for unlawfully applying an unapproved pesticide, Dursban, on 19 million bushels of oats used by General Mills in the production of 160 million boxes of breakfast cereals, including Cheerios and Lucky Charms. The sentence followed Roggy's November 15, 1994, criminal conviction by a jury on one count of misusing pesticides, one count of adulterating food and 11 counts of mail fraud. Following the prison term, Roggy also received three years of supervised release, including 200 hours of community service in which he will lecture the community on the hazards of pesticides. Fumicor was under contract with General Mills to apply the approved pesticide Reldan on oats stored by General Mills at grain elevators in the port of Duluth/Superior. Roggy submitted invoices totaling \$166,120 to General Mills that showed he had used the approved pesticide Reldan to spray the grain. By knowingly making the illegal switch from Reldan to the unapproved and less expensive Dursban, Roggy saved over \$85,000. General Mills, which subsequently destroyed the grain, suffered a loss in excess of \$140 million as a result of the fraud.

***United States v. Boomsnub Corporation (W.D. WA):*** Edward Takitch, Vice President and General Manager, and William Trimbo, Operation Manager, of the Boomsnub Corporation, pleaded guilty to violations of RCRA and the Clean Water Act. The Boomsnub Corporation also pleaded guilty to unlawfully storing and disposing of chromium-contaminated hazardous waste, and disposing of hazardous waste into a State of Washington groundwater remediation system. The Boomsnub Corporation is an electroplating facility located in Vancouver, Washington, that has repeatedly illegally disposed of spent hexavalent chrome into the environment. As a result, the entire water supply for the City of Vancouver, and the Clark County area, has been imminently threatened. The Washington State Department of Ecology (WDOE) initiated a groundwater remediation project at the cost of more than \$3 million to the Washington State taxpayers. A Superfund emergency clean up action has removed more than 300,000 pounds of chromic acid from a 40-foot diameter hole dug beneath the Boomsnub facility and an underground network of pipes used to dispose of chrome contaminated waste. To date, six thousand tons of highly contaminated soils have been removed. Nonetheless, the plume of contaminated water continues to spread and increasingly threaten the water supply for the citizens of the Clark County area. An estimated \$10 million will be spent in an attempt to save the City of Vancouver's water supply.

***United States v. Adi Dara Dubash and Homi Patel (S.D. FL):*** Adi Dara Dubash was sentenced on July 24, 1995, after pleading guilty to smuggling 8,400 cylinders of the ozone depleting refrigerant gas dichlorodifluoromethane (known as "CFC-12") into the United States in violation of the Clean Air Act. He was sentenced to 22 months of imprisonment, 3 years of probation and a \$6,000 fine. Dubash's co-defendant, Homi Patel, was sentenced on July 25, 1995, for the same offenses. Patel was sentenced to 3 years of probation and was required to pay a mandatory special assessment. Beginning in October 1994, Dubash, Patel and other co-conspirators caused seven cargo containers of the CFCs to be shipped into the New York/New Jersey area in bonded status. They further arranged for five of the seven containers to be forwarded to Miami, purportedly for reshipment out of the United States.

***United States v. Irma Henneberg (S.D. FL):*** Irma Henneberg, manager of Caicos Caribbean Lines, Inc., was found guilty by a federal jury on August 30, 1995 on 34 counts of making false statements on customs documents used to illegally smuggle the refrigerant gas

dichlorodifluoromethane (also known as CFC-12) into the United States. Henneberg made false statements on shipping manifests filed with the U.S. Customs Service to document the purported shipment of 209 cargo containers of refrigerant gas allegedly shipped from Miami. The purpose of the false manifests was to conceal the smuggling of large quantities of CFC-12 into the domestic commerce of the United States.

***United States v. John Tominelli (S.D. FL):*** Customs broker John Tominelli pleaded guilty on June 23, 1995, to one count of violating the Clean Air Act by importing into the United States 11 cargo containers of the ozone depleting refrigerant dichlorofluoromethane, known as CFC-12, without possessing the consumption allowances required by the CAA; one count of smuggling CFC-12 into the United States; and one count of importing distilled spirits without paying the required taxes. Tominelli faces possible penalties including 15 years incarceration and fines in excess of \$750,000.

***United States v. Consolidated Rail Corporation (D. MA):*** The Consolidated Rail Corporation (Conrail) agreed to plead guilty to six Clean Water Act felonies and pay \$2.75 million in fines according to a plea agreement filed in U.S. District Court for the District of Massachusetts on July 24, 1995. The information charged Conrail with three counts in violation of the CWA, knowingly discharging a harmful quantity of oil to waters of the United States; knowingly discharging a pollutant without a permit; knowingly discharging a pollutant in violation of a limit imposed in a permit; and knowingly violating a NPDES permit condition requiring the submission of monthly discharge monitoring reports. Conrail operates a railroad switch and terminal facility in Allston, Massachusetts, where it refuels and repairs locomotives and freight cars. Conrail discharges yard drainage and groundwater from a groundwater recovery well to the Charles River. An oil and water separator (OWS) at the site is designed to treat the discharge prior to its entry into the Charles River. EPA's investigation of Conrail was triggered by a large discharge of oil to the Charles River on April 7, 1994, which created a soupy film thicker than a sheen over an area covering several hundred yards. The discharge resulted when the OWS at the site failed due to improper operation and maintenance. In addition, the system's audible alarms, which Conrail knew did not work properly, failed to sound. The investigation revealed that Conrail has been discharging without a permit since September of 1992 when its NPDES permit expired. When Conrail's permit was in effect, Conrail consistently failed to submit the necessary discharge monitoring reports which showed that Conrail had been discharging excessive amounts of oil to the Charles River in violation of the permit. On at least

one occasion, Conrail knowingly by-passed the OWS altogether.

***United States v. Herman W. Parramore (M.D. GA):*** On April 12, 1995, Herman W. Parramore, Jr. entered a plea of guilty to two felony counts charging violations of federal environmental laws. Parramore and his companies, Sogreen South Carolina, Inc., Sogreen Tifton, Inc., and Sogreen Corporation were indicted in September 1994, for violations of the Resource Conservation and Recovery Act (RCRA), and the Clean Water Act (CWA). Parramore pleaded guilty to storage of waste acids without a permit and illegally discharging untreated acidic substances into the Tifton public sewer system. Parramore represented to the State of Georgia and waste generators that he recycled hazardous wastes by using them to produce fertilizers and other agricultural products. Instead of producing fertilizer products, Parramore accumulated vast quantities of hazardous wastes on his property in violation of his storage permit.

***United States v. Ketchikan Pulp Company (S.E.D. AK):*** Ketchikan Pulp company (KPC) was sentenced on September 18, 1995, to pay \$3 million in fines and to serve five years of probation for one felony and 13 misdemeanor violations of the Clean Water Act. Pursuant to a plea agreement between it and the U.S. Government, KPC was ordered to pay \$1.25 million in fines within 15 days and allowed to defer \$1.75 million in fines, which may be offset during the term of probation by improvements to the company's wastewater treatment system. Ralph Lewis, President of KPC, appeared in court for the sentencing and acknowledged responsibility for KPC's actions and apologized to the court. In April 1995, Lewis appeared in court to enter a guilty plea on behalf of KPC to one felony count of knowingly discharging wastewater and removed solids from KPC's primary clarifier into waters of the United States over a five-day period in 1990 in violation of the company's NPDES permit, and to 13 misdemeanor counts of negligently discharging magnesium oxide (MgO) from sewer manholes into waters of the United States without an NPDES permit.

***United States v. Ronald E. Greenwood and Barry W. Milbauer (D. SD):*** The falsification of discharge monitoring reports (DMRs) by two former managers employed by the John Morrell Company located in Sioux Falls, South Dakota, led to both entering guilty pleas on January 6, 1995, to violating the Clean Water Act and committing other criminal offenses. Ronald E. Greenwood, former manager of Morrell's waste water treatment plant, and Barry W. Milbauer, former assistant manager and chemist, each pleaded guilty to information

charging them with conspiracy to commit offense or to defraud the United States in violation of the Clean Water Act.

