

ENFORCEMENT ANNUAL REPORT
Fiscal Year 2002

EPA New England
Office of Environmental Stewardship
One Congress Street, Suite 1100
Boston, MA 02114-2023
617-918-1700

**FY02 Annual Enforcement Report
Table of Contents**

Introduction

Achievements

Case Summaries

Enforcement Statistics

Contacts

INTRODUCTION

This report was compiled to supplement the FYO2 Annual Report of the Office of Environmental Stewardship. It contains more detailed information on the Region's enforcement programs, including highlights of achievements over the past fiscal year, summaries of important cases, enforcement statistics and contact information.

ACHIEVEMENTS

Over the past fiscal year (October 2001 - September 30, 2002), the enforcement office within EPA New England's Office of Environmental Stewardship achieved the highest penalty totals in nearly a decade. For the regulatory programs (non-Superfund), it negotiated 47 administrative penalty settlements and 13 judicial settlements totaling \$4.3 million. These settlements resulted in \$116 million of expenditures by violators to come into compliance. For the Superfund Program, there were 9 judicial settlements valued at approximately \$30 million.

The enforcement office also posted a record year in negotiating innovative environmental projects – activities not required by the law – in settling enforcement cases. More than \$9 million of Supplemental Environmental Projects (SEPs) were funded last year through enforcement settlements, many of them focused on public health problems such as indoor air pollution, asthma and childhood lead poisoning.

At the same time, more facilities than ever before voluntarily audited their own environmental operations or established programs to prevent, detect and correct environmental violations. Last year the region had 377 disclosures of environmental problems that were found and fixed due to self audits by facilities. The vast majority of the disclosures were at municipal facilities, primarily public works garages, and college/university facilities.

Among the highlights of EPA New England's enforcement and compliance assistance programs last year:

* **Strong Overall Enforcement:** The agency's overall enforcement presence remained strong with 527 inspections and the issuance of 47 administrative penalty settlements and 22 judicial settlements totaling \$4.3 million, a \$1 million jump from 2001 and the highest total since 1994. The region also referred 34 cases to the U.S. Department of Justice for civil prosecution, the highest number of referrals since 1990.

* **Strong Criminal Enforcement:** Cases handled by EPA's Criminal Investigation Division for New England led to 21 convictions with total sentences of 10 years incarceration, 28 years probation and fines of \$3.4 million. Among those cases was the conviction and sentencing of a New Hampshire apartment manager for violating federal lead paint disclosure laws – the first such criminal conviction in the country. The case was initiated after a two-year-old died from lead paint exposure in a Manchester, NH apartment.

* **Effective Superfund Enforcement:** EPA New England successfully used enforcement to support the Superfund program in all its facets – getting private parties to fund or perform cleanups of hazardous waste sites; completing “enforcement fairness” settlements with parties that contributed small amounts of contamination to sites or those with limited abilities to pay; and issuing agreements to facilitate the redevelopment of formerly contaminated sites. Highlights of the year include settlements that will ensure the cleanup of the Rose Hill Landfill in South Kingstown, RI and the Barkhamsted Landfill in Barkhamsted, CT, and our order requiring response action at the Sutton Brook Landfill in Tewksbury, MA. We also recovered federal

cleanup costs through litigation and settlements at the Toka Renbe site in Canton, MA; the National Oil Site in West Haven, CT; and the West Site/Hows Corner site in Plymouth, ME. To give finality to small-volume contributors, we settled with nearly 500 *de minimis* parties at the Beede Waste Oil site in Plaistow, NH, and two *de minimis* parties at the Fletcher's Paint Works Site in Milford, NH; and we entered into ability-to-pay settlements with about sixty parties at the West Site/Hows Corner site in Plymouth, ME. To encourage economic revitalization in Pittsfield, MA, we entered into a Prospective Purchaser Agreement with the Pittsfield Redevelopment Authority which will allow the redevelopment of property formerly owned and contaminated by General Electric.

*** Supplemental Environmental Projects:** In addition to increasing penalty totals, EPA NE's enforcement efforts led to a number of innovative settlements involving Supplemental Environmental Projects. EPA negotiated 22 SEPs last year worth more than \$9.5 million, more than double the \$4.7 million of projects done in 2001. (Violators and EPA negotiate the projects that will be done. Typically the projects result in reduced penalties.) Among the largest SEPs was an agreement by Waste Management of Massachusetts, a Boston trash hauler, to spend \$1.4 million to install diesel particle traps on 200 Boston school buses and purchase low-sulfur diesel fuel for the buses. The company also agreed to spend \$1.2 million to create a waterfront park near Chelsea Creek in East Boston. The case stemmed from Clean Air Act violations by the Boston trash hauler – specifically, illegal releases of ozone-depleting pollutants into the air by improperly crushing discarded refrigerators and air conditioners.

*** Combining Enforcement and Compliance Assistance:** EPA New England continued to target specific industry sectors for “dual-track” enforcement activity and compliance assistance – among those, the metal finishing industry, colleges and universities, municipal and state Departments of Public Works and Transportation, and facilities and construction sites needing stormwater runoff permits. Last year EPA NE's Assistance and Pollution Prevention Office conducted nearly 500 workshops, mailings, talks to industry groups and on-site visits, reaching an estimated 26,000 people.

*** Achieving Compliance Through Self Audits:** Another major focus last year was using EPA's audit policy to improve compliance in specific sectors – in particular, colleges and universities and municipal public works facilities. The audit policy is designed to encourage facilities to find and correct environmental problems themselves, so EPA can focus its limited enforcement resources elsewhere. Under EPA's audit policy, if a facility finds an environmental violation and immediately corrects it and discloses the violation to EPA, they are eligible for reduced or eliminated penalties. Last year the region had 377 disclosures of environmental problems that were found and fixed. More than 350 of the disclosures were at municipal facilities and college/university facilities. EPA New England accounted for more than 40 percent of all the audit disclosures found nationally last year under EPA's audit program.

