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Enforcement Accomplishments Report

FY 1993

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Dedication to Paul G. Keough

The Fiscal Year 1993 EPA Enforcement Accomplishments Report is dedicated to Paul G. Keough. Paul was the Acting Regional Administrator of EPA Region I in New England at the time of his sudden death on January 17, 1994. Paul served EPA since its inception in 1971, and had held the position of Acting Regional Administrator since January 1993. It was the third time he had served as Acting Regional Administrator. Since 1983, Paul's official position was as the Deputy Regional Administrator, and in that role he had lead responsibility for Region I's enforcement programs.

With his background in journalism, Paul also was a national leader in EPA's efforts to better communicate the successes of our enforcement program. He chaired a national Agency workgroup on communications with the media during the late 1980's. Among other things, this workgroup recommended a major expansion of the scope and distribution of the annual Enforcement Accomplishments Report.

EPA Administrator Carol Browner recognized Paul Keough's contributions to EPA in her announcement of a national award in his name as follows: "Paul was the toughest of defenders of the environment and EPA, fighting passionately for what he believed to be the correct course of action."

Dedication of this Enforcement Accomplishments Report to Paul Keough recognizes his national leadership in both enforcement and communications.

We are grateful for his efforts and we miss him very much.

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I. FY 1993: Maintaining Enforcement Priorities

During FY 1993, EPA's enforcement program, in partnership with the enforcement programs in each state and the Department of Justice, worked hard to maintain its strong traditional, media-focused enforcement programs and assure that violations of environmental rules and regulations were addressed swiftly and in an appropriate manner. At the same time, EPA accelerated its implementation of innovative multi-media, risk-based enforcement approaches to solving compliance problems and environmental risks, approaches which are described in the *Enforcement Four-Year Strategic Plan* and the *Enforcement in the 1990's Project.* Two additional high priority areas for FY 1993 Agency enforcement were environmental justice impacts and our international enforcement program.

The FY 1993 enforcement priorities for each of the Agency's traditional enforcement programs are detailed in Section Three of this Report. In addition, that section highlights significant enforcement cases supporting those priorities. Section Two of this Report and the Appendix provide quantitative statistics on the accomplishments of EPA's media-specific enforcement efforts; these data provide strong evidence that the Agency continues to enforce environmental laws forcefully.

During FY 1993, the Agency continued the expansion of the criminal program under the Pollution Prosecution Act of 1990, increasing the number of field offices and agents. Criminal sanctions resulting from the expansion in the capacity of our criminal program provide a clear message to those engaged in criminal behavior that those actions will not be tolerated. (For examples, see Section Three criminal cases write-ups.) With increased authority also to assess penalties administratively, the Agency continued to screen cases to ensure use of the appropriate mix of administrative, civil judicial and criminal enforcement authorities to prosecute and resolve violations. Civil enforcement continues to be the primary mechanism for establishing program precedents and resolving complex technical issues. Civil injunctive relief and administrative settlements compel industry to invest in environmental cleanup, pollution controls, and new technology to mitigate environmental damage resulting from noncompliance.

Innovative Enforcement Approaches

Major elements of the innovative enforcement approach which the Agency continued to implement in FY 1993 are: targeting enforcement at sources and pollutants of particular risk or compliance concern, or at geographic areas of concern; multi-media compliance assessments and multi-media enforcement responses; and developing settlements which include pollution prevention, waste minimization and other innovative solutions to environmental problems.

Multi-media, Risk-based Enforcement Targeting

As part of its multi-media, risk-based strategy, beginning in FY 1991 the Agency has emphasized annual national 'targeted' enforcement initiatives. National enforcement initiatives can focus on specific pollutants, industries, and sensitive geographic zones which present a national risk from the standpoints of human health, the environment, and the maintenance of the integrity of agency regulatory programs. This effort continued during FY 1992 when the Agency filed nine benzene cases, prosecuted twenty-four previously filed lead cases, and filed a total of sixty-four cases against the primary metals, pulp and paper, and industrial organic chemical industries. These three industries were targeted on the bases of toxic releases and historical noncompliance. These cases have resulted in significant settlements in FY 1993, many of which are discussed in detail in Section Three.

During FY 1993, the agency commenced two additional two-year long national initiatives. One, a Data Integrity/Data Quality initiative, focussed principally on non-reporters and false reports of data that are required under national and delegated programs. The goal is to send a positive, consistent message to the regulated community on the importance to EPA and the states of obtaining complete and accurate data to determine compliance and to assess environmental progress. Each Agency enforcement office is participating in this effort.

The second FY 1993 initiative is a comprehensive program to address multi-media enforcement and compliance issues at federal facilities.. At least forty high priority federal facilities across the all EPA regions are being inspected for multi-media compliance. Selection of the facilities was based upon pre-established criteria that include compliance history, EPA regional risk rankings, pollution prevention opportunities, and compatibility with EPA national or regional/state program priorities. States have been encouraged to participate in the inspections.

As part of the initiative process, EPA and states, to the extent possible, "cluster" or group individual cases for filing. The purpose of case "clusters" is to gain maximum deterrence through capturing the attention of the media and the regulated community. EPA is analyzing the impact of completed initiatives to assess "what works best and what doesn't work" so that future enforcement activity can be carried out in the most efficient manner. As EPA expanded its use of initiatives and case clusters, state participation in both the formulation and execution of these activities is taking on added significance. The process for multi-media strategic planning ensures that states are directly involved in the formulation of national priorities and will have sufficient time to plan for this involvement. National initiatives for FY 1994 and beyond will be identified in conjunction with a broad-based multi-media team, including state representatives.

One of the major tools for identifying enforcement initiatives is the agency's IDEA (Integrated Data for Enforcement Analysis) computer capability. IDEA, which links the agency's compliance, toxic release inventory (TRI), and geographic (GIS) data systems, is used to screen and target single and multi-media enforcement efforts. EPA has already demonstrated the IDEA capability to several states and has worked to more widely deliver IDEA training to states.

Environmental Justice

A central tenet of our enforcement philosophy is that citizens receive full and equal protection under our environmental laws and regulations, regardless of race, nationality, or social standing. Environmental equity concerns are being institutionalized as a core component of our enforcement program and throughout the Agency as a whole in rulemaking. research, and policy.

The Agency has taken specific steps to ensure that the enforcement program supports the health and welfare of minority populations. For example, the national enforcement initiative to reduce lead exposure was implemented in large part because of the understanding that lead is one of the most pervasive chemicals impacting minority populations, especially children. Our Federal Facilities Enforcement Program is beginning a comprehensive study of environmental equity issues as they relate to pollution generated and emitted at federal facilities.

The EPA regional offices are taking specific enforcement actions to protect minority populations. For example, Region II is performing a study of Superfund enforcement at minority/low income communities using geographic information system (GIS) mapping, and Region V implemented a geographic enforcement initiative to reduce pollution exposure to Southeast Chicago residents and the Wisconsin Native American Indian Tribes. Similarly, Region VI and Headquarters are coordinating compliance and enforcement actions in a geographic initiative targeted at the Mexican border area (in conjunction with Mexico), and Region IX has implemented an enforcement initiative targeted for drinking water sources at migrant farmworker camps.

Innovative Settlements

Over the last several years, the Agency has looked for ways to expand the impact of enforcement settlements by securing additional environmental benefits beyond that which can be required through injunctive relief. One of the major tools used by the agency has been the use of Supplemental Environmental Projects (SEPs), especially ones which emphasize pollution prevention and waste minimization. Over the last two years, the inclusion of SEPs in settlements have increased substantially and the environmental benefit resulting from them has indeed far exceeded the benefits available through injunctive relief. A review of case summaries in Section Three of this report will demonstrate the frequent use of

these projects and illustrate their innovative solutions to solving pollution problems.

As EPA looks for opportunities to promote pollution prevention and waste minimization opportunities through enforcement, the Agency's Pollution Prevention Senior Policy Council endorsed the delivery of more enforcement-oriented pollution prevention training to legal and technical enforcement personnel. This training emphasizes the types of pollution prevention technology which are most appropriate to the types of facilities regulated by the media programs and the types of violations encountered.

Transboundary International Enforcement

The point that pollution respects no national boundaries could not have been more clearly made than in the debates over NAFTA, involving the United States, Mexico, and Canada. Most of the discussions involved the Mexican Border area, where the expected trans-border movement of hazardous substances, wastes, and other materials regulated by both countries creates the need for expanded cooperation in environmental enforcement. NAFTA contains a provision recognizing the inappropriateness of encouraging investment by relaxing environmental laws. A strong commitment by each country and its political subdivisions to adequate enforcement of their respective environmental laws is the key to ensuring that NAFTA does not result in such behavior. The United States and Mexico have made mutual commitments to respond aggressively to environmental problems along the U.S.-Mexican Border.

EPA and Mexico continued to expand their cooperative enforcement efforts in FY 1993 by: working to improve tracking of environmental enforcement activity in the Mexican border area by both countries; conducting joint training and investigations aimed at criminal prosecution; and conducting expanded border checks to detect transboundary shipment violations.