***United States v. OEA, Inc. (D. CO):*** The District Court for the District of Colorado ordered OEA, Inc., to pay a fine of \$2.25 million and a witness/victims special assessment fee of \$1,200. During his sentencing statement Judge Babcock admonished the defendant that "RCRA is a fact of life and it is crucial that corporate America understand its responsibility to environmental problems and there is no reason why this country should not set an example for the world." This sentence was imposed after OEA, Inc., pleaded guilty to six felony counts in violation of RCRA on April 28, 1994. These violations include one count of illegal transportation of hazardous waste, three counts of illegal treatment of hazardous waste, one count of illegal disposal of hazardous waste, and one count of illegal storage of hazardous wastes.

***United States v. Percy King (D. KS):*** Percy King, owner and operator of the King's Truck Wash in Park City, Kansas, pleaded guilty on February 10, 1995, in the District Court of Kansas, to three counts of violating the Clean Water Act. King pleaded guilty to two counts of violating national pretreatment standards for introducing a flammable and toxic pollutant into the Park City, Kansas, sewer system and one count of knowingly discharging a pollutant into the sewer system which could result in personal injury or property damage to the POTW. Between March and August 1994, King's Truck Wash allowed trucks to wash out residual methyl acrylate, a flammable and explosive liquid.

***United States v. Gaston (D. KS):*** Donald Gaston, a former Montgomery County, Kansas, Highway Administrator, was sentenced in the Federal District Court of Kansas to six months of home detention, and a \$2,000 fine. He was also placed on probation for two years. Gaston had previously entered a plea of guilty on July 21, 1993, for failing to report the release of hazardous substances into the environment. The road painting activities of the Montgomery County (Kansas) Highway Department generated a variety of hazardous wastes. These hazardous wastes, along with various types of solid wastes, were kept in a storage and equipment shed known as "the Barn." Sometime after he became the County Highway Administrator, Gaston ordered the employees of both the county road crew and the county bridge crew to haul 11 drums of hazardous waste to the closed Montgomery County Landfill where trenches were dug (with the use of a county backhoe) and in which the drums were buried.

***United States v. David Albright (E.D. WI):*** A plea agreement and information were filed on August 10, 1995, charging David Albright, process engineer at Aunt Nellie's Farm Kitchens in Clyman, Wisconsin (Aunt Nellie's), with concealing material information in violation of federal law. In the plea agreement, Albright pleaded guilty to concealing information and filing false statements. Albright was responsible for preparing, signing and submitting monthly discharge monitoring reports (DMRs) to the Wisconsin Department of Natural Resources (WDNR) under the Wisconsin Pollution Discharge Elimination System (WPDES) permit. From approximately 1986 to April 1992, Albright submitted false and misleading DMRs to the WDNR relating to the biological oxygen demand (BOD) of cooling water which was discharged to Clyman Creek. The BOD of the cooling water exceeded Aunt Nellie's WPDES permit limits, but the DMRs submitted by Albright during the relevant time period understated the actual BOD levels.

***United States v. Attique Ahmad (S.D. TX):*** Attique Ahmad, owner of Spin N #12 Market, was sentenced on July 24, 1995, in Houston, Texas, for pumping over 5,000 gallons of water contaminated gasoline from his business' underground storage tank into both a gutter and the sewer system of Conroe, a city 50 miles north of Houston, in violation of the Clean Water Act. Ahmad was sentenced to 21 months of imprisonment, and was ordered to pay restitution to the City of Conroe and to the Texas Natural Resource Conservation Commission for over \$20,000 of expenses incurred in remediating the illegal discharges.

***United States v. Joel S. Atwood. (D. WA):*** Joel S. Atwood, former owner of Atwood Plastics, Inc., in Vancouver, Washington, was sentenced on March 17, 1995, for illegal disposal of hazardous waste, in violation of RCRA. Atwood was sentenced to 30 days of incarceration, and 90 days of electronically monitored home detention. He was also ordered to pay \$19,000 in restitution and placed under supervised release for three years. As a condition of his supervised release, Atwood was ordered to properly dispose of approximately 45 remaining drums of acetone and "still bottoms" (residue remaining after the drums have been emptied). The case began in September of 1993, when the Washington State Department of Ecology (DOE) received information that eighty 55-gallon drums of spent acetone were being stored at the Atwood Plastics facility. The company subsequently vacated the warehouse, leaving thirty-five 55-gallon drums of acetone waste inside, and eighty 55-gallon drums of acetone and acetone still bottoms on an adjacent parcel of rented property.

**United States v. Barker Products Company (N.D. OH):** Barker Products Company (Barker Products) and its owner and President, Hal H. Myers, were each sentenced on August 7, 1995, to two-year terms of probation for violations of the Clean Water Act. The firm was caught using an illegal bypass system to illegally discharge pollutants into the City of Cleveland's sewer system. Myers was not fined, but was ordered to perform 200 hours of community service for an organization dedicated to preserving clean water. Barker Products was required to provide 20 hours of waste treatment education to all of its 55 employees. The company was discharging electroplating rinses which contained heavy metals, including cadmium and zinc, into the sewer system.

**United States v. Mary Ellen Baumann, et al. (D. DC):** Mary Ellen Baumann, President of East Chem Corporation, of Hyattsville, Maryland, was sentenced on August 28, 1995, to five years of probation, 200 hours of community service, and more than \$5,000 in restitution for the unlawful disposal of toxic chemical waste. Patrick J. Hill, her co-defendant, was sentenced to five years of probation, six months of home detention, and more than \$5,000 in restitution. As part of the plea agreement, the company will also pay \$43,984 in restitution. Both Baumann and Hill pleaded guilty on June 12, 1995, to one count of unlawful disposal of hazardous waste, in violation of the Resource Conservation and Recovery Act. Hill, a warehouse worker employed by East Chem, was directed by Baumann to dispose of the hazardous chemicals that were of no use to East Chem. On June 1, 1994, Hill loaded the hazardous waste from East Chem's warehouse into his pickup truck and dumped it in a dumpster located in a low-income minority community. Baumann later paid Hill \$400 for disposing of the chemicals. Upon discovery of the hazardous waste, the residents of three nearby apartment buildings had to be evacuated to a hotel where they stayed at the expense of the District of Columbia government. The hazardous wastes were later removed.

**United States v. James W. Blair (E.D. TX):** On May 17, 1995, James W. Blair, Jr., President of Smith Tank and Equipment, Inc., located outside of Tyler, Texas, was sentenced on one count of directing the illegal burning and subsequent release of lead waste in 1992, and for failing to notify the National Response Center of the release. Blair received one year of probation and a \$10,000 fine payable in 30 days. In September 1992, Smith Tank employees were filmed by a local television station burning the contents of a storage tank.

**United States v. Lawrence M. Bordner, Jr. (N.D. IL):** Lawrence M. Bordner, Jr., sole owner of the now defunct electroplater, Bordner Manufacturing Company (Bordner),

located in Freeport, Illinois, was sentenced on January 31, 1995, to fifteen months of imprisonment for illegally disposing of hazardous electroplating wastes. The court imposed the sentence for one count of disposal of hazardous waste without a permit, in violation of RCRA. In addition, the court fined Bordner \$750, imposed 50 hours of community service as a condition for 2 years of supervised release. Over a 15-year period, Bordner's hazardous wastes were continually poured into a floor drain that discharged into an outdoor ditch, and dumped onto the ground outside the company's building. Wastes were also abandoned in open vats and drums in a decaying building after Bordner ceased operations in 1991. As a result, the U.S. EPA has been forced to expend \$750,000 in clean-up activities at the site to date.