*** Focus on Urban Environmental Problems:** Much of EPA NE's enforcement activity is targeted on the region's urban areas, where serious environmental problems effect larger populations. Last year the region inspected 64 properties affecting over 20,000 housing units for possible lead paint disclosure violations. Some of those inspections resulted in enforcement

actions, including a civil penalty action against a Somerset, MA-sandblasting company for failing to test and identify lead contaminated waste during and after renovations at a Fall River dance studio building and the unprecedented criminal conviction of the New Hampshire building manager for failing to notify tenants of possible lead paint threats. Alarmed by skyrocketing asthma rates in cities such as Boston, the region focused major attention on reducing diesel air pollution, including dozens of inspections last year to curb excessive idling by diesel buses. One of those cases resulted in a penalty action against the Massachusetts Bay Transportation Authority for idling violations at four of its Boston-area yards.

*** Protecting Water Quality:** With more than a third of New England's streams and rivers still unsafe for swimming, EPA NE focused much attention on improving compliance with stormwater runoff protection requirements. In addition to conducting 28 workshops to help municipalities and builders understand new stormwater rules, the region carried out dozens of inspections, most of them at construction sites. Among the biggest cases was a settlement with Boston Sand & Gravel, which agreed to pay a \$897,000 penalty for stormwater violations at several Boston-area facilities. The region also cited numerous builders in Massachusetts and New Hampshire for stormwater violations. EPA New England also negotiated enforcement settlements with half-dozen municipalities for illegal discharges from combined sewer overflows – among those, an agreement with Waterbury, CT that will result in \$8 million of sewer upgrades along the Naugatuck River.

*** Protecting Air Quality:** Many of EPA New England's largest enforcement cases stemmed from violations of the Clean Air Act. Among the largest cases: After testing and maintenance violations were found at numerous gas stations, Cumberland Farms agreed to spend more than \$2 million upgrading gasoline vapor recovery systems at 42 gas stations in New England, New Jersey and Pennsylvania. The Canton-based company also agreed to pay a \$90,000 fine; After violations were found at its bulk fuel storage terminal in New Haven, CT, Gulf Oil agreed to spend \$421,000 on capital improvements to its fuel storage tanks in Connecticut, Massachusetts, Maine, New Jersey and Pennsylvania; Last spring, EPA New England ordered the Mystic Station power plant in Everett to take immediate steps to reduce the amount of soot and other particulate pollutants coming out of its smoke stacks. The order led to new ignition equipment being installed on three of the facility's older generators and the use of a lower sulfur, cleaner-burning fuel oil for powering the generators. The order came after years of complaints by Greater Boston residents about Mystic's smoke, which contains particulate pollution that can trigger asthma and other respiratory illnesses.

CASE SUMMARIES

Waste Management of Massachusetts, Inc.

EPA settled a CAA case against Waste Management of Massachusetts, Inc. on April 26, 2002. EPA's original complaint alleged that the Hampton, New Hampshire company collected and crushed refrigerators and air conditioners in 1997 and 1998 which resulted in the release of ozone-destroying chemicals. The company will pay a \$775,000 penalty and will spend \$1.4 million to retrofit 200 Boston school buses with particle traps and to purchase ultra low-sulfur diesel fuel. This was one of the largest school bus retrofit efforts in the nation. Waste Management will also spend \$1.2 million to create park land on a 4 ½-acre site on Chelsea Creek in Massachusetts.

Frasier Paper

In FY02, EPA took a series of actions which allowed the sale and reopening of the pulp and paper mills in Berlin and Gorham, New Hampshire to proceed. The sale of the mills to Brascan/Frasier Corporation and their reopening were formally announced by the Governor of New Hampshire at a ceremony in Concord in May 2002. First, EPA issued a CERCLA "Comfort/Appropriate Care" letter to Brascan Corporation, the parent company of Frasier. The Comfort/Appropriate Care Letter clarified that EPA did not consider the mills and associated properties to be Superfund Sites and that the Agency did not intend to take response action at these sites. This letter, together with a letter from the State of New Hampshire, also responded to Brascan's request for guidance on the meaning of the term "appropriate care" under the new Brownfields Amendments. This letter was the second of this type that EPA had issued since the Brownfields Amendments passed on January 11, 2002.

Second, the region entered into a Consent Agreement with Frasier, in which the State of New Hampshire participated as an intervenor. Frasier agreed to correct all known regulatory violations that it would inherit from the previous owner of the mills on an agreed upon schedule. The actions to be taken by Frasier included installation of air pollution control equipment needed to meet EPA's cluster rule for pulp and paper facilities. The agreement also required Frasier to conduct compliance audits at the mills and to disclose any violations which were discovered by the audits under EPA's audit policy. The agreement ensured Frasier that it would not be penalized for those violations which it inherited, as long as it corrected the violations on the agreed upon schedule.

Finally, EPA entered into an agreement with Frasier and the State of New Hampshire for the cleanup of PCB contamination at an area of the Berlin pulp mill known as the T-1 Transformer Area. Under the agreement, the state agreed to take responsibility for the investigation and cleanup of the PCB contamination, in accordance with TSCA, the PCB regulations, and appropriate state regulations. Funding for the work was to come from a \$1 million fund set aside for this purpose by the U.S. Bankruptcy Court as part of the sale of the facility. If those funds are insufficient to pay for the full cleanup, the state will initiate action to procure the necessary

additional funds from its oil pollution and/or hazardous waste cleanup funds.

Cambridge Plating Co.

The Cambridge Plating Co., a Belmont, Massachusetts metal finisher, agreed to pay a civil penalty of \$65,000 and spend a total of \$357,000 on SEPs as part of a September 10, 2002 settlement of a CAA and Resource Conservation and Recovery Act (RCRA) enforcement case. The company violated hazardous waste handling requirements under RCRA and monitoring and reporting requirements under the CAA. Under the consent agreement, the company agreed to close the chrome plating portion of its operations by the end of 2002. This action will eliminate the company's air emissions of hexavalent chromium, a highly toxic air pollutant. The company also agreed to reduce air emissions of trichloroethylene (TCE), another toxic pollutant, by at least 40 percent and to attempt to replace TCE in all of its on-site uses with a less hazardous substance. Finally, the company agreed to implement a series of noise and odor controls.