II. Environmental Enforcement Activity

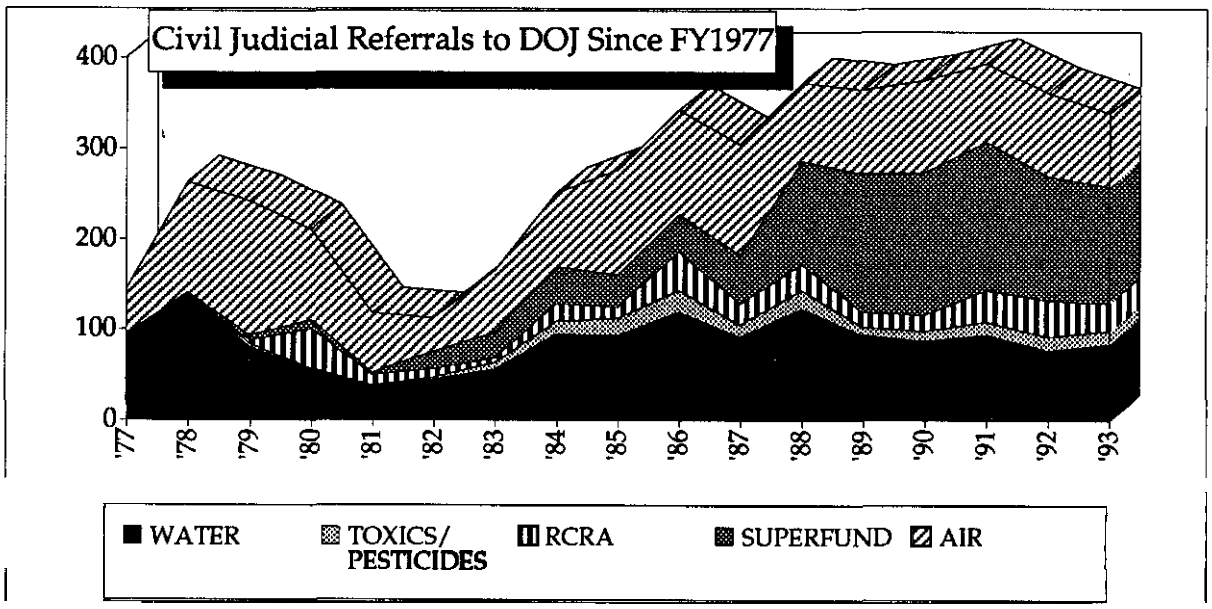
A. Federal Judicial and Administrative Enforcement Activity

During FY 1993, EPA continued to implement the strategic approaches called for in the Agency's Enforcement Four-Year Strategic Plan through through cross-program/multi-media and multi-facility enforcement actions which seek to bring about comprehensive solutions to complex interrelated environmental problems. With this perspective, EPA intends to achieve additional public health and environmental protection results, deterrence, and efficiency which might not be achieved through use of traditional single-media approaches alone. In FY 1993, EPA fully implemented modifications to its activity counting methodologies that track and account for civil referral activity. These adjustments were recommended by an Agency-wide workgroup and are intended to account for the greater magnitude of cross-program/multi-media actions, and to remove any accounting-related disincentives to bringing more complex cases.

EPA is also implementing other enforcement indicators that are intended to provide a more complete and balanced picture of the quality and magnitude of its enforcement efforts. In this and other sections of this report, more information is provided on EPA's use of Administrative Penalty Orders, which are an effective complement to civil judicial enforcement tools, along with information on the value of injunctive relief and Supplemental Environmental Projects, which complement information reported on civil penalty assessments.

B. Federal Civil Judicial Enforcement

In FY 1993, EPA referred 338 civil judicial cases to the Department of Justice, down six percent from FY 1992. Program-specific increases were recorded for the Clean Water Act and the Safe Drinking Water Act, which when combined, increased 9% from FY 1992. Clean Air Act civil referrals declined by 12 cases, however, use of Clean Air Act Administrative Penalty Order (APO) authorities increased by 154 cases, an increase of 67% over the FY 1992 level. Agencywide, issuance of APOs increased by 180 cases from FY 1992, an increase of 12%. The Office of Enforcement expects that the trend toward greater use of APO authorities will continue, and in the future the civil judicial referral and APO indicators will need to be viewed together in assessments of civil enforcement activity levels.



C. Monitoring Judicial Consent Decrees

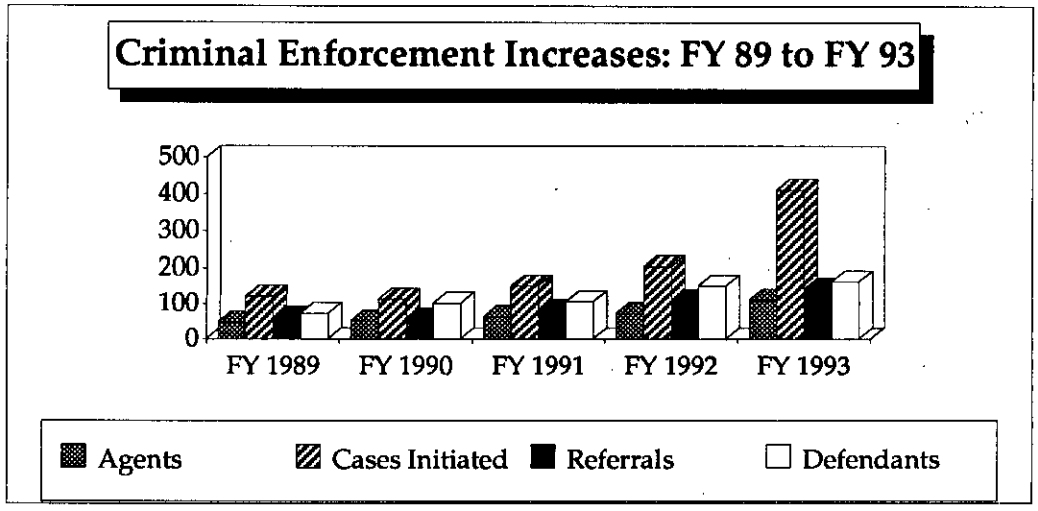
The high levels of civil judicial enforcement activity over the last several years have resulted in accompanying large increases in the number of consent decrees which the Agency has entered into with violating facilities. EPA places high priority on ensuring that defendants live up to the obligations assure that are spelled out in consent decrees. At the end of FY 1993, the Agency reported that 968 active judicial consent decrees were in place and being actively monitored to ensure compliance, an increase of 153 (up 18%) from FY 1992. Where noncompliance with a decree is found, EPA may initiate proceedings with the court to compel the facility to live up to its agreement and seek penalties for such noncompliance. EPA referred 18 cases to DOJ for enforcement of the consent decree compared to 19 cases in FY 1992.

D. Federal Criminal Judicial Enforcement

EPA's criminal program established records in FY 1993 for several categories of activity. New records included referring 140 cases to DOJ (the previous record was 107 in FY 1992), bringing charges against 161 defendants (the previous record was 150 in FY 1992), and the number of months of jail time defendants served with 876 months (the previous record was 744 months in FY 1992). Seventy-seven criminal cases concluded during the year, in which 135 defendants were convicted. In addition, 57 of the defendants convicted were sentenced to incarceration.

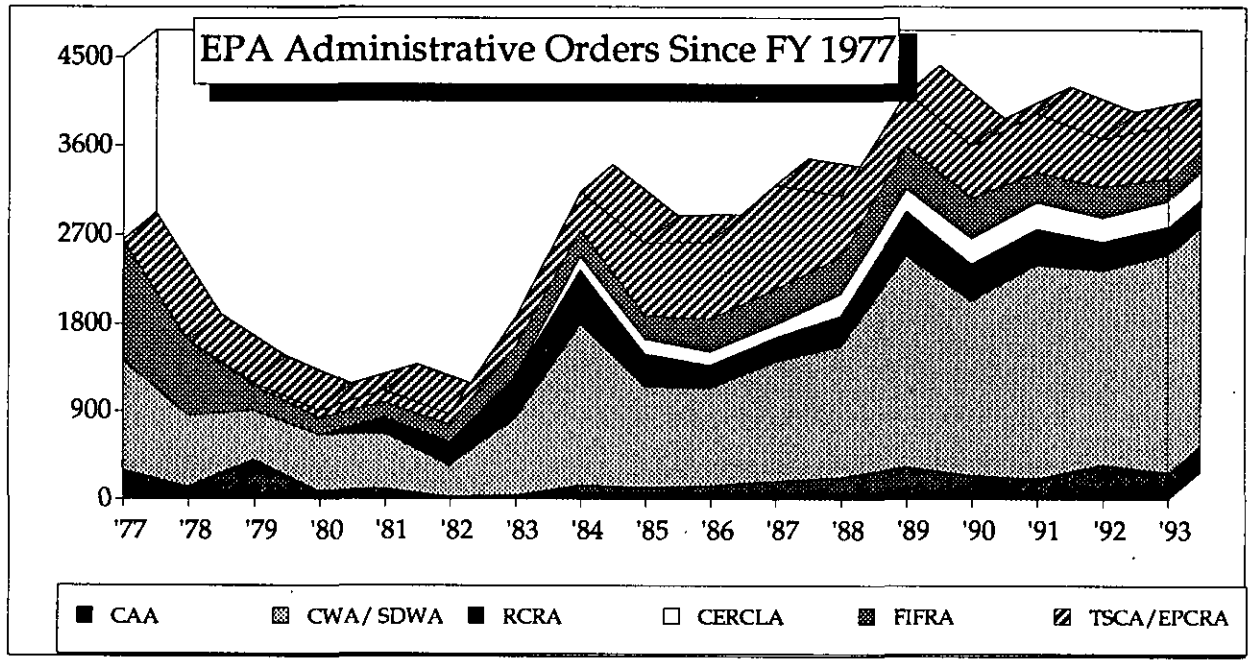
Incarceration and probation are key parts of the criminal program, including serving a strong deterrent role. Probation is very effective because in the event that an individual commits another crime (not limited to environmental crimes), the provisions of the probation normally call for the automatic imposition of the prison sentence that was suspended in lieu of probation. Since 1982, individuals have received prison sentences for committing environmental crimes totaling 429 years, and 1,261 years of probation have been imposed.

EPA's increased emphasis on the criminal enforcement program over the past five years, coupled with passage and implementation of the Pollution Prosecution Act of 1990, has significantly raised the profile of criminal enforcement both within EPA and in the regulated community. By the end of FY 1993, EPA had increased the number of criminal agents to 110 compared to 47 in FY 1989. This additional investment in agents has yielded significant increases in most of the key outputs of the criminal program.



E. Administrative Enforcement

EPA posted its third highest annual total for administrative enforcement activities in FY 1993 with 3,808 actions. The Agency record of 4,136 was set in FY 1989. The totals for FY 1993 demonstrate that although judicial actions (both civil and criminal) have been the most visible indicators of EPA's performance, other indicators need to be considered to fully ascertain EPA's effectiveness in enforcing environmental laws and regulations. In recently enacted or reauthorized statutes, Congress has expanded EPA's authority to use administrative enforcement mechanisms to address violations, compel regulated facilities to achieve compliance, and assess penalties. Many of these administrative authorities provide for injunctive relief and penalties that are comparable to those which can be obtained through civil judicial enforcement. EPA programs issued 1,614 administrative penalty orders (APOs) in FY 1993, an increase of 180 (12%) from FY 1992.