**United States v. Michael A.J. Brooks (W.D. WA):** On November 21, 1994, Michael A.J. Brooks received three years probation, 150 hours of community service, and was ordered to pay \$5,604 in restitution for the illegal disposal of RCRA hazardous waste. This investigation was initiated in response to information provided by the State of Washington Department of Ecology (WDOE) regarding an illegal dumping of 27 drums of ignitable hazardous waste in a remote area of the Columbia Business Center in Vancouver, Washington. Investigators traced the drums to R.A. Gray and Purcell, Co., Inc., which had paid \$5,604 to Michael A.J. Brooks, an employee of the firm, Pacific Coast Environmental, Inc. (PCE), to transport the drums to an authorized treatment, storage and disposal (TSD) facility for proper disposal. During an interview with case investigators, Michael A.J. Brooks admitted that on April 13, 1994, he picked up the drums from Gray and gave Gray a \$500 discount in return for full payment in advance. Brooks said he requested that the check be made payable to Pacific Coast, omitting the "Environmental." He then drove to the Columbia Business Center and disposed of the drums.

**United States v. Cenex Limited, dba Full Circle (E.D. WA):** Cenex Supply & Marketing, Inc., doing business as Full Circle, a pesticide applicator and retail supplier located in Quincy, Washington, was sentenced on June 27, 1995, to one year of probation and ordered to pay a fine of \$10,000 for knowingly using trifluralin, a registered pesticide, in a manner inconsistent with its labeling in violation of the Federal Insecticide, Fungicide and Rodenticide Act. Cenex was further ordered to supply \$3,000 in chemicals to the City of Quincy and to report to EPA the existence of any impoundment containing pesticides at any Cenex location.

**United States v. T. Boyd Coleman (W.D. WA):** T. Boyd Coleman, President of Advanced Electroplating and

Finishing, Inc., was sentenced on July 28, 1995, to four months of home detention, three years of supervised release, a \$2,000 fine and 500 hours of community service. Coleman pled guilty on May 31, 1995, to the illegal treatment, storage, or disposal of hazardous waste, in violation of RCRA. Coleman was responsible for abandoning 100,000 pounds of cyanide waste in deteriorating tanks, drums and supersacks, along with forty thousand gallons of flammable liquids and shock sensitive materials. Sixteen supersacks, approximately 500 barrels and containers of hazardous waste and other hazardous chemicals, and deteriorating tanks of cyanide waste that were abandoned by the corporation, posed a significant threat to the health and safety of children in a nearby school, to this environmental justice community, and to the groundwater of the nearby Duwamish River.

***United States v. Cherokee Resources, Inc., et al. (W.D. NC):*** Fifty-one month sentences were imposed upon Corporate President, Keith Eidson, and Vice President, Gabe Hartsell, of Cherokee Resources, Inc., as the result of their convictions for violations of the Clean Water Act. The corporation was ordered to pay a fine of \$50,000. Cherokee operated a facility in Charlotte, North Carolina, which purported to reclaim waste oil for energy recovery and to treat and dispose of oil-contaminated and other industrial wastewater. The evidence showed that Cherokee would routinely discharge contaminated wastewater into the sewer system by running a hose into the employee toilet. The wastewater contained toxic heavy metals far in excess of the limits of Cherokee's pretreatment permit. Evidence also indicated that the defendants instructed employees to tamper with monitoring devices to avoid detection.

***United States v. Circuits Engineering (W.D. WA):*** Denney A. Renando, President and owner of the Circuits Engineering Corporation (CEI), and Correy Youngren, wastewater treatment operator, were sentenced on July 27, 1995, for discharging lead and copper into the local sewer system in violation of the CWA. Renando was sentenced to five months of imprisonment, five months of home confinement, a \$5,000 fine, and one year of probation which requires him to participate in a mental health treatment program. Youngren was sentenced to provide 50 hours of community service, one year of probation, and one month of home confinement for his role in the discharges. CEI, located in Bothell, Washington, previously paid a \$40,000 fine, and Renando, on behalf of the corporation, was sentenced to 500 hours of community service. The corporation has also spent thousands of dollars to update CEI's waste treatment operation. In February of 1994, agents learned that CEI was unlawfully discharging pollutants through a by-pass hose to avoid

detection by sampling and monitoring devices installed by the local water authority at CEI's facility.

***United States v. Eagle-Picher Industries, Inc. (E.D. CO):*** Roland Farmer, Vice President of Eagle-Picher Industries, Inc., pled guilty on September 26, 1995, on behalf of the corporation to an information charging Eagle-Picher with two counts of unlawfully failing to report to authorities the discharge from its facility of a reportable quantity of hazardous substances. Eagle-Picher was ordered to pay a \$300,000 fine on the same day. The discharge contaminated the Fountain Creek aquifer, which leads to U.S. navigable waters. Eagle-Picher's Colorado Springs facility produces high-tech nickel/cadmium batteries for aerospace, aircraft and other uses. The hazardous substance at the facility resulted from the manufacturing of these batteries. The substances include sodium hydroxide, potassium hydroxide, cadmium and nickel. In December 1989, a criminal search warrant was executed at the Eagle-Picher, Colorado Springs facility where documents were seized revealing that on two occasions in 1989, regulated quantities of hazardous substances were leaked into the groundwater that was a tributary to navigable waters.

***United States v. Daniel J. Fern (S.D. FL):*** On May 1, 1995, Daniel J. Fern, President of Air Environmental Research Services, Inc., was sentenced to 57 months imprisonment for three counts of making false statements in violation of the Clean Air Act, for four counts of mail fraud, and for one count of obstruction of justice. Air Environmental Research Services, Inc., was a Davie, Florida, based company engaged in asbestos consulting and abatement. Fern falsified air samples and filed false notices with the Metro Dade County Department of Environmental Resources Management regarding asbestos contamination at the Monte Carlo Ocean Front Resort Hotel, located in Miami, Beach Florida. Fern defrauded the hotel's insurance company by overstating the amount of asbestos contamination and by misinforming the insurance company about the existence of the asbestos abatement work needed at the hotel. Fern perpetuated a fraud of over \$500,000. An investigation of Fern's abatement and renovation work at the hotel showed that Fern did not have a valid Florida license for asbestos abatement, and forged the name of another individual on three different EPA required notices.

***United States v. Gary Merlino Construction Co. Inc. (W.D. WA):*** On March 21, 1995, the Gary Merlino Construction Company, Inc., entered a guilty plea to two Clean Water Act violations and was sentenced to pay \$70,000 in penalties and placed on probation for three years. The CWA violations, involving discharges without a NPDES permit, were actually committed by Stoneway

Sand and Gravel (Stoneway), a division of the Gary Merlino Construction Company. The case began on November 4, 1993, when Stoneway Sand and Gravel discharged process wastewater from one of their holding ponds to the Cedar River by means of a pipe that lead to a drainage ditch. The outfall from the process wastewater pond was controlled by a locked valve. The valve had been locked pursuant to an order from King County regulatory authorities who had documented a number of prior discharges from the pond. The November discharge was witnessed by Washington State Department of Fisheries biologists who were conducting salmon surveys on the river. King County regulatory authorities were notified and again ordered Stoneway to cease and desist from illegally discharging. The foreman of the facility locked the valve and again promised no further discharges. Investigation by CID special agents documented several additional illegal discharges of thousands of gallons of waste water from Stoneway to the Cedar River. Some of those discharges literally flooded neighboring residential property en route to the River. The Cedar River is a chief drinking water supply for the City of Seattle and surrounding areas. The Cedar River also supports a critical salmon population, which has been decreasing in recent years.

***United States v. Reginald B. Gist and William Rodney Gist (N.D. TX):*** Reginald Blair Gist and his son, William Rodney Gist, pleaded guilty on September 22, 1995, to three counts of an indictment charging them with unlawfully disposing of hazardous waste, unlawfully transporting hazardous waste, participating in a conspiracy to dispose of and transport hazardous wastes, and unlawfully discharging wastewater containing hazardous wastes in violation of RCRA. From 1986 through approximately January 1990, the Gists operated a zinc cyanide plating facility named High Tech Plating, located in Balch Springs, Texas. In January 1990, the Gists abandoned the facility and relocated to Forney, Texas, where they began operations as Metal Plating Systems (MPS), also a zinc cyanide plating facility. In September 1992, MPS ceased doing business at the Forney site and relocated to Terral, Texas. On December 6, 1994, the Gists were indicted for violating RCRA, the Clean Water Act, and Title 18 of the U.S. Criminal Code for the disposal of hazardous wastes at the High Tech Plating facility in Balch Springs.