Cumberland Farms

On June 20, 2002, EPA filed a consent agreement and final order (CAFO) settling a CAA administrative action against Cumberland Farms, Inc. The company, whose headquarters is in Canton, MA, operates a network of over 1,000 retail stores and gas stations, as well as petroleum, baking and grocery distribution operations in the northeast and Florida. EPA found that between 1995 and 2000, Cumberland Farms failed to comply with federally-enforceable state implementation plan regulations at gas stations in Massachusetts, Connecticut and Rhode Island. These regulations require testing, reporting, record-keeping, and maintenance of gasoline vapor recovery equipment. The company also failed to comply with a CAA gas dispensing flow rate requirement. The violations resulted in about 10 tons of excess emissions of gasoline. Under the settlement, the company will pay a cash penalty of \$90,000 and perform an SEP, requiring actual expenditures of \$2,023,370. Under the SEP, Cumberland Farms agreed to upgrade its vapor recovery systems by replacing a minimum of 156 existing "balance" dispensers with "vacuum-assist" dispensers at 42 gas stations in Connecticut, Massachusetts, Maine, New Hampshire, New Jersey, Pennsylvania, and Rhode Island. The new dispensers will improve control of volatile organic compounds and benzene during fueling of cars at the company's gas stations. The company will consider prioritizing the upgrade in environmental justice areas. In addition, Cumberland Farms will conduct testing of vapor recovery systems at its Massachusetts and Vermont gas stations more often than mandated under federal and state regulations.

Gulf Oil

Region I settled a judicial action on October 1, 2001 against Gulf Oil for violations of the federal Clean Air Act. EPA estimated that between 1994 and 1997, Gulf Oil released 63 tons of excess volatile organic compounds (VOCs) from fuel loading racks at its New Haven, Connecticut bulk fuel storage terminal. EPA alleged that Gulf operated the terminal for several years without the necessary state and federal permits, failed to test for emissions at the terminal, and failed to maintain emission control equipment. As part of the settlement, Gulf Oil will pay a cash penalty of \$40,000 and spend approximately \$421,000 in SEPs designed to reduce the company's VOC

emissions in the New Haven area other parts of the east coast. Those improvements also will be made to tanks in Pennsylvania, New Jersey, Massachusetts and Maine. The expected VOC reductions will amount to an estimated 25 tons per year for at least the next 15 years.

Mesiti Development Corp.

EPA settled an administrative case against the Mesiti Development Corp. of North Andover, Massachusetts on September 27, 2002. The company violated the CWA at a 112-acre residential subdivision project in Salem, New Hampshire by failing to obtain federal stormwater permits, to prepare federal storm water pollution prevention plans, and to take appropriate actions to control runoff from its construction site. EPA inspections at the site last year showed that the company had failed to maintain erosion controls leading to siltation deposits in wetlands and had the potential to discharge oil to storm drains that led to wetlands. Under the settlement, Mesiti agreed to pay a \$75,000 penalty.

Greenwich, CT

On March 5, 2002, EPA and the State of Connecticut settled a judicial action against the town of Greenwich, Connecticut for its violations of the CWA that included the discharge of raw sewage. The town had studied ways to prevent sewage from overflowing into surface waters, but had not implemented the repairs necessary to prevent the overflows. As a result, there had been occasional sewage overflows from areas other than the wastewater treatment plant into Greenwich Harbor, Cos Cob Harbor and Long Meadow Creek. The overflows were caused by structural failures, inadequate maintenance and extra water that entered the town's sewer collection system during high tide or storm events. On two occasions, over one million gallons of untreated or inadequately treated sewage flowed into these waters. The town agreed to pay a civil penalty of \$285,000 and to complete a comprehensive study of, and make repairs to, its sewer system.

Winchendon, MA

On July 29, 2002, the Massachusetts Federal District Court entered a consent decree settling claims against Winchendon, Massachusetts, for CWA violations. The United States' complaint, filed simultaneously with the consent decree, alleged that discharges to the Millers River from both Winchendon's 0.5 million gallon per day enhanced secondary wastewater treatment plant and at least one sanitary sewer overflow point in the collection system violated the town's NPDES permit. The Commonwealth of Massachusetts intervened in the case and was a party to the settlement. Under the decree, the town of 9600 residents agreed to pay a \$45,000 penalty (\$30,000 to the U.S. and \$15,000 to the Commonwealth) and to undertake a number of construction projects to upgrade and expand its wastewater treatment plant and rehabilitate its collection system totaling approximately \$15 million.

Waterbury, CT

EPA lodged a consent decree in U.S. District Court on September 5, 2002 that resolved CWA

and CAA actions against the City of Waterbury, Connecticut. EPA alleged that the city had unauthorized discharges from its sewage collection system. On over 100 occasions in the past eight years, the collection system overflowed into the Mad and Naugatuck Rivers and their tributaries. These overflows likely resulted from inadequate collection system maintenance by the city. Several of the incidents resulted in millions of gallons of sewage being released, contributing to poor water quality in the Naugatuck River. The complaint also alleged that the city improperly disposed of household appliances containing chlorofluorocarbons and other ozone-depleting chemicals. In the settlement, Waterbury agreed to pay a \$350,000 penalty and implement \$8 million in sewer upgrades.

Municipal Wastewater Treatment Plants

In April 2002, EPA filed complaints against nine municipal wastewater treatment plants and drinking water treatment plants in New England for their failure to complete required oil spill prevention measures under a Spill Prevention Control and Countermeasure Plan (SPCC) that all facilities storing significant amounts of oil are required to create and implement. Because of the limited amount of oil stored and the existence of containment at the facilities, EPA offered to settle the cases for a significantly reduced penalty. Throughout the spring and early summer of 2002, EPA settled these actions against East Windsor, Manchester, and Meriden, Connecticut; Attleboro, Danvers, Fall River, and Upper Blackstone Water Pollution Abatement District, Massachusetts, Brewer, Maine; and Pawtucket, Rhode Island. Final penalties ranged from \$2000 to \$4000 per facility. Some of these communities were in environmental justice areas.