F. EPA Contractor Listing

In FY 1993, fifty-seven facilities were added to EPA's List of Violating Facilities (List) under the authorities provided to EPA by Clean Air Act § 306 and Clean Water Act § 508, to bar facilities that violate clean air or clean water standards from receiving Federally funded contracts, grants or loans. Federal agencies are prohibited by statutory mandate from entering into contracts, grants or loans (including subcontracts, sub-grants or subloans) to be performed at facilities owned or operated by persons who are convicted of violating air standards under CAA §113(c) or water standards under CWA §309(c) (and involved in the violations), effective automatically on the date of the conviction. Facilities which are mandatorily listed remain on the List until EPA determines that they have corrected the conditions giving rise to the violations. Fifty-seven facilities were listed in FY 1992 based on criminal convictions. Nine facilities were removed from the List in FY 1993. Since FY 1986, 175 facilities have been placed on the mandatory list. One hundred eighteen facilities remained on the List as of the end of FY 1993.

Facilities with records of civil violations may also be listed, at the discretion of the Assistant Administrator for Enforcement, upon the recommendation of certain EPA officials, a State Governor, or a member of the public (referred to as discretionary listing). A facility may be recommended for

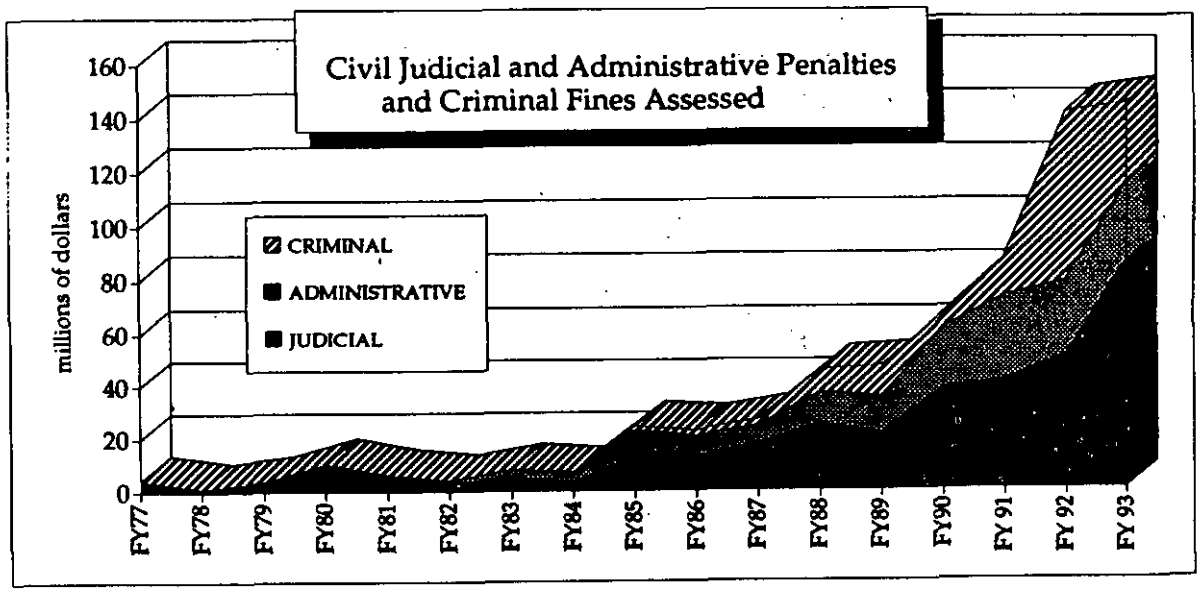
discretionary listing if there are continuing or recurring violations of the CAA or CWA after one or more enforcement actions have been brought against the facility by EPA or a state enforcement agency. Facilities recommended for discretionary listing have a right to an informal administrative proceeding. In FY 1993, one proposed discretionary listing was settled. Also, the possibility of discretionary listing helped to achieve settlements in numerous other civil enforcement cases.

G. Federal Penalty Assessments

Delaying or foregoing capital investment in pollution controls, as well as failure to provide resources for annual pollution control operating expenditures, can allow undeserved economic benefits to accrue to a regulated entity. As part of the effort to deter noncompliance, EPA's enforcement programs have developed penalty policies designed to assess penalties which recover any economic benefit that a noncomplying facility has realized, and assess additional penalties commensurate with the gravity of the violation(s).

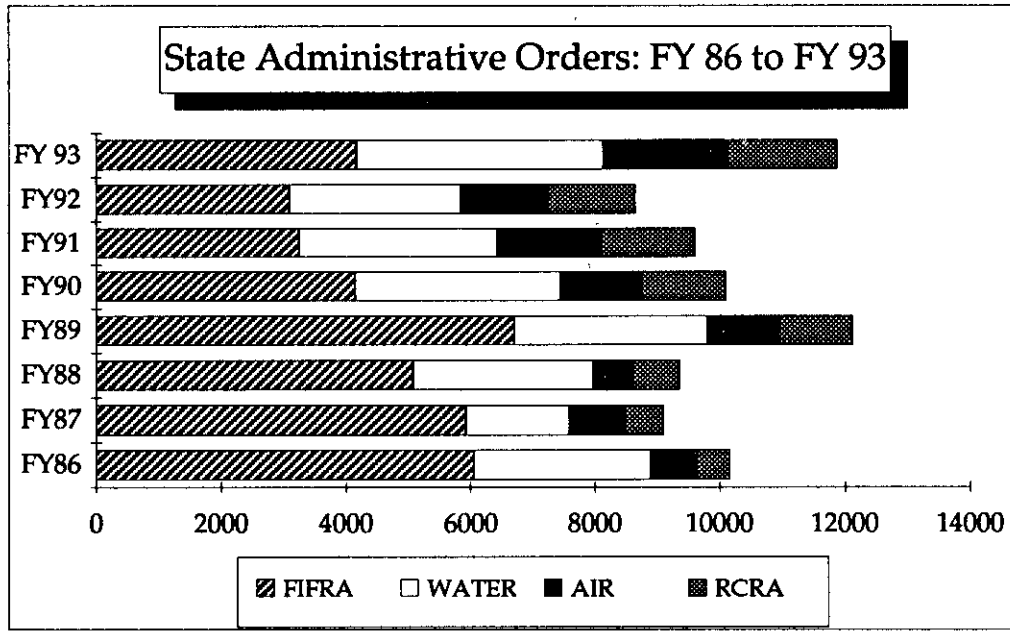
In FY 1993, $115.1 million in civil penalties were assessed, an all-time record ($85.9 million in civil judicial penalties, a record, and $29.2 million in administrative penalties). The overall increase was in part a result of a substantial increase in CERCLA § 104, 106, 107 penalties (from $6.7 million in FY 1992 to $24.3 million in FY 1993). Since 1974, EPA has assessed $435.9 million in civil and judicial penalties, with over sixty percent of this total being assessed in the last three years. Criminal fines totaled $29.7 million in FY 1993. Since 1984, $139 million in fines have been levied in EPA criminal cases.

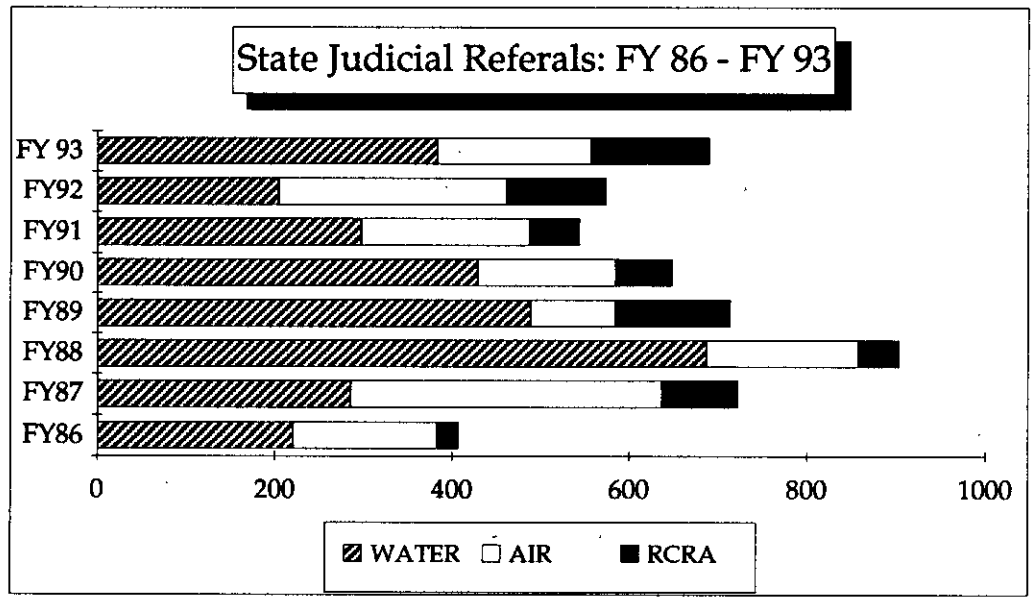
In FY 1993, $22.9 million in Clean Air Act civil penalties were assessed ($20.4 million for stationary source violations and $2.5 million for mobile source violations); $27.8 million in Clean Water Act penalties were assessed ($23.1 million in civil judicial penalties and $4.7 million in administrative penalties); over $6.9 million in Toxic Substances Control Act penalties were assessed; $22.8 million in Resource Conservation and Recovery Act penalties were assessed ($14.2 million in civil judicial penalties and $8.6 million in administrative penalties); and $24.3 million in CERCLA civil judicial penalties were assessed. The Federal Insecticide, Fungicide, and Rodenticide Act and Safe Drinking Water Act programs are largely delegated to the States; however, EPA assessed $632 thousand, and $5.6 million, respectively, under these statutes. The Toxic Release Inventory program assessed nearly $2.6 million. The Emergency Planning and Community Right-to-Know Act (EPCRA) had $1.6 million in assessed penalties (including CERCLA §103).