***United States v. Roland Heinze (W.D. TX):*** A Federal Judge sentenced a San Antonio, Texas, waste-hauling company and its Vice President for violating the Clean Water Act and conspiracy. The company Vice President, Roland Heinze, was sentenced to serve twelve months and one day of confinement in a halfway house followed by two

years of supervised release, and a \$30,000 fine. The company, LDI of San Antonio, Inc., was sentenced to a fine of \$470,000. Heinze and LDI pled guilty to Clean Water Act and conspiracy charges on March 13, 1995. LDI was hired by San Antonio-area restaurants and businesses to collect and dispose of liquid wastes. LDI trucks collected the wastes from industrial and commercial grease, mud, and sand traps. Instead of disposing of the wastes in landfills as required by EPA regulations and a city ordinance, LDI discharged the waste into conduits and conveyances that led to sewer lines.

***United States v. James David Humphrey (S.D. TX):*** On March 29, 1995, James David Humphrey pleaded guilty to two counts of making a false statement under Section 1319(c)(4) of the Clean Water Act. In 1992, Humphrey was employed at Fox Testing Laboratory, Inc., in Harlingen, Texas, and was responsible for performing analyses of samples taken from the City of Edinburg's wastewater treatment system to determine the amount of mercury, cyanide, and other materials discharged by the city. Instead of actually performing the tests, Humphrey admitted to falsely reporting to Edinburg that the laboratory had performed the appropriate analyses.

***United States v. Donald Jarrell (S.D. VA):*** Donald Jarrell, owner and operator of a waste water treatment plant in Fairdale, West Virginia, was sentenced on September 6, 1995, to 30 months of imprisonment with one year of probation. The discharge of the sewage resulted from Jarrell's failure to upgrade the plant over time as required by his NPDES permit conditions. Jarrell abandoned the plant when it ceased to function, causing raw sewage to back up, to spill through manholes in the residential area, and eventually to discharge into a nearby stream. During the past year, EPA Superfund cleaned up the discharges and rebuilt the plant, and its ownership has been transferred to the county public health department.

***United States v. William Kirkpatrick (D. KS):*** William Kirkpatrick, a former superintendent in the City of Stafford, Kansas, pled guilty on June 20, 1995, to a CERCLA violation for the disposal and release of over one pound of polychlorinated biphenyls and failing to notify the appropriate authorities. The investigation revealed that during late summer or early fall of 1992, William Kirkpatrick ordered two City of Stafford employees to bury nine electrical capacitors containing PCBs in the city landfill.

***United States v. L-Bar Products, Inc. (E.D. WA):*** On April 25, 1995, Stanley O. McCurdy, Plant Manager for L-Bar Products, Inc., of Chewelah, Washington, pled guilty to one count of conspiracy to unlawfully dispose of



hazardous waste and one count of disposal of hazardous waste in relation to the 1991 burial of 79 drums containing spent sulfuric acid and sludge on L-Bar property in Chewelah. McCurdy, L-Bar and Paul Ortman, the General Manager were indicted on April 18, 1995, by a federal grand jury. This investigation began in January 1992 when EPA received information from a former employee of L-Bar Products, Inc., that numerous drums containing sulfuric acid and sludge were buried on L-Bar's premises. Further investigation revealed that Ortman knew that McCurdy had ordered an L-Bar employee to bury 68 acid-containing drums. Ortman filed several annual dangerous waste reports with the Washington Department of Ecology which failed to reveal that hazardous waste was stored on L-Bar's premises. In May 1992, a search warrant that was executed at the facility uncovered 80 buried drums. Several of the drums were leaking or had been crushed.

***United States v. Lee Engineering and Construction Company (M.D. GA):*** Grover C. Lee, President of Lee Construction and Engineering Company, entered a guilty plea on June 21, 1995, on behalf of Lee Engineering, to one count of illegally dumping hazardous waste without a permit, in violation of the Resource Conservation and Recovery Act. In 1990, Lee Engineering entered into a contract with AT&T to remove cables buried between Augusta, Georgia and Jacksonville, Florida. Lee Engineering stripped the cable and reclaimed the copper and lead, which was sold to various metal recycling companies. The cable had a black tar-like substance surrounding the outer layers of cable and an inside layer of lead. Lee Engineering decided that it would be easier to burn off the tar-like substance than properly dispose of it. The ash and residue resulting from the burning contained pieces of lead that accumulated around the burn site. Company employees were then directed by Kenneth Lee, Vice President of Lee Engineering, to load the ash onto trucks and to dump it into holes dug into the ground to conceal it.

***United States v. Mantua Manufacturing Company (S.D. TX):*** The Mantua Manufacturing Company of Houston, Texas, pled guilty and was sentenced on September 11, 1995, for failing to register with EPA as a hazardous waste generator, storing hazardous waste without a permit, and causing the transportation of hazardous waste without a manifest, all in violation of RCRA. The maximum fine of \$150,000 was immediately imposed. Mantua is a manufacturer of metal bed frames with its headquarters in Walton Hills, Ohio, and plants in Ohio, Florida and Houston. Federal and state officials first became aware of Mantua's activity in June 1995, when the plant manager hired a Houston area businessman, Clarence Holcomb, to pick up and dispose of eighteen 55-gallon drums of paint

sludge and spent solvent generated by the plant's operations. The drums were dumped at a vacant lot in a residential neighborhood in Houston. Area residents reported the dumping to the Houston Police Department, who then called in investigators from the Texas Natural Resource Conservation Commission and the EPA.

***United States v. Marjani, et al. (E.D. PA):*** Lalit Verma was sentenced to five years of probation on August 9, 1995, and fined \$25,000 following his guilty plea of June 17, 1995, to an indictment charging him with conspiracy to violate the asbestos NESHAP rules promulgated pursuant to the Clean Air Act. This investigation was initiated following a complaint in April 1992, received by the City of Philadelphia Air Management Services (AMS), that asbestos was being thrown out of windows from the Beury building, a fourteen-story commercial building located in Philadelphia. Investigation by EPA OCE Agents and other law enforcement agencies determined that Mohammed Mizani, a New Jersey real estate developer, had begun asbestos removal in the building as early as 1988, when he used homeless men, who resided at a shelter he owned and operated, to remove the asbestos. In January 1992, Mizani hired a crew of unqualified workers to continue the abatement job. When AMS inspectors were allowed into the building, large quantities of asbestos were discovered. It was evident that the asbestos had been dry stripped. Asbestos was strewn throughout the building and large quantities had been thrown down an elevator shaft.

***United States v. Kenneth D. Mathews (D. OR):*** On March 13, 1995, Kenneth Dean Mathews was sentenced in Portland, Oregon, after having pled guilty to one count of hazardous waste disposal in violation of RCRA. Mathews was an employee of the U.S. Forest Service at Winema National Forest located in rural Klamath County, Oregon, when he disposed of hazardous waste containing lead and chloroform in toilet vaults at the Oux-Kane recreational site in the Choloquin Ranger District located in Klamath County. His participation in the illegal manufacturing of methamphetamine led to the illegal hazardous waste disposal. The judge sentenced Mathews to five years of probation, three months in a community corrections center with no supervised release, and three months of home detention with an electronic monitor. The judge also sentenced Mathews to 150 hours of community service.

***United States v. Roy A. McMichael, Jr. (D. PR):*** A tugboat captain, Roy A. McMichael Jr., pleaded guilty in U.S. District Court in San Juan, Puerto Rico, on November 4, 1994, to negligently letting a barge under tow break loose and run aground, spewing more than 750,000 gallons

of oil into the waters off a popular Puerto Rican beach in January 1994. McMichael was the captain of the *Emily S*, a tugboat, when it left San Juan on January 6, 1994, towing the *Morris J. Berman*, a tank barge loaded with approximately 35,000 barrels of Number 6 fuel oil (a barrel contains about 42 gallons). Shortly after getting underway, the towing cable between the *Emily S* and *Morris J. Berman* parted. At the direction of McMichael, the crew of the *Emily S* fashioned a makeshift repair, but failed to install a protective thimble on the broken end of the towing cable to help maintain the repair and failed to obtain assistance in San Juan. McMichael placed Victor Martinez, the first mate, in charge of the *Emily S*, and ordered that the *Emily S* proceed at full speed to its destination, Antigua. A few hours later, after the rest of the crew had gone to sleep, Martinez discovered that the towing cable had parted again. Using searchlights and radar, the crew looked for the *Morris J. Berman*, but could not find it. Later, on January 7, the *Morris J. Berman* ran aground about 500 feet off Escambron Beach. The grounding pierced its hull, spewing more than 750,000 gallons of oil into the water. McMichael failed to notify the Coast Guard that the barge had broken loose and was adrift in an unknown location. According to the factual statement that was part of the plea, McMichael knew the towing cable on the *Emily S* was in poor condition and needed to be replaced, but, nevertheless, agreed to go to sea with the *Morris J. Berman* under tow.