Boston Sand & Gravel Co., Inc.

On August 13, 2002, the U.S. entered a Consent Decree in federal district court settling CWA claims against the Boston Sand & Gravel Co., Inc. of Charlestown, Massachusetts. The company violated NPDES, storm water, and SPCC requirements at its facilities in Charlestown, South Boston, Everett, Weymouth, and South Dennis, Massachusetts. The company paid a cash penalty of \$897,983 and will perform an SEP at its Charlestown facility requiring actual expenses of \$455,000. The SEP is a wastewater recycle project that will reduce the company's discharges of wastewater to the Millers River and will conserve potable water by recycling waste concrete slurry.

Rolf C. Hagen (USA) Corp.

EPA settled a Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) administrative action against the Rolf C. Hagen (USA) Corporation of Mansfield, Massachusetts for \$204,600 on February 28, 2002. The company sold and distributed five unregistered pesticide products on thirty-six occasions, sold or distributed an improperly branded UV sterilizer on three occasions and produced a pesticidal device in an unregistered establishment. The settlement of this action was the largest FIFRA settlement nationally.

Brown University

On November 20, 2001, the Region settled an administrative action against Brown University of Providence, Rhode Island. Brown violated RCRA and the SPCC requirements of the CWA. The settlement required Brown to pay a cash penalty of \$79,858 and to perform an SEP valued at \$285,000. For its SEP, Brown was to conduct the following activities at its own school and at four Providence high schools: (1) convert the chemistry laboratories from traditional experimentation to “microscale” chemistry, where much smaller amounts of chemicals are used to train students; (2) implement purchasing and inventory tracking systems to have better control over the number of chemicals used and the hazardous wastes generated; and (3) establish a fund to perform a one-time “cleanout” of the high schools in order to reduce potential environmental risks currently in existence. On April 17, 2002, EPA demanded payment of \$6500 in stipulated penalties from Brown University for its late payment of the cash penalty component of its settlement.

Katahdin Analytical Services, Inc.

On September 20, 2002, the Region settled an administrative complaint against Katahdin Analytical Services, Inc. of Westbrook, Maine for hazardous waste storage and handling violations pursuant to RCRA. Katahdin is an environmental testing laboratory, a small business and minority-owned. The most environmentally significant RCRA counts were based on Katahdin’s storage of hundreds of containers of hazardous waste for greater than 90 days without a permit. Numerous containers of the hazardous waste were stored for over four years without a permit. Katahdin is a supplier of analytic services to this Region (through contractors) and the Maine Department of Environmental Protection. EPA-HQ’s Suspensions and Debarment Division issued a “show cause” letter that gave Katahdin ten days to provide information as to why an immediate suspension should not have been imposed. A meeting of the company, the regional case team and the debarment official occurred at EPA-HQ on April 23 where a settlement of all injunctive issues (our action and the debarment official’s) was reached. Please note that the Region has no evidence to suggest that Katahdin’s violations adversely affected the accuracy of its analyses. The company will conduct facility-wide multimedia audits for five consecutive years following filing of the CAFO and will be assessed a penalty totaling \$12,500.

Maine Turnpike Authority

On September 18, 2002, the Region settled an administrative action against the Maine Turnpike Authority (MTA) for violations of RCRA and the SPCC requirements of the CWA. MTA violated several RCRA hazardous waste handling and storage regulations at its maintenance facilities in Gardiner, Litchfield, Gray, Kennebunk and South Portland, Maine. The company also violated Section 311 of the CWA by failing to prepare spill prevention, control and countermeasure plans for its South Portland maintenance facility. MTA will pay a total of \$100,000 in penalties and will purchase \$184,186 worth of emergency response equipment for a new emergency hazardous materials spill response team to be established in southern Maine.

Natick DPW

On November 19, 2001, the Region issued a CAFO resolving an enforcement action filed against

the Town of Natick, Massachusetts, for violations of RCRA and the SPCC provisions of the CWA. Natick agreed to pay a cash penalty of \$56,775 and will spend at least \$211,200 on the performance of two SEPs.

The violations cited in the complaint involved the mismanagement of hazardous waste at the town's department of public works facility, the illegal storage and disposal of numerous containers of hazardous waste in a shed next to its recycling center, and the failure to develop an SPCC plan. For its SEPs, Natick will develop and implement a town-wide pollution prevention plan and an environmentally preferable purchasing plan, both of which are designed to reduce the amount of harmful chemicals used and generated by the town. In addition, Natick will conduct a site assessment of a contaminated area at Pegan Cove Park, a park owned by the Massachusetts Department of Environmental Management that abuts Lake Cochituate and is located a few miles from Natick center. Natick hopes that the site assessment and eventual remediation of the contamination will lead to expanded use of the park.

Franklin Pierce Law Center

On September 30, 2002, the Region settled an administrative complaint against the Franklin Pierce Law Center of Concord, New Hampshire. The school violated the Disclosure Rule, Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act by failing to conduct any of the notification activities required for lease transactions involving its five houses that contained residential units. Franklin Pierce will pay a \$22,374 cash penalty and will expend at least \$103,265 to fully abate lead-based paint in all student housing at the school.

New England Confectionery Company

On August 2, 2002, the region settled an administrative action against the New England Confectionery Company (NECCO) for violations of Section 112(r) of the Clean Air Act (CAA.) EPA's complaint alleged that NECCO violated the CAA by failing to file a Risk Management Plan (RMP) for the company's candy factory located at 254 Massachusetts Avenue, Cambridge, Massachusetts. The RMP program was created to help prevent accidental releases of hazardous chemicals from stationary sources and minimize the consequences of accidental releases that do occur. NECCO was required to prepare and implement a "Program 3" RMP, the most comprehensive plan, because of the amount of anhydrous ammonia in use at the plant. NECCO will pay a civil penalty of \$26,910 and complete a supplemental environmental project (SEP) that will involve the installation and operation of an ammonia diffusion system at the company's new facility to be built in Revere, Massachusetts.