H. State Judicial and Administrative Enforcement Activity

Several hundred thousand facilities are subject to environmental regulation, and the job of ensuring compliance and taking action to correct instances of noncompliance with federal laws is entrusted both to EPA and to the States through delegated or approved State programs. EPA and the States must rely on a partnership to get the job done, with State environmental agencies shouldering a significant share of the nation's environmental enforcement workload. In FY 1993, the States referred 690 civil cases to State Attorneys General and issued 11,881 administrative actions to violating facilities. The major portion of State administrative actions occur in the FIFRA and water programs, 35% and 33% respectively. (Additional data on State administrative orders and referrals is contained in the Appendix.)





I. Supplemental Environmental Projects

The analysis of FY 1993 settlement data indicated that the EPA regional offices negotiated 229 Supplemental Environmental Projects (SEPs). These SEPS, which had an estimated total value of $73.8M, were negotiated in EPCRA, RCRA, CERCLA, TSCA, FIFRA, AHERA, OPA, CWA, SDWA, stationary source CAA and multi-media cases. Forty-eight percent of the SEPs were in the category of pollution reduction, and another 18% were in the category of pollution prevention. In addition to these figures, the Nationally Managed Mobile Sources Air program negotiated an additional 62 SEPs, the majority of which were in the Public Awareness category. More detailed information on SEPs can be found in the FY 1993 National Penalty Report, which will be published separately.

J. Cross-Program/Multi-Media Enforcement and Targeted Enforcement Initiatives

While maintaining strong traditional enforcement programs, EPA stressed implementation of the cross-program/multi-media perspective and use of targeted and innovative enforcement approaches. The Agency's primary goal in implementing these approaches it to obtain additional public health and environmental protection results, greater deterrence, and efficiency which might not be achieved through use of traditional approaches alone. Highlights of Regional performance in these areas include:

- **Cross-program/multi-media inspections and enforcement actions** - The Regions implemented the cross-program/multi-media perspective through use of workgroups which targeted cross-program/multi-media inspections, conducted case screening on single media enforcement cases, and coordinated case management against facilities with cross-program violations. FY 1993 was the second year for which the Agency has collected data on cross-program/multi-media activities, and the data are very encouraging. In FY 1993, the Regions conducted 209 consolidated (simultaneous) cross-program/multi-media inspections and 71 additional coordinated inspections (inspections conducted in follow-up to concerns raised during an inspection by another program). In all, 858 individual program compliance assessments occurred in these 280 inspections. During FY 1993, the Agency initiated 24 cross-program/multi-media administrative enforcement actions, referred 12 multi-media judicial cases to DOJ and completed 18 cross-program/multi-media settlements which grew out of a single media case. In addition to these inspections the Regions reported conducting 2700 single-median inspections using a multi-media inspection checklist.

III. Major Enforcement Litigation and Key Legal Precedents - Protecting Public Health and the Environment through Enforcement

This chapter provides highlights of major environmental litigation in FY 1993. These cases support EPA and state enforcement priorities and demonstrate innovative approaches in the enforcement process. FY 1993 was an exciting and challenging year for EPA's and the states' enforcement efforts. EPA continued implementation of the new enforcement approaches, described in the Agency's Enforcement Four-Year Strategic Plan and Enforcement in the 1990's Project, by which federal and state governments could better promote compliance with, and effective deterrence against violations of, environmental laws.

Clean Air Act Enforcement

Stationary Sources

The 1990 Clean Air Act (CAA) amendments generally expanded EPA's enforcement authorities and tools, providing for a more flexible enforcement program. For example, in May 1992, the program undertook a coordinated nationwide filing of fifty-two CAA administrative penalty cases under the new authorities granted by the act. These cases covered a variety of regulations, including new requirements for continuous emissions monitoring equipment at petroleum refineries, benzene and uranium mining waste piles, and state standards for smoke density and airborne particle emission. The 1990 amendments also expanded contractor listing sanctions, authorized a. new field citations program and tougher criminal enforcement provisions, and provided for citizen suits. In addition, the CAA necessitated implementation of the revised Significant Violator/Timely and Appropriate Guidance, which applies to all major sources as defined by the amendments. The air program continues to place high priority on supporting implementation of the guidance.

In FY 1993, the program's general compliance monitoring and enforcement efforts continued to place high priority upon implementation of the 1990 amendments. The program, working with the states, also emphasized the compliance of sources with State Implementation Plans (SIPs), New Source Performance Standards (NSPS), and the National Emissions Standards for Hazardous Air Pollutants (NESHAP) and compliance with the dry cleaning rule, permits enforceability review under Title V, and the benzene wastewater rule. The program maintains an active effort to implement the requirements of the Montreal Protocol to protect stratospheric ozone. Enforcement actions were taken against persons who import CFCs without first obtaining the allowances necessary to ensure that overall U.S. consumption of these chemicals does not exceed the limits imposed by the protocols.

The air program continues to focus enforcement activity on criteria pollutants. It also emphasized compliance for pollutants specific to certain industries and geographic areas that pose the greatest health and ecological risk. For example, the program has previously implemented lead and benzene NESHAP initiatives and will continue to target for violations involving asbestos and vinyl chloride. As part of the geographic initiatives for the Mexican Border area, the program emphasizes compliance with air quality standards for ozone, PM-10, and carbon monoxide. The program also emphasizes compliance with volatile organic compound limitations in ozone nonattainment areas.

With passage of the 1990 Clean Air Act amendment, the air program will be developing a host of new rules that are heavily dependent on data accuracy and integrity (e.g., enhanced monitoring. continuous emission monitoring. hazardous air pollutants). As part of the FY 1993 National Data Quality Initiative, the air program ensured the quality of air emission reports submitted by stationary sources to regional, state, and local air agencies, and compliance with emission monitor certification requirements.

In the Matter of: Applied Magnetics Corporation: On July 22, 1993, Applied Magnetics agreed to pay

a civil penalty of $67,525 resolving EPA's first administrative enforcement action initiated to address violations of CAA requirements governing the importation of chlorofluorocarbons (CFCs). The CFC regulations help protect the stratospheric ozone layer and are an important element of the U.S. government's implementation of the Montreal Protocol on Substances that Deplete the Ozone Layer.

Archer Rubber Company (D.Mass.): On October 12, 1993, the U.S. District Court approved a settlement between EPA and Archer Rubber Company of Milford, Massachusetts settling an action initiated by EPA in July 1990 alleging violations of §113 of the CAA and the Massachusetts State Implementation Plan (SIP). EPA's complaint alleged violations at Archer's Milford facility since 1985 involving uncontrolled emissions of volatile organic compounds (VOCs) from the company's fabric surface coating operations. Under the settlement, Archer is obligated to, among other things: (1) pay a $200,000 penalty; (2) install, test and operate VOC capture and control equipment in compliance with the SIP; (3) keep extensive written records concerning VOC emissions and the use of emission controls; (4) report to EPA on a quarterly basis; and (5) pay significant stipulated penalties for each day of each violation of the consent decree terms. The settlement allows Archer to admit no liability for the alleged violations.

Under the settlement, EPA agreed to withdraw a contractor listing action against Archer, under §306 of the CAA, based on Archer's record of continuing or recurring noncompliance with clean air standards and on prior EPA enforcement actions taken against the company. While agreeing to withdraw the listing action, EPA expressly reserves the right to initiate a second listing action in the event of any future violation by Archer of the CAA, the SIP, or the consent decree.

U.S. v. Bethlehem Steel et. al. (Lackwanna, New York: On September 7, 1993, the United States entered into a settlement with Bethlehem Steel and several asbestos contractors in which these companies agreed to pay a civil penalty of $560,000, the largest penalty ever collected for violations of the asbestos NESHAP. The consent decree requires Bethlehem and the contractors to implement asbestos abatement programs to ensure all future asbestos removal operations follow the requirements of the asbestos NESHAP. One of the abatement contractors, Safe Air Environmental Group (now defunct) and its president, James Long, were convicted in 1992 of criminal violations in connection with their work at this Bethlehem Steel facility.

U.S. v. B.F. Goodrich (W.D. Kent.): On September 13, 1993, the court entered a consent decree resolving a CAA civil enforcement action against B.F. Goodrich for violations of the benzene and mercury NESHAPs at Goodrich's plant in Calvert City, Kentucky. Goodrich agreed to pay a civil penalty of $160,000, implement an environmentally beneficial project to reduce mercury emissions beyond the NESHAP requirement, and conduct environmental audits at several of its facilities.

U.S. v. City of Chicago, et al., (N.D. Ill.): On February 16, 1993, the court, after a trial, found Colfax liable on all of the 11 CAA violations alleged in the complaint. The court also found Metropolitan Structures liable for all nine violations alleged at the two sites which it owned. The penalty assessed against Colfax was $95,000 and against Metropolitan Structures was $20,000, for a total of $115,000.

U.S. v. Consolidated Edison Company (E.D.N.Y.): The complaint in this action, filed in 1988, charged that asbestos had been removed from Con Ed facilities in New York City in violation of the CAA, including both failure to notify and work practice infractions. After extensive litigation involving, inter alia, numerous depositions and summary judgment motions from both parties, the case was resolved with Con Ed's agreement to pay $219,500. The consent decree was entered by the court on October 7, 1993.

U.S. v. Consolidated Rail Corporation (N.D. Ohio): On October 14, 1992, the U.S. District Court entered a Second Amendment to Consent Order resolving EPA's CAA contempt action against Consolidated Rail Corporation (Conrail). The amendment requires Conrail to pay $165,000 in penalties for its past violations. In addition, it allows the company to apply encrusting agents in lieu of water to control fugitive dust.

EPA and Conrail had negotiated a consent order in 1986 which resolved violations of Ohio's CAA

SIP at the company's Ashtabula, Ohio coal facility. Among the consent order provisions was a requirement that Conrail utilize a water spraying system to suppress fugitive dust emissions from its coal piles. In 1988, the Agency filed a Motion to Enforce the Consent Order, citing Conrail's failure to comply with the order's watering requirements on more than 200 days.