***United States v. Micro Chemical, Inc. (W.D. LA):*** The illegal transportation of hazardous waste by a Louisiana pesticide formulation company, Micro Chemical, Inc., to an unpermitted disposal facility in violation of the Resource Conservation and Recovery Act, resulted in a \$500,000 fine, five years of probation, and compliance with corrective action measures contained in an EPA corrective action administrative order on consent. In March 1990, Micro Chemical transported hazardous waste from its facility to a field in Baskin, Louisiana—a location that did not have a RCRA permit. After its discovery, it was removed under the Louisiana Department of Agriculture's guidance. Micro Chemical has taken measures to stabilize and prevent the spread of pesticide contamination from the Micro Chemical facility site, as required by a RCRA 3008(h) corrective action administrative order on consent. The order will result in the removal of all contaminated soil at the site, remediation of contaminated ground water, and the remediation of all off-site contamination that has migrated into a drainage basin located adjacent to the site.

***United States v. Roger Mihaldo (W.D. MO):*** On April 5, 1995, the U.S. Attorney's Office in Kansas City Missouri filed a one count criminal information, pursuant to a plea

bargain, with the U.S. District Court regarding the illegal storage of hazardous waste by Roger Mihalko, a retired Program Manager for the Kansas City, Missouri Health Department. On March 16, 1993, Missouri Department of Natural Resources (MDNR) employee was attending a meeting of the Small Quantity Hazardous materials located in Kansas City, Missouri commonly referred to as "Fort Hazard." On March 19, 1993 the MDNR employee inspected the facility and determined that it was not in compliance with EPA regulations for the temporary storage of hazardous waste. During his inspection he noted that there were approximately 100 barrels of different types of waste being stored together. Some of the barrels were leaking, open and rusty.

***United States v. Steve Olson (E.D. MO):*** Steve Olson, owner of a commercial and residential building in the St. Louis, Missouri area, pleaded guilty on August 2, 1995, to failing to report the release of asbestos in violation of CERCLA after having illegally removed and handled asbestos from his building. Olson had planned to sell the building, but during an inspection by a prospective buyer, the buyer noticed asbestos on pipes in the basement. The basement was used by some of the occupants to do laundry and children played in it. The prospective buyer told Olson the asbestos would have to be removed prior to the sale of the building. Olson subsequently hired two individuals to remove the asbestos insulation. In the process, they contaminated the entire basement area, including the personal property of some of the occupants of the building. The asbestos insulation was put into containers that were not properly designed or marked for asbestos disposal, placed into a dumpster, and then transported to a landfill not permitted for asbestos disposal.

***United States v. Paul E. Richards (W.D. NC):*** Paul E. Richards, former employee of Cranford Wood Carving Inc., also known as JMP Wood Products, Inc., located in Newton, North Carolina, entered a guilty plea on July 7, 1995, for illegally disposing a listed hazardous waste without a permit, in violation of the Resource Conservation and Recovery Act. In 1993, Richards buried drums of formaldehyde on his employer's property in two different locations. He had been paid to properly dispose of the drums, but instead illegally buried the drums and pocketed the money. When he disposed of the drums, he removed the labels which stated that the drums contained hazardous waste. He has admitted to knowing that the drums contained formaldehyde.

***United States v. R&D Chemical Company, Inc. (N.D. GA):*** On October 6, 1994, R&D Chemical Company, a family-owned and operated business in Mansfield, Ohio, was sentenced. Brothers Noble and Oscar Cunningham

and their corporation were charged with conspiracy to transport hazardous waste from Ohio to an unpermitted facility in Georgia and with illegal disposal of hazardous waste. R&D Chemical accumulated a quantity of sludge from industrial operations on the company farm in Ohio. The sludge was a hazardous waste exhibiting the toxicity characteristic for barium. Nevertheless, R&D Chemical misrepresented the substance as being non-hazardous and made arrangements to sell it to a Georgia company, calling it "RD-344" to disguise it as a product. R&D Chemical leased a truck and trailer and transported approximately fifteen roll-off containers of the waste to a company in Atlanta. The containers were abandoned in the company's parking lot. In addition, R&D Chemical caused a portion of the hazardous waste to be disposed of at a non-hazardous landfill in Atlanta. The court sentenced R&D Chemical to five years probation, a \$200,000 fine and \$146,716 restitution to the Atlanta company where the waste had been abandoned.

***United States v. William Reichle and Reichle, Inc. (D. OR):*** On November 21, 1994, William Chester Reichle was sentenced six months home confinement and five years probation. The defendant and his company were sentenced to joint restitution in the amount of \$30,000 for clean-up costs, a joint fine in the amount of \$5,000, and 150 hours of community service. The above sentences came about as the result of an indictment which was filed against William Reichle and his company, Reichle, Inc., on August 24, 1993, by a Federal grand jury in Portland, Oregon, in which they were both charged with two counts of hazardous waste disposal. The investigation began in March 1992, when an unpermitted hazardous waste disposal site was discovered on BLM property in rural Clackamas County, Oregon, consisting of numerous 55-gallon drums of paint waste and spent solvent.

***United States v. Donald Rogers (D. KS):*** Donald Rogers, President and CEO of the Kantex Corporation, a printed circuit board manufacturing company, was sentenced on September 1, 1995, for illegally transporting hazardous waste without a manifest, illegal storage, and illegal disposal of hazardous waste in violation of RCRA, and for failure to notify the appropriate government agency of the release of a reportable quantity of a hazardous substance, in violation of CERCLA. Approximately 59 drums of hazardous waste were generated and transported from Kantex's facility during the research and development of the circuit board devices. The drums were illegally transported from Kantex's Olathe, Kansas, facility to an unpermitted facility in Kansas City, Missouri. Rogers failed to properly dispose of the hazardous waste after ordered to do so under CERCLA. Rogers received three

years of probation with a special condition that he be confined to his home for a six-month period.

***United States v. Rose City Plating, Inc. (W.D. OR)*** On May 4, 1995, Sharon Lynn LeBeck, Corporate Secretary of Rose City Plating, Inc., pleaded no contest to one count of hazardous waste disposal. Sharon LeBeck and her husband, Nicholas LeBeck had been charged on March 17, 1995, with 32 counts of unlawful disposal, storage, or treatment of hazardous waste, one count of supplying false information to an agency, and three counts of theft. A search warrant was executed at Rose City Plating, Inc., on September 29, 1994, when it was discovered that the LeBecks had disposed of thousands of gallons of hazardous waste by abandoning their plating operation.

***United States v. Richard Schuffert (M.D. AL)*** As a result of transporting 60 drums filled with hazardous paint wastes and solvents to an Alabama field, and abandoning them there, a used-oil hauler was sentenced on June 30, 1995, to a one year and one day prison term for transporting hazardous waste to an unpermitted facility in violation of the Resource Conservation and Recovery Act. Richard Schuffert, a used-oil hauler not licensed to transport hazardous waste, transported 60 drums of paint waste and solvents from a former ambulance manufacturing company. Schuffert hauled the drums and abandoned them in an Alabama field.