Danbury, CT

Region I settled an administrative case on April 1, 2002 with the City of Danbury, Connecticut for violations of the CAA. EPA's complaint alleged that the city violated Section 112(r) of the CAA by failing to submit an adequate "Program 3" RMP and for not implementing all of the prevention program requirements. The RMP was required because of the amount of chlorine that the city used at its drinking water treatment plant, the West Lake Filter Plant. Under the

settlement, the city will pay a penalty of \$10,450 and undertake an SEP where it will convert the West Lake Filter Plant's chlorine disinfection system to a sodium hypochlorite disinfection system. This conversion will benefit the public health and the environment by eliminating the use of chlorine.

Beede Waste Oil

On May 31, 2002, EPA issued approximately 900 settlement offers to a second group of *de minimis* Potentially Responsible Parties (PRPs) at the Beede Waste Oil Superfund Site in Plaistow, New Hampshire. 415 parties accepted this offer and the settlement is now final. This settlement will add about \$4.7 million to the Beede Special Account. \$1.6 million had previously been added to the account through *de minimis* settlements in 2001. The Beede site, located in a residential area of the town, is heavily contaminated as a result of several waste oil-related operations from the 1920s until 1994. The settlement includes a liability release from the State of New Hampshire for cleanup costs and contribution protection from third-party lawsuits. These settlements represent a continued large-scale effort by EPA to provide many small volume contributors to the site with an opportunity to settle directly with EPA as soon as possible.

General Electric Company

On April 30, 2002, the Prospective Purchaser Agreement (Agreement) between the U.S., on behalf of EPA, and the Pittsfield Economic Development Authority (PEDA) became effective. The Agreement is closely tied to the judicial Consent Decree which requires the General Electric Company (GE) to respond to PCB contamination in Pittsfield, Massachusetts and the Housatonic River with remediation, cost recovery and natural resource restoration. GE, the City of Pittsfield, and PEDA agreed on a \$45 million redevelopment package that includes, among other things, transfer of 52 acres of property from GE to PEDA. The Agreement provides that, in exchange for consideration, PEDA will receive a release from certain liability relating to existing contamination on the property.

In addition, on August 2, 2002, EPA and GE entered into an agreement for recovery of \$2,351,542 in costs incurred by EPA in implementation of the site consent decree. Also, in a separate cost recovery matter, GE has challenged in U.S. District Court EPA's application of the revised CERCLA indirect cost calculation methodology to the GE-Housatonic Site. In November 2001, EPA issued an administrative decision on the dispute, which GE appealed to the Court. The parties have since filed pleadings and held oral argument. No Court decision has been issued to date.

West Site/Hows Corner

On December 3, 2001, the U.S. District Court for the District of Maine entered a Consent Decree which resolves claims by the U.S. and the State of Maine for past response costs totaling over \$8 million against more than 100 defendants at the Hows Corner Superfund Site in Plymouth, Maine. EPA filed suit against these parties in response to an arguable statute of limitations of December 1, 2000 for recovery of removal costs related to construction of a water line.

Settlement was reached with these parties at the time we filed suit. However, EPA delayed moving to enter the settlement in order to coordinate with the Maine legislature, which enacted legislation allowing the settling parties to apply for interest-free loans from the state for payments required by the settlement.

On April 11, 2002, the Court approved a second settlement among EPA, the State of Maine, and approximately sixty Ability to Pay (ATP) parties that EPA determined had an inability to pay all or part of their Superfund liability at the West Site/Hows Corner Site. By entering into the settlement, the ATP parties resolved all their past and future liability at the site and were given contribution protection from third party CERCLA cost recovery actions.

National Oil Services

In September 2002, the U.S. District Court for the District of Connecticut approved two separate settlements between EPA and parties that sent waste oil to the National Oil Services, Inc. site in West Haven, Connecticut. EPA performed a removal action at this former waste oil storage, treatment, transfer, recycling and disposal site in 1998. The first consent decree, signed by approximately 400 parties, will result in reimbursement to EPA for approximately \$805,000. The second consent decree should reimburse EPA for an additional \$305,000 of its past costs. In total, the two consent decrees will reimburse EPA for almost 70 percent of approximately \$1.6 million of past costs.

Rose Hill Regional Landfill

The United States Environmental Protection Agency and the Rhode Island Department of Environmental Management (RIDEM) signed a settlement agreement, worth an estimated \$8.56 million, with the towns of South Kingstown and Narragansett, RI on costs associated with the cleanup of the Rose Hill Regional Landfill Superfund Site in South Kingstown, RI. The agreement, known as a Consent Decree, requires that the towns partially reimburse EPA and the state of Rhode Island for costs already incurred to cleanup contamination at the landfill. It also formally recognizes RIDEM as the lead agency for the remaining cleanup, including the engineering design and conducting operation and maintenance activities to ensure the effectiveness of the cleanup remedy at the site.

The settlement specifically requires that the towns: pay EPA past costs of \$4,000,000 plus interest and 30 % of EPA's future costs for remedial design and cleanup in excess of \$8.5 million; pay 30% of the state's actual remedial design, remedial action and operation and maintenance costs, some of which will be paid through the towns' performance of in-kind services during the operation and maintenance period.

According to this agreement RIDEM will: pay 50% of the remedial design and cleanup costs and 100% of operation and maintenance costs (30% of which will be recovered from the towns); consolidate wastes into a single waste unit over which a multi-layer protective cap will be installed, collect and manage leachate and storm water runoff during the project, and monitor and treat landfill gas emissions; and perform long-term operation and maintenance at an estimated

cost of \$6.7 million.