Coors Brewing Company, Inc. (Elkton, VA): On August 10, 1993, Coors Brewing Company, Inc. executed a consent decree with EPA, which requires Coors to pay a civil penalty of $245,000. The decree resolved violations of the Prevention of Significant Deterioration (PSD) regulations under the CAA that require a valid PSD permit before construction commences on a new major stationary source. In March 1981, EPA Region III issued Coors a PSD permit for the construction of a 10 million barrel-per-year brewery. The permit was reissued and extended on numerous occasions by the State, who required, as a condition of the extension, that Coors complete a new PSD review prior to initiating construction of the brewery. However, Coors initiated construction of certain brewery elements without meeting the terms and conditions of its PSD permit extensions. The consent decree requires Coors to send a letter to the Virginia Department of Environmental Quality and EPA certifying that it has abandoned plans to construct the brewery as a major stationary source, as defined under PSD regulations, for a five-year period. As a result, Coors now proposes to use natural gas instead of coal as its boiler fuel, and will relinquish all rights it now has to available Shenandoah Park class I sulfur dioxide increments, held solely by Coors for over 12 years.

U.S. v. Crown, Cork & Seal Company (N.D.Miss.): On September 30, 1993, the U.S. Attorney filed a consent decree in settlement of EPA's pending enforcement action against Crown Cork and Seal Company, Inc. (Crown) for CAA violations. On or about June 1987, Crown commenced operations of a new two-piece can coating facility in Batesville, Mississippi, without first obtaining a PSD permit or testing and reporting pursuant to requirements of the CAA. Under this decree, Crown will pay $343,000 for PSD and NSPS violations.

In addition to the penalty, Crown agreed to perform three supplemental environmental projects (SEPs) valued at more than $2,000,000, after tax. These SEPs consist of the following: a new regenerative incinerator at the Batesville plant to further reduce VOC emissions below legal requirements; a pilot project at Crown's Cheraw, South Carolina facility to test the use of a bio-filter to control VOC emissions; and a management environmental awareness training program for Crown's corporate managers and for managers at all Crown can coating facilities in the United States.

U.S. v. Enterprise Products Company, (S.D. Tex.:) On August 25, 1993, the court entered a consent decree settling the CAA civil penalty action against Enterprise Products Company. On August 30, 1993, Enterprise paid a civil penalty in the amount of $86,000 to resolve NSPS violations at its Mont Belvieu, Texas storage facility. The violations occurred due to the release into the atmosphere of unauthorized amounts of natural gasoline vapor from a storage vessel. The vapor recovery system that had been installed was insufficient to collect and/or process all volatile organic compound vapors and gases discharged from the storage vessel.

Idaho Panhandle Wood Products Initiative: During fiscal year 1993, Region X completed a two-year enforcement initiative in Northern Idaho ("Idaho panhandle"). The shift of wood product operations from the coast of Washington and Oregon to Northern Idaho has resulted in increased production at existing facilities and the start-up of many new facilities. Since the State of Idaho had limited resources to inspect this large universe of major stationary sources, EPA agreed to conduct field inspections of 25 wood products facilities in the Idaho panhandle. As a result of violations documented during these inspections, Region X issued nine administrative penalty actions and made two referrals to the DOJ (one involves a Louisiana-Pacific facility, included in the national settlement discussed below). In addition to substantial penalties, the settlements included both extensive injunctive relief provisions and supplemental environmental projects requiring reduced emissions through improved operations, better maintenance, installation of continuous emission monitors, and source testing. These provisions are expected to reduce emissions of particulate matter by 1,398 tons per year and volatile organic compounds by 239 tons per year.

U.S. v. Kimmins Environmental Services, Inc. (M.D. Fl.): On December 7, 1992, the court entered a consent decree to settle an action against Kimmins Contracting Corporation for violations of the asbestos NESHAP demolition and renovation regulations. Under the decree, Kimmins agreed to pay a $25,000 penalty and to develop both Asbestos Control and Asbestos Training Programs. On December 5, 1988, Kimmins had removed asbestos pipe insulation from a phosphorus and sulfuric acid plant, later owned by U.S. Agri-Chemicals Corporation in Polk County, Florida, prior to demolition of the facility. Kimmins failed to give at least ten days notice to the proper agency prior to commencement, and had failed to keep the asbestos insulation wet during stripping, as required under 40 C.F.R. § 61.147(d).

In re LaRoche Chemicals, Inc.: Under the terms of a consent agreement and consent order filed July 30, 1993, LaRoche Chemicals of Gramercy, Louisiana, agreed to pay a $25,000 civil penalty and expend an additional $158,400 to purchase, install and operate equipment for recovery of residual chlorofluorocarbons (CFCs) in used cylinders returned by customers. Recovery of these CFC residues will reduce the amount of CFCs released into the atmosphere by an estimated 50,000 pounds per year more than current regulatory requirements. This agreement resolved CAA violations by LaRoche for facilities utilizing asbestos during manufacturing processes. EPA accepted the company's proposal to reduce CFC releases in lieu of paying additional sums to resolve violations of the unrelated asbestos rules.

U.S. v. Louisiana-Pacific Corporation and Kirby Forest Industries, Inc. (W.D. La.): The penalty in this case represents the largest CAA civil penalty ever collected by EPA, and the second largest penalty recovered under any environmental statute. Under the terms of a consent decree entered on September 30, 1993, Louisiana-Pacific (LP) was required to pay an $11.1 million civil penalty and to install state-of-the-art pollution control equipment, valued at approximately $70 million, in eleven of its facilities. Louisiana-Pacific also agreed to implement an extensive CAA compliance program including: compliance and management audits; obtaining PSD or NSR permits; complying with existing state permits; installing enhanced monitoring equipment at 11 facilities; and maintaining records and reporting to the government as required under the CAA.

On May 24, 1993, EPA Administrator Carol Browner and Attorney General Janet Reno held a joint press conference announcing settlement of this action which involved numerous violations of SIPs, PSD, NSR, and state permit requirements at fourteen of LP's wood panel facilities located in eleven states. The Administrator and the Attorney General stressed the Agency enforcement themes which were addressed in this national case, including: the environmental benefits and deterrent effect of the settlement; data and PSD program integrity; advancing the pollution control technology used in an industry; and federal-state cooperation in coordinating a nationally managed enforcement action.

U.S. v. Midwest Suspension and Brake (E.D. Mi.) On June 16, 1993, the court ordered the defendant in this civil judicial enforcement action to pay a civil penalty of $50,000 for violations of the asbestos NESHAP at its brake refurbishing plant. The court's opinion clarified key terms under the asbestos NESHAP. The court opined that a "visible emissions" violation must be proven without the aid of instruments and that circumstantial evidence is sufficient to establish the violation. In determining the appropriate civil penalty, the court followed a 1992 CAA holding that, when calculating civil penalties under §113 of the CAA, a court must start by imposing the statutory maximum penalty and then must apply the appropriate penalty assessment criteria to determine if penalty mitigation is justified.

U.S. v. Mobil Oil Corporation (E.D. Ca.): On February 4, 1993, the court entered a consent decree ordering Mobil Oil Corporation to pay a civil penalty of $950,000, the second largest penalty levied by EPA for CAA violations in California. In its complaint, the government alleged that between November 1983 and December 1985, Mobil violated the CAA at its polystyrene foam manufacturing facility. The complaint charged that Mobil had emitted more isopentane, a volatile organic compound that is a precursor to ground level ozone pollution, than was permitted by Kern County Air Pollution Control District Rule 414.4, which is part of the federally enforceable SIP for California.

U.S. v. Nabisco Biscuit Company, Inc. (D.NY): On January 20, 1993, a consent decree was entered resolving this case. Under the decree, Nabisco is enjoined from further violations of the CAA and will pay $358,000 in civil penalties. The decree also requires Nabisco to retrofit new catalytic incinerators onto the manifolded stacks of its primary baking ovens and then perform stack testing after receiving a permit and protocol approval from the State. Nabisco's facility produces baked leavened products for the wholesale market. While making its bread products, the facility was emitting ethyl alcohol, a volatile organic substance which is a precursor to the formation of ozone, in excess of applicable emission requirements.

U.S. v. New York City (S.D. N.Y.): On April 22, 1993, a consent decree was entered in this case which involves gasoline dispensing stations leased and/or operated by the City of New York. There are over 300 such stations at sites throughout the City's five boroughs. Approximately 55 of these facilities were not equipped with Stage I and/or Stage II vapor collection systems as required by the New York SIP. The consent decree requires the City to award contracts to construction managers who will in turn provide enforceable work schedules to bring all of the affected facilities into compliance. The settlement also requires the City to complete an extensive capital improvement work program, with stipulated penalties for failure to complete work on schedule; and the decree requires the City to pay $200,000 in civil penalties.

U.S. v. New York City Board of Education, et al., (E.D.N.Y.): On various dates during 1993, judicial consent decrees were lodged with respect to the Board of Education and two of the seven asbestos abatement contractors which are defendants in this multi-party action. Defendants were charged with violating EPA's asbestos "notification" rule, which forms an integral part of the NESHAPs regulations. The action serves notice on the regulated community that the notification rule is essential to the integrity of these regulations and will be strictly enforced. As part of a nationwide EPA asbestos enforcement initiative, a complaint was filed against the Board of Education and seven contractors for failure to notify EPA of renovations involving asbestos removal in many City schools. Approximately 126 such failures were at issue in this case. These consent decrees finalize settlements with the Board, as owner, for all violations, and with two of the asbestos abatement contractors involved in the violations, Jack's Insulation and Philson Painting Co. The combined penalties provided for in these decrees, and in several others for which consent decrees have been negotiated but not yet lodged, total $175,000.