***United States v. Bruce D. Spangrud (D. OR):*** Bruce Douglas Spangrud, President of a water filter manufacturing company, was found guilty by a jury on September 20, 1995, of two counts of submitting false written statements in lab reports submitted to EPA. Pursuant to an earlier plea agreement, Spangrud had previously entered a guilty plea to one violation. Prior to sentencing, however, the government was advised that Spangrud was also suspected of having made false and misleading statements relative to issues involving restitution. As a result, the U.S. Attorney's Office withdrew its original plea agreement with Spangrud and provided him with the option to agree to a lengthier jail sentence or stand trial. Spangrud chose to stand trial, which commenced on September 20, 1995. Spangrud's company, Accufilter International, Inc., had produced and marketed worldwide a water filtration device that used silver impregnated charcoal. The silver portion of the filter controlled bacterial growth within the carbon filters, and is therefore classified as a pesticide requiring registration with EPA pursuant to FIFRA. At the time the violations occurred, allowable levels of silver in drinking water set forth by the Safe Drinking Water Act were 0.05 mg/l. To support his application for pesticide registration, Spangrud submitted data to EPA that reported 24 samples of silver

contained within water that was treated by the water filtration devices. The 24 samples were all below the threshold level of 0.05 mg/l. During the investigation, however, it was determined that of the 24 silver samples reported to EPA, 14 of the values exceeded the allowable levels by as much as ten times. Also, discovered at Spangrud's business office were copies of the fictitious laboratory reports as well as the true and accurate laboratory reports reflecting the higher silver values.

***United States v. Spanish Cove Sanitation, Inc., and John Lawson (W.D. KY):*** On October 25, 1994, John Lawson was sentenced to serve 6 months in prison followed by six months home incarceration for his conviction on five felony and nine misdemeanor violations of the Clean Water Act. His company, Spanish Cove Sanitation, Inc., was fined \$35,000. The Kentucky Department of Environmental Protection (DEP) had issued Lawson an NPDES permit for the operation of Spanish Cove Sanitation's wastewater treatment plant, which serves a residential subdivision in Louisville. Despite frequent citations (including a criminal complaint) from the local Department of Public Health and the Kentucky DEP for operational and equipment deficiencies at the Spanish Cove plant and other treatment plants operated by Lawson, Spanish Cove repeatedly violated effluent limitations for several years. On December 30, 1991, the Department of Public Health and DEP inspectors found that Spanish Cove was pumping water over a hillside with a submersible pump from a sludge bed. The water then flowed directly into a creek leading to the Ohio River. Samples taken revealed that the discharges contained up to 5,800 colonies per milliliter of fecal coliform bacteria, far in excess of the 400 colonies permitted by the NPDES permit. Additionally, on May 22 and August 4, 1992, Spanish Cove was not chlorinating its effluent, which also resulted in discharges of effluent with high levels of fecal coliform bacteria in violation of its NPDES permit.

***United States v. Yvon St. Juste (S.D. FL):*** Yvon St. Juste, a representative of the owners of the Honduran vessel M/V Barth, entered a guilty plea on August 28, 1995, to violating the Clean Water Act for directing the discharge of oil into the Miami River. St. Juste supervised the operations of the M/V Barth, a vessel designed to haul liquid cargo. The vessel delivered a load of cargo and diesel fuel to Haiti and apparently filled one of the tanks, which still contained some diesel fuel, with water for the return trip. Upon arrival in Miami, the ship was docked at a facility on the Miami River. St. Juste is charged with ordering the ship's engineer to discharge the diesel/water mixture into the river.

***United States v. Andrew Cyrus Towe, et al. (D. MT):*** On August 4, 1995, Andrew Cyrus Towe and the Powell County Museum & Arts Foundation pleaded guilty and were sentenced for illegal asbestos removal, a violation of the Clean Air Act. Towe was sentenced to one year of supervised release and a \$1,000 fine. The Powell County Museum & Arts Foundation's sentence included an \$8,000 fine. These sentences are the result of an investigation of a renovation project that took place in February 1990, at the Old Montana State Prison located in Deer Lodge, Montana. The Old Montana State Prison is a Museum administrated by the Powell County Museum & Arts Foundation. During the renovation, friable asbestos was improperly stripped from boilers, and left lying on the ground both inside and outside of the boiler house. The cost to the Montana Department of Health for the emergency clean up of the friable asbestos was \$58,000. Waters previously pleaded guilty on July 10, 1995, to environmental and other criminal violations, and was sentenced to serve one year of supervised release, and ordered to pay a \$1,000 fine.

***United States v. T&T Fuels (N.D. WV):*** Clyde Bishoff, employed as superintendent of two underground coal mines at T&T Fuels, Inc., located in Presto County, West Virginia, pleaded guilty on September 18, 1995, to one count of discharging acid mine drainage (AMD) in noncompliance with NPDES permit limits from April 1994 to August 1995, in violation of the Clean Water Act. The permit required T&T Fuels, Inc., to meet certain pH, iron, manganese and suspended solids limits which were not met as a result of the volume of AMD wastewater being discharged. Additionally, Bishoff admitted in his plea agreement that he conspired with other persons that have not been charged as of yet, from 1982 to August of 1995 to violate the CWA by diverting AMD from the two mines, called T&T #2 and T&T #3, prior to treatment and to discharge it via concealed pipes into waters of the United States.

***United States v. Warehouse Rebuilder and Manufacturer Inc. and Lonnie Dillard (D. OR):*** On March 28, 1995, Lonnie Dillard, owner and President of Warehouse Rebuilder and Manufacturer, Inc. (WRM), was sentenced after entering guilty pleas on December 21, 1994, to the unlawful storage of hazardous waste, in violation of RCRA. The case began in September 1993 with the discovery of approximately 40 leaking fifty-five gallon drums near a river bank in rural Oregon. Within days, EPA/CID agents identified a generator owned by WRM and served a search warrant at that facility in Grants Pass, Oregon. During the search warrant, the owner and President of WRM, Lonnie Dillard, confessed to the unlawful transportation and disposal of approximately 40

drums of hazardous waste, trichloroethane (TCE), over a two-year period.

**United States v. George E. Washington (M.D. LA):** George E. Washington, former employee of H.B.M. River Plant, Inc., a subsidiary of Hall Buck Marine, pleaded guilty on September 29, 1995, to a one-count indictment, charging him with causing the illegal discharge of approximately fifteen 55-gallon drums containing industrial waste into the Mississippi River. As a result of his guilty plea, Washington faces a maximum of three years of imprisonment and a maximum fine up to \$250,000. HBM previously pleaded guilty to a felony criminal information filed on June 28, 1995, which charged that HBM intentionally discharged contaminated wastewater into the Mississippi River without a permit. HBM agreed to pay \$440,000 in fines. HBM is a vessel and barge cleaning and repair facility which handles hazardous materials, including, benzene, toluene, xylene, chromium, mercury, lead, carbon tetrachloride, chloroform, and tetrachloroethylene.

**United States v. Paul Zborovsky and Jose Prieto (S.D. FL):** Jose Prieto and Paul Zborovsky were sentenced on September 6, 1995, for smuggling the ozone depleting refrigerant gas dichlorodifluoromethane (also known as CFC-12) into the United States. Prieto was sentenced to 26 months of imprisonment. Co-defendant Paul Zborovsky was sentenced to two months of imprisonment, two months of home detention and a \$5,000 fine. Zborovsky entered a plea prior to trial. Zborovsky pleaded guilty to one count of violating the Clean Air Act (CAA) by importing CFC-12 into the United States without the consumption allowances issued by the Environmental Protection Agency. He also pleaded guilty to one count of smuggling.

**State of Oregon v. Roger W. Evans, et al.:** On April 4, 1995, Surgichrome, Inc., a plating operation, and its President, Roger W. Evans entered guilty pleas to two informations, each containing two (2) counts alleging violations of Oregon State law for the unlawful disposal of hazardous waste in the first degree. As the result of his plea, Roger W. Evans was sentenced to serve five (5) years of probation, to pay \$30,000 in joint-restitution with the corporation payable to the complainant at the rate of \$500 per month, and 100 hours of community service. As the result of its plea, Surgichrome, Inc., was sentenced to serve five (5) years of probation, to pay the \$30,000 in joint restitution with Roger W. Evans, and 100 hours of community service to be performed by the President or any Vice President of the corporation. Consent searches of Surgichrome by CID and OSP investigators with the assistance of ODEQ technical personnel revealed that the

company had multiple leaks in its scrubber unit associated with its plating tanks. It was determined, however, that the main source of contamination was a leaking concrete sump which allowed chromium contaminated "drag-out" (used to re-supply material for the plating operation) to flow directly into an aquifer which served as the major source of drinking water for the neighbors of the facility and others located down-gradient from Surgichrome. Surgichrome was also illegally storing substantial amounts of hazardous waste on site since its opening in 1979.