EPA estimates the total costs associated with the cleanup of the Rose Hill landfill to be \$32.7 million. Through this settlement the towns will contribute \$8.56 million of overall site cleanup costs, and the state will contribute an additional \$15.2 million.

Barkhamsted-New Hartford Superfund Site. The Region finalized a Consent Decree in which the potentially responsible parties have agreed to perform remedial design and remedial action for the final remedy at this site – cleanup of contaminated groundwater – and, after application of the orphan share credit, to pay 100% of past and future costs. The site, a semi-active waste disposal area consisting of about 100 acres located in the towns of Barkhamsted and New Hartford, CT, is owned and operated by a Refuse Disposal District established by the four towns to operate the landfill. Previous actions at the site addressed source materials and principal threat wastes. This cleanup, which is being funded by commercial parties and performed by the Refuse Disposal District, addresses the remaining low-level threat wastes at the site by treating the wastes via natural attenuation to achieve the required cleanup levels.

Sutton Brook

On October 10, 2001, EPA issued a Unilateral Administrative Order (UAO) for Removal Action to twelve PRPs with respect to the Sutton Brook Disposal Area Superfund Site in Tewksbury, Massachusetts. The site is roughly synonymous with the Rocco's Landfill. From approximately 1957 to 1988, this landfill accepted municipal, commercial, and industrial wastes including unknown quantities of hazardous substances from both inside and outside the town of Tewksbury. In June 2000, EPA initiated a time-critical removal action to excavate and dispose of numerous crushed drums within the top few feet of the surface and of associated contaminated soil located just outside of the landfill footprint. The UAO required the PRPs to remove a temporary stockpile of contaminated soil that had been created as a result of EPA's excavation of drums, containers and contaminated soil. The PRPs' completion of the removal action prevented further expenditure of Superfund dollars.

Toka-Renbe Farm

On September 25, 2002, the U.S. District Court for the District of Massachusetts entered a Consent Decree resolving the liability of the owner of the Toka-Renbe Farm Superfund Site in Canton, Massachusetts. The settlement is an ability to pay settlement and requires that the Settling Defendant make a series of transfers to the United States. Specifically, the Consent Decree requires that within thirty (30) days of entry of the Consent Decree, the Settling Defendant shall pay a small amount of cash (\$5,000) to the EPA Hazardous Substance Superfund and transfer the proceeds of the recent sale of a portion of the real property (valued at approximately \$100,000 after expenses) to a trust which has the United States as its sole beneficiary. The Defendant then has one year to sell a larger portion of the real property (valued at approximately \$2,393,000) and give the proceeds from the sale (minus expenses) to the trust. If the defendant is unable to sell the real property within a year, the defendant is required to transfer the real property to the trust. At that time, under the terms of the Trust Agreement, the

trustee is required to liquidate real property assets as soon as possible, give all proceeds to the United States (minus expenses) and terminate the trust.

Fletcher Paint Works

On September 27, 2002, the Department of Justice lodged a consent decree with two *de minimis* parties at the Fletcher Paint Works site in Milford, New Hampshire. Under the Consent Decree, Great American Financial Resources, Inc, successor to Sprague Electric Company, and AVX Corp., successor to Aerovox, will pay EPA a total of approximately \$2.2 million, plus interest, in settlement of their liability for costs incurred and to be incurred for performance of the Operable Unit 1 remedy. This settlement is based on the Region's May 28, 2002 *De Minimis* determination for Fletcher's Paint Superfund site that Sprague and Aerovox are *de minimis* parties. The *De Minimis* determination concluded that Sprague contributed no more than 3.84% and Aerovox contributed no more than 1.09% of the hazardous substances disposed of at the site. Those quantities of substances are minimal in comparison to the quantity of other hazardous substances at the site. The toxic and other hazardous effects of the substances that Sprague and Aerovox contributed to the site are minimal in comparison to the effects of the other hazardous substances at the site.

ENFORCEMENT STATISTICS

Number of Regional Inspections

	FY 98	FY 99	FY 00	FY 01	FY 02
CAA Stationary	149	108	116	92	33
CAA CFCs	Inc.	55	21	7	0
CAA Mobile Sources	64	39	34	8	6
Asbestos D&R	5	0	0	3	0
NPDES Minors		26	30	37	58
NPDES Majors	108	60	59	76	38
Pretreatment IUs	NR	NR	59	41	24
Pretreat. POTWs	NR	NR	16	17	17
CWA 311	103	92	68	67	55
CWA 404	34	46	22	16	7
EPCRA 313	53	40	12	26	8
EPCRA non-313	34	28	9	25	9
FIFRA	0	0	2	0	0
RCRA	63	73	71	26	17
UST	204	122	161	142	175
SDWA-PWSS	0	1	1	0	0
SDWA-UIC	0	0	0	0	0
TSCA	17	35	22	43	80
Total	870	725	723	626	527

NR - not reported

Number of Cases Referred to the Department of Justice

	FY 98	FY 99	FY 00	FY 01	FY 02
CAA	6	6	4	2	5
CERCLA	7	14	13	20	20
CWA-NPDES	0	8	6	3	2
CWA-311	1	2	6	0	0
CWA-404	0	2	0	1	3
EPCRA	0	0	0	0	0
FIFRA	0	0	0	0	0

RCRA	3	1	0	0	1
SDWA-PWSS	1	0	0	0	0
SDWA-UIC	0	0	0	0	0
TSCA	0	0	1	3	3
Total	18	33	30	29	34

Number of Administrative Penalty Order Complaints

	FY 98	FY 99	FY 00	FY 01	FY 02
CAA	6	11	5	16	13
CERCLA	0	0	N/A	0	0
CWA-NPDES	10	20	1	3	7
CWA-311	8	11	5	2	20
CWA-404	3	0	0	0	1
EPCRA	6	10	5	26	3
FIFRA	1	4	1	5	1
RCRA	10	32	7	12	13
SDWA-PWSS	0	0	0	1	0
SDWA-UIC	0	0	0	0	0
TSCA	7	2	9	6	5
Total	51	90	33	71	63

Number of Administrative Compliance Orders

		FY 98	FY 99	FY 00	FY 01	FY 02
CAA		14	13	12	4	5
CERCLA		9	16	20	21	12
CWA-NPDES		9	13	6	14	24
CWA-311		0	1	0	0	1
CWA-404		7	3	3	1	1
EPCRA		0	0	0	0	0
FIFRA		1	1	0	0	0
RCRA		1	3	0	1	0
SDWA-PWSS*		2	0	91	32	1
SDWA-		0	0	0	0	0

UIC						
TSCA		0	0	0	0	0
Total		43	50	132	73	44

* In FY00, Consumer Confidence Rule accounted for surge in PWSS ACOs.