In re Placid Refining Company, Port Allen, La.; In re Conoco, Westlake, La: As part of a hydrogen sulfide monitoring initiative, Region VI signed two consent agreement/consent orders (CACO) during June 1993, concluding administrative enforcement complaints against Placid Refining Company (Placid) of Port Allen, Louisiana and Conoco of Westlake, Louisiana. These two agreements required penalties of $68,000 and $60,000 respectively. EPA had alleged that Placid violated NSPS rules by failing to conduct a performance evaluation of a hydrogen sulfide continuous emission monitor (CEM) in a timely manner as required. Conoco was alleged to have failed to install a hydrogen sulfide CEM and also failed to conduct the performance evaluation. The rules requiring petroleum refineries to install and certify hydrogen sulfide CEMS on their fuel gas systems were promulgated on October 2, 1990, and became effective 12 months later. Both complaints were filed as part of a national initiative to enforce the new hydrogen sulfide monitoring requirements of NSPS Subpart J.

Republic Industries, Inc.: On September 27, 1993, EPA Region IV filed a consent agreement settling an administrative asbestos NESHAP case against Republic Industries, Inc. for $32,824.

Republic is an asbestos abatement company that conducted asbestos renovation projects at the Marine Corps Recruit Depot on Parris Island, S.C. and at the Inbordan Elementary School in Enfield, N.C., in August 1991. EPA inspections revealed that Republic had failed to adequately wet asbestos-containing material (ACM) at both sites and failed to properly label containers of asbestos-containing waste material at the Parris Island site, in violation of the CAA asbestos NESHAP regulations.

Shenanago, Inc: The consent decree in this CAA case is the first to have the new dispute

resolution section patterned after the dispute resolutions used in RCRA decrees. Shenanago, Inc. will pay $540,000 and install innovative desulfurization control technology at it Neville Island Coke Plant. The consent decree, which was entered on August 24, 1993, had been lodged against Shenango in response to violations of its 1980 and 1987 consent decrees. As part of the decree, Shenango must undertake specified remedial actions, one of which is the installation of an innovative desulfurization process, which has been successfully employed in the petroleum industry to desulfurize gas to very low levels. Shenango was also placed on an schedule to study the transferability of this process technology. EPA believes that this process holds promise for the steel industry and, if successfully transferred, is likely to establish a new LAER standard for desulfurization plants.

Texas Instruments, Inc.: On July 23, 1993, EPA entered into a consent agreement with Texas Instruments, Inc. of Attleboro, Massachusetts for violations of several NSPS provisions applicable to small boilers. The company engages in the manufacture of various pressure bonded metal products. Texas Instruments also operates a utility plant which houses six boilers. In January of 1992, Texas Instruments began operating a new boiler. On January 26, 1993, EPA issued an administrative penalty order to Texas Instruments for notification, performance testing, and reporting violations.

The case was settled for $49,900 and an agreement by Texas Instruments to perform a supplemental environmental project in which Texas Instruments will replace a vapor degreaser unit, which emits approximately 6,800 pounds per year of Freon-113, an ozone depleting chemical, with a closed-loop, zero-emissions degreaser unit. The project will cost Texas Instruments over $170,000, and is the first application of this technology to the metal finishing industry.

Watson Electrical Construction Co.: On August 16, 1993, EPA settled a case against Watson Electrical Construction Company with a penalty of $30,107, the largest penalty to date received by EPA for violations of §608 of the CAA. EPA initiated the action against Watson as part of the Agency's initial effort to enforce the new stratospheric ozone protection requirements established by the CAA of 1990. Watson is a large electrical and air-conditioning service contractor with offices located throughout North Carolina and Virginia. EPA discovered that Watson had done service work on air-conditioners in a manner which violated the stratospheric ozone protection requirements. The violations consisted of failure to use refrigerant capture equipment to prevent chlorofluorocarbons (CFCs) from being released to the atmosphere.

U.S. v. World Color Press, Inc. (S.D. Ill.): On December 5, 1992, the court entered a consent decree against World Color Press, Inc. for CAA violations at three facilities in southern Illinois. The decree requires World Color to pay a civil penalty of $500,000, perform stack tests and install afterburner systems to control emissions of volatile organic compounds at its two remaining facilities. (The company closed its Mt. Vernon facility in March 1991.) In addition, World Color agreed to maintain compliance with its permits, demonstrate continued compliance through various monitoring and reporting, and pay stipulated penalties for violations of the consent decree.

EPA action in this matter had begun in February 1991 with a complaint alleging that World Color had violated the CAA and regulations governing the prevention of significant deterioration of air quality. The company had allegedly failed to obtain permits for the construction of eleven printing presses at two facilities and failed to install pollution control equipment pursuant to a PSD permit at a third facility.

Clean Air Act Enforcement
Mobile Source Program

For mobile sources, EPA increased efforts to control emissions from motor vehicles and vehicle fuels under the new Clean Air Act amendments. EPA will promulgate new compliance regulations for reformulated fuels, will promulgate regulations requiring detergents in gasoline, and began implementing and enforcing regulations (effective October 1, 1993) which will control the amount of sulfur in diesel fuel. In addition, EPA enforces the volatility standards for gasoline as well as the anti-tampering and defeat device prohibitions. The amended act also provided administrative enforcement authority which EPA has begun to

implement. EPA also continued existing enforcement programs such as the recall program (which results in the recall and repair of emissions systems of about one third of all new vehicles) and will initiate a compliance program for heavy duty engines.

Lead Phasedown Cases

U.S. v. CENEX (D.Minn.): In November 1992, the U.S. District Court entered a civil consent decree in which Farmers Union Central Exchange, Inc. ("CENEX"), a refinery located in Montana, agreed to pay $571,000 for multiple violations of the lead phasedown regulations. The purpose of these regulations is to reduce ambient lead levels. Airborne lead has been found to interfere with normal mental functioning and synthesis of blood hemoglobin. The penalty approximates the actual economic benefit realized by CENEX's from the illegal lead transactions, as adjusted for interest and taxes from December 1987 to the present.

Volatility and other Fuel Cases

Keystone Terminal Operating Corporation (E.D. Pa): On February 12, 1993, the court entered a consent decree requiring Keystone Terminal Operating Corporation to pay $12,500 for multiple violations of the volatility regulations and $1,000 for refusal to allow EPA inspectors entry to inspect its premises.

Gas City, Ltd.: In May, 1993, EPA settled a major enforcement action against Gas City for extensive violations of §211 of the CAA. The settlement requires Gas City, a Frankfort, Illinois gasoline blender and retailer, to pay a $450,000 penalty, the largest penalty collected by EPA for violations of this nature.

An EPA investigation during 1991 and 1992 revealed that Gas City blended nearly 1.6 million gallons of methanol with unleaded gasoline, at concentrations in excess of federal limits, for sale at various Gas City retail outlets located in Chicago, Illinois and Gary, Indiana. Excess methanol can damage emission control components in vehicles not designed for methanol. By using inexpensive methanol to dilute gasoline, Gas City realized an economic benefit of over $300,000. EPA increased the amount it was willing to settle for when it was discovered that Gas City continued to blend methanol gasoline in violation after EPA had notified it of the violation. The investigation further revealed that Gas City had sold, or offered for sale, gasoline in violation of the volatility regulations which limit summertime fuel volatility (a measure of a liquid's evaporative characteristics) to reduce urban smog levels. Finally, Gas City was found to have violated several requirements of the unleaded gasoline regulations, which are designed to ensure that unleaded vehicles are not misfueled with gasoline containing lead, thereby deactivating catalytic converters.

U.S. v. Ali Virani d/b/a Pit Stop (S.D. Texas): On October 7, 1993, the court entered a civil consent decree in which Ali Virani d/b/a Pit Stop, an unbranded retail gasoline station in Galveston, Texas, agreed to pay $6,000 for a violation of the volatility regulations. Random inspections of retail outlets in the Galveston, Texas area in August 1989 revealed that Pit Stop was selling gasoline that exceeded the 9.5 pounds per square inch standard applicable in Galveston at the time. Ali Virani's attempt to deny ownership of the retail outlet during the time of the inspection was thwarted after EPA discovered he had paid for a food service permit application with a personal check before the inspection.

Fuel Misdelivery Initiative

As a result of inspections in and around various ozone nonattainment areas during the 1992 volatility control season, EPA discovered extensive misdeliveries of high RVP gasoline into nonattainment areas requiring low RVP gasoline. Further investigations revealed that certain regulated parties upstream of those that actually made the deliveries, either had knowledge of the deliveries or had information available that provided them with a reason to know that such deliveries had occurred. Consequently, during FY 1993, EPA issued 24 NOVs, with proposed penalties totaling nearly one million dollars, to these parties as well as to those more directly involved in the actual misdeliveries. These enforcement actions generated significant attention by those cited for the violations and other regulated parties,

many of which have subsequently instituted more aggressive monitoring and quality control programs to prevent and remedy such violations. Similar violations were not discovered during the 1993 volatility control season due, in part, to EPA's aggressive enforcement.

Aftermarket Catalytic Converter Policy Cases

U.S. v. Cole Muffler, Inc. (N.D. New York): In January 1993, Cole Muffler entered into a settlement with the EPA agreeing to pay $238,000 for its violation of the tampering prohibition of the Clean Air Act. This is the largest penalty ever awarded for a violation of this nature. Cole Muffler, Inc., a New York corporation with 51 muffler shops in New York, Pennsylvania and Florida, incorrectly installed aftermarket catalytic converters on at least 3,160 vehicles. The converter is the most effective emission control component on motor vehicles. Misapplications can dramatically increase a vehicle's emissions of hydrocarbons, nitrogen oxides and carbon monoxide. The violations were discovered upon a routine review of warranty cards submitted by repair shops to catalytic converter manufacturers.

In addition, the settlement requires Cole Muffler to pay stipulated penalties for certain future violations if they occur and file quarterly reports with the EPA for each and every catalytic converter installation over the next two years.

Benny's Pipe and Muffler Shop (E.D. Tenn.): On September 7, 1993, EPA won a partial summary judgment against Benny's Pipe and Muffler Shop, Inc. ("Benny's") on the issue of Benny's liability for at least 43 violations of the tampering prohibition of the CAA. Benny's, a corporation with four repair shops in the Bristol, Tennessee area, violated the Act by installing aftermarket catalytic converters on vehicles with converters still under the manufacturer's 5 year/50,000 mile warranty and/or by installing two-way catalytic converters on vehicles which required three-way catalytic converters.