**State of Washington v. Kevin L. Farris:** On May 3, 1995, Kevin L. Farris pleaded guilty to one count of malicious mischief in the first degree for illegally dumping numerous containers containing hazardous liquids on Larch Mountain in Vancouver, Washington. Several witnesses reported to police that they had seen a truck bearing the description of Farris's truck carrying loads similar to those found at the dump site heading in the direction of the dump site. The lands on the mountain are managed by the Washington State Department of Natural Resources. Two witnesses reported they sat some of the cans upright to prevent further spillage. During an interview, Farris admitted his involvement in the dumping and provided a written statement to investigators. He also admitted that he had known that his actions were wrong. On May 3, 1995, Farris pleaded FY 1995 guilty to the information filed in Superior Court, waived his right to a pre-sentencing investigation, and was subsequently sentenced to 14 months in prison.

**States v. West Indies Transport, et al.:** On December 19, 1994, after a trial in St. Thomas, U.S. Virgin Islands, a jury convicted W. James Oelsner, West Indies Transport Co., Inc., and WIT Equipment Co., Inc., of 15 separate environmental, visa fraud and tax fraud counts and a racketeering count. The defendants brought in a group of Filipino laborers after illegally obtaining "crewman" visas, for the purpose of doing drydock work on dead vessels as well as other shore-based operations. Once here, the foreign workers were required to live in shipping containers and to work 56-hour weeks for salaries that fell far short of the U.S. minimum wage. The defendants engaged in a myriad of environmental crimes including ocean dumping, violations of the Clean Water Act and violations of the Rivers and Harbors Act. The defendants were convicted of depositing raw sewage and pollutants from the drydocking operations within 150 feet of the Virgin Islands' municipal power plant desalinization intake pipes.

**United States v. Herbert Zschiegner:** Herbert Zschiegner, the former owner and operator of Zschiegner Refining Co., a Howell Township, New Jersey, precious

metals recovery operation, pled guilty on April 26, 1995, to illegally dumping chemicals into a Monmouth County brook and adjacent wetlands during the period from 1990 to 1992. Zschiegner admitted to violating three counts of the Clean Water Act by illegally discharging, without a permit, acids, chromium, copper, lead, nickel, silver, zinc and iron from his metals recovery operation into the Haystack Brook and surrounding wetlands between January 1990 and October 31, 1992. On September 28, 1995, Zschiegner was sentenced to 16 months imprisonment on each of three counts of violating the Clean Water Act, to run concurrently, and 3 years probation. As part of his plea agreement and sentence, Zschiegner is also required to pay \$650,000 to EPA as partial restitution for the costs incurred by the Agency in cleaning up the former business site.

**United States v. Patel:** On January 17, 1995, Mahendra "Mike" Patel was convicted after a jury trial in federal District Court for the Northern District of New York on one count of violating RCRA relating to illegal storage of a hazardous waste. Patel, the former president of MGM Textiles Industries, was indicted in 1994 for illegal disposal (by abandonment) of a hazardous waste, and for illegal storage of a hazardous waste. The indictment followed an abandonment of property in St. Johnsville, New York. Patel was sentenced on May 12, 1995, to five years probation and six months home confinement. In addition, Patel was ordered to make restitution to EPA, for its costs in cleaning up the MGM site, in the amount of \$415,082.11. In furtherance of this restitution, Patel was ordered to forfeit \$50,000 by June 1995. The remaining monies will be paid at the rate of \$2,500 per month.

**United States v. Southwest Trading Fuel Oil, Inc.:** On April 11, 1995, South West Trading Fuel Oil, Inc., pled guilty in federal District Court for Puerto Rico to one count of violating the Clean Water Act, by negligently discharging, or causing to be discharged, oil from a tank into Guaypao Bay, Puerto Rico. In addition, the corporation has agreed to pay a \$50,000 fine. On May 5, 1994, about 80,000 gallons of used oil spilled from a storage tank at the company's facility; approximately 5,000 gallons entered the pristine bay in Guanica, Puerto Rico. The remaining 75,000 gallons have sunk into the ground in front of the storage tank. The spill occurred when a thief tried to steal a motor from a storage tank within the former Guanica Sugar Mill, rupturing a hose and allowing the oil to spill out. The motor, which was left on the ground is used to pump used oil into the tank where it is stored. The thief was not caught. The tank, which was originally intended to hold thousands of gallons of molasses (utilized in sugar refining), had no dyke surrounding it. Its use for the storage of oil was therefore illegal.

**United States v. Peter Frank, et al.:** On April 4, 1995, after a trial in federal District Court for the Eastern District of New York, Noble "Buzzy" Darrow—one of five defendants in this matter—was found guilty of knowingly and willfully causing waste oil to be placed on board the Nathan Berman (a barge), though he knew that the barge did not have a Coast Guard Certificate of Inspection to carry oil. The remaining defendants were acquitted of all charges, and Darrow himself was also acquitted of other environmental crimes; however, the defendants face additional environmental charges on which they are scheduled to be tried starting in January 1996.

The prosecutions arose out of an investigation by EPA and other federal agencies of a September 27, 1990, oil spill that occurred in the Kill van Kull waterway, off Staten Island, New York. The spill was a result of the sinking of the barge *Sarah Frank*. The indictment alleged that the defendants sought to enrich the Frank Companies by, among other methods, the illegal disposal of sewage sludge and industrial waste; the illegal handling, storage and disposal of waste containing polychlorinated biphenyls (PCBs) and the illegal disposal of oil into United States waters. The conspiracy counts were severed from this first trial; they will be the subject of the separate trial mentioned above.

**United States v. Caschem, Inc.:** On October 21, 1994, Caschem Inc., a subsidiary of Cambrex Corporation, and its former regulatory affairs manager, Stuart Cooper, pled guilty to a one count information filed the same day related to the storage of hazardous waste without a permit, a violation of RCRA. The arraignment took place in U.S. District Court for New Jersey. As part of the plea agreement, Caschem Inc., will pay a \$1 million fine. On January 12, 1995, Stuart Cooper was sentenced to 2 years probation, a \$5,000 fine and 200 hours community service.

**United States v. Con Edison:** On August 19, 1989, an explosion of a Con Edison steam pipe in the Gramercy Park area of Manhattan released approximately 200 pounds of asbestos into the air. Many people had to be evacuated from their homes during the ensuing cleanup operation. In 1993, Con Edison and two corporate officers were indicted on various charges including conspiracy to conceal the release of asbestos in violation of CERCLA and EPCRA and Title 18, failure to notify the United States of the release in violation of EPCRA, failure to notify the community emergency coordinator and the state emergency planning commission in violation of EPCRA, and giving false statements and causing others to give false statements in violation of Title 18. After commencement of trial in October 1994, Con Edison and Constantine Papakrasas, an Assistant Vice President in charge of Con Edison's Steam

Operations Division, pled guilty. Con Edison pled to four counts, including conspiracy, EPCRA failure-to-notify, and two violations of Title 18. Con Edison was sentenced to three years of probation under the supervision of a court-appointed monitor, and fined \$2 million. Due in part to his failing health, Mr. Papakrasas was fined \$5,000.

**Mohammed Mizani, H. Lee Smith and Lloyd Smith:** On July 16, 1995, Mohammed Mizani, H. Lee Smith, and Lloyd Smith pled guilty to count one of the indictment charging them with conspiracy to violate the asbestos NESHAP rules promulgated pursuant to the Clean Air Act, 42 U.S.C. §§ 7401 *et seq.* Lee Smith was sentenced to one year probation and a \$50 special assessment on July 17, 1995, for his role in the illegal asbestos abatement. Mohammed Mizani and Lloyd Smith each face a maximum sentence of 5 years imprisonment and a \$250,000 fine.