Number of Civil Judicial Settlements

	FY 98	FY 99	FY 00	FY 01	FY 02
CAA	2	0	1	5	5
CERLA	7	11	14	9	9
CWA-NPDES	2	0	0	2	5
CWA-311	1	0	0	0	3
CWA-404	0	0	0	0	0
EPCRA	0	0	0	0	0
FIFRA	0	0	0	0	0
RCRA	1	2	0	3	0
SDWA-PWSS	1	0	0	0	0
SDWA-UIC	0	0	0	0	0
TSCA	0	0	0	0	0
Total	14	13	15	19	22

Number of Administrative Penalty Settlements

	FY 98	FY 99	FY 00	FY 01	FY 02
CAA	9	2	9	9	8
CERCLA	1	0	0	0	0
CWA-NPDES	8	10	15	3	3
CWA-311	2	6	7	0	12
CWA-404	2	1	0	0	0
EPCRA	5	9	6	24	3
FIFRA	0	5	0	5	2
RCRA	9	8	27	3	14
SDWA-PWSS	0	0	0	1	0
SDWA-UIC	0	0	0	0	0
TSCA	13	4	2	4	5
Total	49	45	66	49	47

Value of Administrative Penalties

		FY 98	FY 99	FY 00	FY 01	FY 02
CAA		\$93,809	\$85,720	\$439,496	\$201,991	\$481,360
CERCLA		\$400,000	\$0	\$0	\$0	\$0
CWA		\$363,800	\$318,347	\$517,006	\$128,525	\$288,000
EPCRA		\$165,205	\$110,179	\$85,614	\$106,321	\$45,314
FIFRA		\$0	\$96,700	\$0	\$26,550	\$210,100
RCRA		\$671,235	\$496,958	\$515,334	\$266,669	\$721,705
SDWA-PWSS		\$0	\$0	\$0	\$500	\$0
TSCA		\$161,010	\$33,999	\$72,930	\$37,212	\$178,544
Total		\$1,855,059	\$1,141,903	\$1,630,380	\$767,768	\$1,925,023

EPA Field Citations

		FY 98	FY 99	FY 00	FY 01	FY 02
	UST	34	71	24	22	19
Penalty Amount*		\$15,550	\$40,450	\$14,950	\$14,100	\$9,500

* This dollar amount is also included in Administrative Penalties above.

Value of Judicial Penalties

		FY 98	FY 99	FY 00	FY 01	FY 02
CAA		\$1,507,000	\$0	\$40,000	\$1,090,665	\$1,287,639
CERCLA		\$0	\$0	\$125,000	\$0	\$0
CWA-NPDES		\$463,000	\$0	\$0	\$1,025,000	\$1,128,961
EPCRA		\$0	\$0	\$0	\$0	\$0
FIFRA		\$0	\$0	\$0	\$0	\$0
RCRA		\$300,000	\$700,000	\$0	\$424,000	\$0
SDWA-PWSS		\$5,000	\$0	\$0	\$0	\$0
TSCA		\$0	\$0	\$0	\$0	\$0
Total		\$2,275,000	\$700,000	\$165,000	\$2,539,665	\$2,416,600

Value of Criminal Penalties

	FY 98	FY 99	FY 00	FY 01	FY 02
CAA	\$4,953,000	\$31,100	\$941,936	\$0	\$21,700
CERCLA	\$0	\$10,840,570	\$200	\$35,000	\$3,006,287
CWA-NPDES	\$10,620,979	\$65,000	\$2,536,450	\$67,100	\$0
EPCRA	\$0	\$0	\$0	\$0	\$0
FIFRA	\$0	\$0	\$0	\$0	\$0
RCRA	\$2,230	\$0	\$377,749	\$0	\$8,000
SDWA-PWSS	\$0	\$9,300	\$33,000	\$0	\$0
TSCA	\$0	\$0	\$550,761	\$0	\$80,000
Title 18 & other	\$0	\$0	\$749,239	\$0	\$420,705
Total	\$15,576,209	\$10,945,970	\$5,189,335	\$102,100	\$3,536,792

Value of Injunctive Relief in Regulatory Programs

	FY 98	FY 99	FY 00	FY 01	FY 02
CAA	\$12,889,417	\$279,300	\$230,500	\$936,249	\$9,647,715
CWA	\$86,179,500	\$186,924,006	\$21,877,000	\$32,274,105	\$105,283,980
EPCRA	\$ 3,500	\$202,500	\$22,725	\$3,000	\$600
FIFRA	\$0	\$120,000	\$0	\$5,531	\$ 60,100
RCRA	\$160,350	\$8,609,000	\$60,992	\$2,283,500	\$428,839
SDWA	\$6,346,000	\$0	\$350,016,984	\$150	\$0
TSCA	\$194,900	\$533,079	\$203,000	\$161,605	\$111,560
Totals	\$106,573,667	\$196,667,785	\$372,411,201	\$35,664,140	\$115,532,794