The decision was significant because it was the first judicial opinion stating that installation of an aftermarket catalytic converter on a warranty eligible vehicle violates the tampering prohibition.

U.S. v. James A. Loock, et al. (E.D. California): On September 16, 1993, the court entered a default judgment ordering James A. Loock, doing business as Muffler Man, to pay a $12,500 civil penalty for five violations of the tampering prohibition of the CAA. Muffler Man, an automobile repair business, installed two-way catalytic converters on five vehicles requiring three-way catalytic converters. Such installations are prohibited because they increase emissions of nitrogen oxides which are major contributors to urban smog and acid rain. The violations were discovered upon a routine review of warranty cards submitted by repair shops to catalytic converter manufacturers.
Muffler Man filed a motion to set aside the default. In response, the U.S. alleged that Muffler Man's motion contained fabricated evidence and constituted a fraud upon the court. An EPA attorney discovered, in researching Muffler Man's claim that it had submitted numerous documents to EPA during the settlement process by certified mail, that the green certified mail slips attached to these documents had not been printed by the U.S. Postal Service at the time that Muffler Man had sworn they had mailed these documents. The court denied Muffler Man's motion holding that it had not rebutted the government's initial allegations or subsequent allegations of fraud.

Tampering Cases

Leith Jeep-Eagle, Inc. (E.D. N.C.): On June 21, 1993, the court entered a civil consent decree in which Leith Jeep-Eagle, Inc. (Leith) agreed to pay $15,000 for three violations of the tampering prohibition of the CAA. Leith, a new car dealer in Raleigh, North Carolina, violated the Act by plugging the vacuum hoses to the exhaust gas recirculation ("EGR") valve on three motor vehicles. An EGR valve recirculates exhaust gases thereby reducing a vehicle~s emissions of nitrogen oxides. The violations were discovered during an EPA inspection on January 31, 1990, made as a follow-up to a customer complaint.

In addition to the penalty, the settlement requires Leith to implement a comprehensive recall program which includes the distribution of a "recall letter" to certain customers of

Leith and an agreement to repair all plugged EGR systems which are brought in by those customers at no charge. The recall program is expected to cost more than $15,000.

Defeat Device Cases

MSA Manufacturing Company, Inc.: On August 27, 1993, the U.S. District Court entered a consent decree requiring MSA Manufacturing Company, Inc. to pay $28,500 for manufacturing and installing catalytic converter replacement pipes. This was the first enforcement action undertaken pursuant to the defeat device provisions of the CAA Amendments of 1990.

In addition to the penalty, the decree prohibits MSA from manufacturing, selling, trading, or otherwise supplying test pipes. The decree further requires MSA to issue a recall letter to all customers who purchased test pipes on or after the effective date of the defeat device provision (November 15, 1990), through the date of entry of the decree. Finally, the decree prohibits MSA from referring to test pipes in its advertising or sales-related documents.

Eckler Industries, Inc.: On December 16, 1992, Eckler Industries, Inc. entered into a settlement agreement with EPA requiring it to pay $30,000 for selling or offering to sell 49 catalytic converter replacement pipes and mufflers in violation of the defeat device provision of the Clean Air Act. The violations, which occurred throughout the U.S., were discovered during a directed inspection. This was one of the first administrative actions taken for violations of the defeat device provision added by the CAA Amendments of 1990.

Other cases

Caterpillar, Inc.: On February 2, 1993, EPA entered into a settlement agreement with Caterpillar, Inc., (Cat) in which Cat agreed to pay a penalty of $220,500 for violations of the Clean Air Act. Cat also agreed to perform a recall program yielding a 76 percent response rate, with costs to Cat estimated at $370,400. The penalty arose out of Cat's introduction into commerce of three hundred ninety-seven 1991 model year heavy-duty engines which were not covered by a certificate of conformity and Cat's failure to report changes made to the engines during production.

An investigation of the violations began during a heavy-duty Selective Enforcement Audit (SEA). SEAs are routinely conducted by EPA on production line engines and vehicles to determine whether these engines and vehicles comply with federal emission requirements. While conducting an SEA at Cat's engine assembly plant, EPA discovered that the engines subject to testing were not manufactured according to the design specifications in the application for certification submitted to EPA.

Chrysler Corporation: On July 14, 1993, EPA and Chrysler Corporation signed a settlement agreement in which Chrysler agreed to pay $51,200 in civil penalties. The settlement agreement resolved 16 separate violations which were the result of Chrysler's introduction into commerce of sixteen Dodge Daytonas that did not meet EPA's motor vehicle emission requirements.

Clean Water Act Enforcement

In FY 1993, the Clean Water Act (CWA) NPDES permit program, regulating direct and indirect point source discharges to the nation's navigable waters, continued to focus enforcement efforts on human health and ecological risk from significant noncompliers. The program continued civil judicial and administrative penalty actions against both municipalities and industry to reduce significant noncompliance with pretreatment requirements. This effort builds on pretreatment enforcement initiatives against municipalities initiated in October 1989, and against both industries and municipalities begun in May 1991 and in October 1992. EPA and the states continued to build municipal facilities' capacity to enforce against Industrial Users (IUs). However, where there is an approved program and the Publicly Owned Treatment Works (POTW) has not taken all actions available under its authority to secure compliance by an IU, action against both the POTW and the IU usually is appropriate. The program enforces requirements for Combined Sewer Overflows (CSOs) for municipalities. EPA released a draft permitting and enforcement CSO strategy for comment in the first half of FY

1993. The program is developing enforcement strategies for new storm water and sludge regulations and will begin enforcement in these areas in FY 1994.

Through the national and state-based Municipal Water Pollution Prevention Programs (MWPPP), EPA and states foster pollution prevention and compliance maintenance at POTWs. These programs are designed to prevent future pollution that could result from capacity limitations and operation and maintenance problems at POTWs that are now in compliance.

The program continued to focus compliance monitoring and enforcement efforts on industries that are required to meet best available treatment and water quality-based effluent limits to control toxic pollutants, such as the pulp and paper industry and organic chemicals. As part of the effort to control toxic pollutants, the regions and states enforce permit requirements for reductions in Whole Effluent Toxicity (WET).

The program was supportive of several agency-wide, multi-media priorities in FY 1993, including initiatives on the Mexican Border, at federal facilities, and regarding data quality. The program also participated in geographic-based initiatives, as defined by the regions and the Office of Water, such as the Puget Sound and the Gulf of Mexico.

U.S. v. Aluminum Company of America (E.D. TX): The Aluminum Company of America (ALCOA) agreed to settle a Clean Water Act case for $750,000 in civil penalties shortly after the trial of the case had commenced in U.S. District Court. An enforcement case involving effluent violations of the National Pollutant Discharge Elimination System (NPDES) permit had been filed against ALCOA for violations that occurred during 1987 at its aluminum smelting plant located near Palestine, Texas. The violations, demonstrated in the facility's self-reported data, included exceedances of the permit limits at an internal outfall of certain chlorinated organics, specifically hexachlorobenzene and decachlorobiphenyl, a PCB. No injunctive relief was included since the facility has been dismantled.

U.S. v. City of Bossier City and the State of Louisiana (W.D. LA): On February 11, 1993, a consent decree was entered in settlement of violations by Bossier City. The complaint alleged that Bossier City failed to properly operate and maintain its publicly owned treatment works, failed to comply with effluent limitations in its NPDES permit, and failed to implement fully its industrial pretreatment program. Bossier City agreed to pay a civil penalty of $200,000 and to conduct a supplemental environmental project (SEP) which promotes EPA's policy of providing for the beneficial use of municipal wastewater sludge. The projected cost of the SEP is approximately $375,000. In the past, Bossier City transported its municipal wastewater sludge to a landfill. Under the SEP, Bossier City will install sludge treatment facilities which will produce a reusable final product.

U.S. v. City of Cocoa, Florida: On February 10, 1993, the EPA Region IV Regional Administrator ratified a consent agreement and final order (CAFO) between EPA and the City of Cocoa which included a mitigated penalty of $32,593 and several supplemental environmental projects valued at approximately $1,963,600.

EPA's complaint alleged that Cocoa had violated §301(a) of the CWA by failing to monitor pH on a continuous basis and by exceeding several other NPDES permit limitations at various times from October 1988 through August 1990. The SEPs include: installation of 5,000 feet of storm water swales; expansion of the City's wastewater reuse system; restoration of a 300,000 gallon elevated storage tank; and accelerated compliance with the Florida Indian River Lagoon Act.

U.S. v. Crown Cork de Puerto Rico (D. P.R.): On October 15, 1992 a consent decree was lodged in U.S. District Court which required Crown Cork to pay a civil penalty of $750,000, attain categorical pretreatment standards for discharges to PRASA's Carolina wastewater treatment plant (immediately), and comply with PRASA's local pretreatment limit for aluminum by June 1, 1993. The complaint in this action was filed in 1988, alleging that Crown Cork, a can manufacturer located in Carolina, Puerto Rico, had violated the CWA by discharging pollutants into navigable waters without a permit, discharging pollutants to navigable waters in excess of permit

limits once a permit was obtained, and violating applicable pretreatment standards for its discharges into a publicly owned treatment works.

U.S. v. CSX Transportation, Inc. (M.D.FL): On May 6, 1993, CSX Transportation, Inc. (CSX) signed a consent decree for alleged violations of the Clean Water Act at six railroad yards owned by CSX in Florida and North Carolina. The consent decree requires CSX to pay a $3,000,000 civil penalty and perform four SEPs valued at over $4,000,000. The four projects are: an NPDES compliance audit at 21 active CSX yards in Region IV; a multi-media risk assessment audit at 61 inactive CSX facilities nationwide; an environmental awareness training program for CSX managers throughout the corporation; and the development of a best management practices manual and a seminar on storm water runoff at railroad yards.

The civil complaint was filed on April 10, 1992, alleging that discharges from six CSX railyards exceeded limits in the respective NPDES permits for these facilities. The consent decree was filed with the U.S. District Court on September 27, 1993.

Easton, PA: A consent decree was entered in U.S. District Court, Eastern District of Pennsylvania, on July 20, 1993. The decree required Easton Area Joint Sewer Authority to pay a civil penalty of $389,000 to the U.S. for past violations of its NPDES permit. The decree also required them to maintain compliance with their permit effluent limitation and to implement a pretreatment program subject to stipulated penalties.