On August 9, 1995, Lalit Verma was sentenced to five years probation, fined \$25,000 plus a special assessment of \$50. This sentence follows his guilty plea entered on June 17, 1995, to count one of the indictment charging him with conspiracy to violate the asbestos NESHAP rules promulgated pursuant to the Clean Air Act.

**George M. Tribble:** George M. Tribble, a former civilian supervisor at Fort A.P. Hill, Virginia, was sentenced January 24, 1995, to six months home detention, fined \$5,000 and ordered to pay restitution of approximately \$31,000 and to perform 250 hours of community service for removing asbestos-containing material from a building owned by his wife and burying it on post. Tribble pled guilty to one count of negligently endangering another person pursuant to a Clean Air Act misdemeanor. The \$31,000 in restitution covers the Army's expenses in cleaning up Tribble's disposal site.

**Kenneth Morrison:** On January 30, 1995, Kenneth Morrison entered a plea of guilty to two counts of a nine count criminal indictment for violations of the Clean Water Act, as amended by the Oil Pollution Act and the asbestos NESHAP regulations. On August 2, 1994, Morrison, a scrap metal salvager, was indicted by a federal grand jury on charges that he violated the CWA by discharging a harmful quantity of oil into waters of the United States and failed to notify authorities of the oil spill. Approximately 1,000 gallons of oil were discharged into the Schuylkill River during a tank salvaging operation conducted by Mr. Morrison at the former Celotex industrial facility located at 3600 Grays Ferry Avenue, Philadelphia, Pennsylvania.

**Buckeye Pile Line Company:** Buckeye Pile Line Co. pled guilty May 12, 1995, to a Clean Water Act misdemeanor and was sentenced to pay a fine of \$125,000 and \$100,000

in restitution in connection with the discharge of oil from a ruptured pipeline in 1990. The company pled guilty to negligently violating the CWA when a landslide occurred in the area of its pipeline, causing it to rupture. The rupture resulted in the discharge of significant amounts of oil into the Allegheny River in western Pennsylvania.

**Linden Beverage:** On September 8, 1995, a federal jury in the Western District of Virginia at Harrisonburg, found Linden Beverage Corporation, Inc., of Warren County, Virginia, and its President and Chief Operating Officer, Benjamin Rice Lacy, III, guilty of multiple violations of false reporting and violating Clean Water Act NPDES effluent limitations. An associated company, Freezeland Orchard Co., Inc., was found guilty of one count of falsifying CWA discharge monitoring reports. Lacy was found guilty of seven counts of falsifying DMRs and lab reports, and one count of knowingly discharging pollutants. Linden was found guilty of six counts of falsification and one count of knowing discharge. On the first day of trial, co-defendant Jeffrey Allen Morris, former plant manager, agreed to cooperate with the government pending acceptance into the U.S. Probation Office, Pre-Trial Division Program. Lacy faces a maximum sentence of three years in prison and a \$50,000 fine for the discharge count, and a two-year sentence and \$10,000 fine for each count of falsifying documents.

**Billy Lee Brewer:** Billy Lee Brewer, plant manager at the Dunbar, West Virginia, sewage treatment plant, pled guilty to negligently violating the Clean Water Act in connection with the discharge of untreated sewage into Kanawha River in violation of the facility's NPDES permit. The investigation began when citizens complained of smelling sewage in a wetland area adjacent to the Kanawha River. Inspectors for the West Virginia Department of Environmental Protection observed sewage slicks in the river. They then discovered that a lift station had been disabled, causing raw sewage to discharge to the wetland area and the Kanawha River rather than going to the treatment plant. The investigation revealed that Brewer had directed plant personnel to disconnect the power to the lift station. Brewer is scheduled to be sentenced on December 4, 1995, and faces a maximum jail term of one year, a fine of up to \$100,000 or \$25,000 per day of violation, or both.

**Kenneth Chen:** Kenneth Chen, a California-based real estate investor, was sentenced to 4 years in jail, 4 years probation and fined \$25,750 as a result of his plea to charges of illegal storage of hazardous waste at the Worsted Mills Complex in Cleveland, Ohio. Chen was also ordered to pay \$1.4 million in restitution to the City of Cleveland to repay clean-up costs. Numerous investors in

the property have been prosecuted in state court as a result of a joint state/federal investigation. Chen's firm, Premiere Enterprises, was also charged and sentenced to pay a fine of \$25,000.

**Summitville Consolidated Mining Co.:** A grand jury in Denver, Colorado, returned an indictment charging the Summitville Consolidated Mining Company and Thomas Chisholm, its former environmental manager, with violations of the Clean Water Act at what was once the largest producing gold mine in Colorado. The indictment charged that Summitville and Chisholm committed one count of conspiracy, knowingly discharging pollutants without Clean Water Act permits, knowingly and willfully submitting false statements to the EPA by not reporting the quantity and quality of discharges at or about the mine, and knowingly and willfully violating Colorado Department of Health permits. The Summitville Mine is now a Superfund site, listed on the EPA's National Priority List for cleanup.

**Louisiana Pacific Corp.:** The U.S. EPA and the U.S. Department of Justice announced that a federal grand jury in Denver, Colorado, indicted Louisiana-Pacific Corp., and two former employees of its mill in Montrose, Colorado. The indictment alleged that Dana Dulchery, the former mill manager, and Robert Mann, the former mill superintendent, engaged in a conspiracy to violate the Clean Air Act in connection with the operation of the Montrose facility. The indictment alleged in other counts that the corporation, Dulchery and Mann committed separate violations of the Clean Air Act by tampering with monitoring devices at the mill and by making false statements about emissions and production levels at the mill.

**Wheatridge Sanitation District and Mr. Lenny Hart:** On February 25, 1993, a federal grand jury in the District of Colorado returned an indictment charging Mr. Lenny Hart, Acting Superintendent of the Wheatridge Sanitation District (WSD), with six counts of false statements in accordance with the Clean Water Act, and three counts of illegal treatment and disposal of hazardous waste in accordance with RCRA. Ultimately, as a result of a plea agreement, the defendant pled guilty to three counts of making false statements in violation of the Clean Water Act, and the other counts were dismissed. Pursuant to the plea agreement the Wheatridge Sanitation District was fined \$35,000. The court found "relevant conduct" did occur, with respect to Lenny Hart, and that he bore responsibility as an aider and abetter. The court also found that "intent" did exist and as a result changed the sentencing level to 18 as opposed to 12 (the level in the plea agreement). Hart was sentenced to 27 months in federal prison. On January 12, 1994, Hart filed an appeal

with U.S. Tenth Circuit Court of Appeals stating that his sentence should have been based on a level 12 rather than level 18 as agreed to in the plea agreement. Hart contended that the district court misapplied the sentencing guidelines by imposing "relevant conduct" and "intent."

On July 28, 1995, the Tenth Circuit Court of Appeals issued an order and judgment which affirmed the district court's imposition of sentence in the case. Hart must serve 27 months in federal prison.

**State of California v. John Appel, et al.:** A jury at Ventura, California, convicted John Appel and his son Tony Appel of conspiracy and violation of the State Water Code for their unpermitted filling activities on San Antonio Creek in 1994.

John Appel owns Eager Beaver Tree Trimming Service and farmland along San Antonio Creek near Ventura, California. For several years he had disposed of the refuse from this business in the bed of the creek thereby avoiding landfill charges. Efforts to compel Appel to stop this activity by state Fish and Game authorities and by the Corps of Engineers were unsuccessful and resulted in a referral to EPA for enforcement in early 1994. In April 1994, Appel was issued an administrative order by Region IX requiring him to stop the discharges and to remove illegal fill.

Investigation showed that Appel continued to dump refuse and other fill into the river through the summer of 1994. In December 1994, Region IX obtained a preliminary injunction from the U.S. District Court requiring him to stop the discharges and Appel apparently complied. In heavy rains that winter,



Appel's fill affected the hydrology of the river in a way that caused neighboring properties to flood.

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