Value of Supplemental Environmental Projects

	FY 98	FY 99	FY 00	FY 01	FY 02
CAA	\$1,025,894	\$91,000	\$24,000	\$162,423	\$7,010,102
CERCLA	\$525,000	\$0	\$700,000	\$0	\$0
CWA	\$55,500	\$5,660,000	\$533,800	\$1,078,000	\$533,196
EPCRA	\$260,750	\$96,309	\$72,004	\$1,330,800	\$56,524
FIFRA	\$0	\$0	\$0	\$0	\$0
RCRA	\$363,755	\$872,130	\$816,780	\$2,191,629	\$1,980,410
SDWA	\$0	\$0	\$0	\$0	\$0
TSCA	\$33,800	\$0	\$0	\$0	\$0
Totals	\$2,264,699	\$6,719,439	\$2,146,584	\$4,762,852	\$9,580,232

Number of Cases with Supplemental Environmental Projects

	FY 98	FY 99	FY 00	FY 01	FY 02
CAA	2	1	1	4	9
CERCLA	1	0	1	0	0
CWA	3	2	2	3	3
EPCRA	1	2	2	1	1
FIFRA	0	0	0	0	0
RCRA	5	5	5	3	9
SDWA	0	0	0	0	0
TSCA	2	0	0	0	
Totals	14	10	11	11	22

Voluntary Disclosure Program

	FY 98	FY 99	FY 00	FY 01	FY 02
Facilities Disclosures	N/A	N/A	25	24	377
Company Disclosures	N/A	N/A	N/A	N/A	284
NODS	N/A	N/A	0	3	16

CONTACTS

Office of Environmental Stewardship

Director: Stephen Perkins, 617-918-1700

Deputy Director: Sam Silverman, 617-918-1731

Enforcement Immediate Office

Manager: Ken Moraff, 617-918-1721

Senior Staff:

Enforcement managers: see individual office contact information

ADR specialist: Ellie Tonkin, 617-918-1726

Municipal Coordinator: Nancy Barmakian, 617-918-1016

Wetland Senior Staff: Denise Leonard, 617-918-1719

Dan Arsenault, 617-918-1562

Doug Thompson, 617-918-1543

Programs Covered:

Overall program direction for the Enforcement Office

Liaison with EPA Headquarters, other regional enforcement programs, state partners, and external stakeholders

Wetlands Enforcement (Clean Water Act Section 404 Program)

Criminal Enforcement

OES Attorneys:

Peter Kenyon, 617-918-1723

Dianne Chabot, 617-918-1868

Andy Lauterback, 617-918-1724

Air Enforcement Office

Manager: Fred Weeks, 617-918-1855

Senior Enforcement Coordinator: Denny Dart, 617-918-1850

Programs Covered:

New Source Performance Standards (NSPS)

National Emission Standards for Hazardous Air Pollutants (NESHAPs)
air toxics ("MACT" standards)

Stratospheric Ozone Protection ("CFC program")

state implementation plan (SIP) sources

Section 183(e) Consumer Product Rules
Acid Rain
Title V Operating Permits
New Source Review (PSD and NSR) programs

RCRA Enforcement Office

Manager: Ken Rota, 617-918-1751

Senior Staff:

Lisa Papetti, 617-918-1756
Drew Meyer, 617-918-1755
Rich Piligian, 617-918-1757
Mel Cheeks, 617-918-1752

Programs Covered:

RCRA Program Compliance
RCRA Authorization & Permits located in OEP (Gary Gosbee, Chief, 617-918-1641)
RCRA Corrective Action located in OSRR (Matt Hoagland, Chief, 617-918-1361)

Water Enforcement Office

Manager (Acting): Karen McGuire, 617-918-1796

Senior Staff:

Drinking Water and Pretreatment: Beth Deabay, 617-918-1793
NPDES: Mike Fedak, 617-918-1766

Programs Covered:

Drinking Water Enforcement
NPDES Enforcement
Direct Discharge
Storm Water
Combined sewer overflow (CSO)/ sanitary sewer overflow (SSO)
Concentrated Animal Feeding Operation (CAFO)
Pretreatment Enforcement
Oil Spill Enforcement
NPDES Data Management

Toxics, Pesticides and Federal Programs Office

Manager: Deborah Brown, 617-918-1706

Senior Staff:

Senior Enforcement Coordinator: Donald Mackie, 617-918-1749
Federal Facilities: Anne Fenn, 617-918-1805
TRI, Small Business Ombudsman, and OES PBT contact: Dwight Peavey, 617-918-1829
TSCA PCB: Marianne Milette, 617-918-1854
Core TSCA: Rose Toscano, 617-918-1861
FIFRA, Asbestos and AHERA, Wayne Toland, 617-918-1852
CAA 112(r): Ray DiNardo, 617-918-1804
Security: Jim Gaffey, 617-918-1753

List of Programs Covered:

TSCA (Core, PCB, Asbestos, and Lead)
Emergency Planning and Community Right-to-Know (EPCRA 313 and Non313)
Federal Insecticide, Fungicide and Rodenticide Act (FIFRA)
Asbestos
Hazard Emergency Response Act of 1986 (AHERA), as amended by the Asbestos School Hazard Abatement Reauthorization Act of 1990 (ASHARA)
Clean Air Act 112(r) – Risk Management Plans
Federal Facilities (Enforcement and Assistance)
Tribal (Assistance, capacity building, and enforcement)
Security

Regulatory Legal Office

Manager: Joel Blumstein, 617-918-1771

Senior Staff:

Water – Edith Goldman, 617-918-1866
RCRA – Andrea Simpson, 617-918-1738
Air – Thomas Olivier, 617-918-1737
Toxics – Catherine Smith, 617-918-1777

Programs Covered:

Provide legal support for all administrative and civil judicial enforcement matters in all EPA regulatory programs (CAA, CWA, SDWA, RCRA [except corrective action], TSCA, FIFRA, EPCRA).
Oversee implementation of EPA Audit Policy.

Superfund Legal Office

Manager: Joanna Jerison, 617-918-1781

Senior Staff:

Cindy Catri, 617-918-1888

Gretchen Muench, 617-918- 1896

RuthAnn Sherman, 617-918-1886

Audrey Zucker, 617-918-1788

Programs Covered:

Superfund - Enforcement, Legal Review of Remedies, Brownfields and Superfund
Redevelopment

RCRA Corrective Action Enforcement