Defendant Harcros Pigments, Inc., which had purchased the manufacturing unit from Pfizer Pigments, a contributing industry, was required to maintain compliance with its industrial user permit subject to stipulated penalties. The decree required the Authority to pay $120,000 to the Coalition of Religious and Civic Organizations, Inc. (CORCO), and required Harcros to pay $7,500 to CORCO for attorneys' fees and costs. CORCO initiated the suit in 1988 and was joined by the U.S. in 1989.

The City of Easton, a previous holder of the permit, was required to pay a $45,000 penalty for permit effluent and pretreatment violations.

Farmers Union Central Exchange COOP/ CENEX (Billings, Montana): EPA issued an NOV to the State of Montana on November 11, 1990, for violation by CENEX of its NPDES permit limits for oil and grease dating back to December 1986. The State replied on January 29, 1991, that due to a lack of resources, the State would not pursue enforcement against CENEX. On June 26, 1991, EPA Region VIII referred the CENEX case to DOJ. Over the last year, EPA has negotiated with the company and has agreed in principle to settle the case for $316,000. Final settlement of this case sets a standard for the State of Montana which should help the State in future negotiations. Further, once concluded, it will send a strong message to all of the regulated NPDES community that EPA will overfile in a delegated State when necessary. CENEX was a FY 1993 targeted inspection.

U.S. v. Florida Tile Industries, Inc. (M.D. FL): On April 26, 1993, Florida Tile Industries, Inc. signed a consent decree for alleged violations of the CWA at the Lakeland, Florida facility. The consent decree requires Florida Tile to pay a $493,070 civil penalty, requires construction of a system to eliminate the discharge of contaminated storm water as described in a NPDES permit, and to perform two supplemental environmental projects (SEPs) valued at $333,930. The SEPS are a plan to reduce the levels of zinc oxide used in a portion of the Florida Tile's glazes, and the construction of a zero discharge stormwater management system on 13 acres of Florida Tile's property not currently subject to NPDES permit requirements.

A civil complaint was filed on March 17, 1992, alleging that storm water discharges contaminated by fugitive air emissions exceeded limits in the NPDES permit. Florida Tile is the third largest manufacturer of ceramic tile in the U.S.

Town of Fort Gay, WV: A consent agreement and consent order (CACO) was issued to the Town of Fort Gay, WV, on June 25, 1993, requiring payment of $10,000 for NPDES permit violations. This case was referred to EPA by the West Virginia Department of Environmental Protection after the Town refused to enter into an enforceable compliance schedule to correct violations at the Town's POTW. Violations included numerous effluent limitations violations, failure to submit

timely discharge monitoring reports (DMRs), failure to report bypasses and Combined Sewer Overflow (CSO) discharges, and operation and maintenance problems. Fort Gay has now met all compliance schedule requirements of the administrative order to address the violations at this facility.

U.S. v. G.E. Caribe, Inc.: On November 24, 1992, a consent decree was entered in the U.S. District Court (D. PR) pursuant to which G.E. will pay a civil penalty of $500,000, and will cease the discharge from its facility in Puerto Rico. EPA initiated this action based on G.E.'s violations of its NPDES permit. The settlement was reached during pre-referral negotiations; a civil complaint was filed simultaneously with the consent decree.

U.S. v. McDonnell Douglas Corporation (C.D. Cal.): On September 17, 1993, the court entered a civil consent decree in which McDonnell Douglas agreed to pay $505,000 in civil penalties in settlement of an action brought under the Clean Water Act for violations at its aerospace manufacturing facility in Huntington Beach, California. Specifically, McDonnell Douglas discharged approximately 7,000 gallons of metal finishing waste from its printed circuit board manufacturing operations in violation of the pretreatment standards. The wastewater was discharged to the County Sanitation Districts of Orange County sewers and then conveyed to the Orange County Treatment Plant for treatment and disposal into the Pacific Ocean.

U.S. v. Modine Manufacturing (N.D. Ill.): On May 28, 1993, a consent decree was lodged resolving EPA's civil complaint against Modine Manufacturing. The consent decree requires Modine to pay a $750,000 cash penalty and requires it to implement substantial pollution control measures at a cost to the company of approximately $5,300,000.

On June 11, 1993 the U.S. filed a CWA civil action against Modine, seeking injunctive relief and civil penalties for violations of §§ 301 and 311 of the CWA for discharging pollutants from its Ringwood, Illinois facility, in excess of the limits in its applicable 1975 and 1986 NPDES permits. Since the permits were issued to the Modine facility in 1975 and 1986, Modine had committed many violations of the state-issued permits. Modine operates an Alfuse production line at the facility that Modine has certified is the primary cause of the CWA violations. The current wastewater treatment process has proven unsuccessful in treating the Alfuse wastewater prior to discharge from its permitted outfall. This decree requires Modine to phase-out the Alfuse production process entirely and replace it with a nearly pollutant-free production process. Modine has also agreed to convert its process on an expedited schedule and to undertake additional projects that go beyond those needed to achieve compliance. The pollution prevention measures outlined in the decree shall eliminate all BOD, zinc, ammonia, and TSS loading in Modine's effluent from the facility. In addition, these measures shall eliminate the emission of approximately 73,000 pounds of volatile organic compounds, 7,800 pounds of particulate matters and 1,600,000 pounds of sludge annually.

U.S. and Indiana v. New Albany (S.D. Ind.): On June 18, 1993, the court entered a consent decree between the United States, the State of Indiana and the City of New Albany, Indiana. The decree requires that New Albany pay a penalty of $140,000 to the U.S. Treasury and $35,000 to Indiana, for New Albany's violations of the Clean Water Act. New Albany is also required to conduct extensive work on its POTW and sewer system, including modifications to the secondary wastewater treatment and sludge disposal facilities, as well as sewer rehabilitation work. New Albany estimates the cost of its compliance activities at $17,000,000.

On March 23, 1990, the U.S. filed a six count complaint against New Albany, a municipality located in Floyd County, Indiana. The complaint alleged that New Albany violated the effluent limits of its NPDES permit, bypassed wastewater in violation of its NPDES permit, failed to implement and enforce its pretreatment program, failed to provide an adequate alternative power source and violated an administrative compliance order issued by EPA.

U.S. v. NICOR National Louisiana, Inc. (E.D. La): A barge cleaning facility agreed to the entry of a court order to pay civil penalties for its violation of the Clean Water Act. On January 12, 1993, the U.S. District Court entered a civil consent decree in which NICOR agreed to pay $225,000 in civil penalties. The complaint

alleged that NICOR had violated the CWA by discharging pollutants into navigable waters without a NPDES permit. Also, after receiving a NPDES permit, NICOR violated effluent limitations in the permit and failed to monitor and report in accordance with its permit. NICOR was in the business of cleaning and repairing barges, tugboats, and oil field supply boats at its Belle Chasse, Louisiana shipyard. NICOR has ceased operations at this facility. This case is an example of an increasing effort to examine transportation facilities for violations of environmental requirements.

U.S. v. Oak Crystal Inc. d/b/a McCoy Electronic Company: On November 17, 1992 a consent decree was entered in the U.S. District Court (M.D. PA) in which Oak Crystal Inc. agreed to pay a $335,000 up-front penalty and agreed to expend $325,000 to install a wastewater recycling system which would both substantially reduce their discharge flow and significantly improve the quality of their effluent discharge to the Mt. Holly Springs, PA, Wastewater Treatment Plant (WWTP). The current discharge is now 1,500 gallons per month versus 45,000 gallons per month prior to the project. The effluent quality of the current discharge is also far below the limitations imposed for metal finishers under Metal Finishing Existing Sources Category Regulations, 40 C.F.R. 433.15 et seq. The effluent violations were detected from data which Oak Crystal, Inc., submitted to EPA as the pretreatment control authority for this industrial user.

United States v. Pacific Southwest Airmotive, Inc. (S.D. Cal): On October 16, 1992, the court entered a civil consent decree in which U.S. Air, successor to Pacific Southwest Airmotive (PSA), agreed to pay $335,000 in civil penalties in settlement of an action brought under the CWA.

PSA owned and operated a jet engine overhaul facility in San Diego, California from 1974 through October 1991, at which time U.S. Air purchased PSA. The violations are based on the discharge of industrial wastewater in violation of the pretreatment standards for metal finishing operations. During its operation, PSA discharged an average of 73,000 gallons per day of regulated industrial wastewater through the sewers to San Diego's Point Loma Wastewater Treatment Plant.

Pennzoil and Quaker State: Two CWA consent decrees were lodged in the District Court (W.D. PA) in November 1992 against Pennzoil and Quaker State Corporation which addressed unpermitted discharges of brine from stripper oil production. Pennzoil paid an up-front penalty of $1,150,000 and Quaker State paid an up front penalty of $450,000. Both companies were required to cease discharging without a permit.

U.S. v. Port of Portland (D. Ore.): On May 12, 1993, a consent decree was entered in federal district court against the Port of Portland for unpermitted toxic discharges posing potential hazard to human health and the marine environment. The decree requires the payment of a $92,000 penalty plus two supplemental environmental projects for the analysis and removal of contaminated sediments (a $58,000 study of priority pollutants in sediments near storm water drains.)

U.S. v. Puerto Rico Aqueduct and Sewer Authority: During FY 1993, EPA filed four more quarterly Motions to Enforce the terms of the judicial consent decree in this long-standing action against PRASA. Also during the year, EPA collected about $1.1 million in stipulated penalties arising out of past motions to enforce that decree. To date, over $3.3 million in stipulated penalties have been sought, and nearly $2 million have been collected. Although violations are still being routinely identified, PRASA's overall level of compliance with the terms of the decree has improved in recent years.

PRASA remains one of the most serious environmental violators in Region II, not only with respect to the Clean Water Act and not only at its major sewage treatment facilities, but under other statutes and at other facilities as well.

U.S. v. Puerto Rico Industrial Development Company (PRIDCO): On June 21, 1993, a consent decree was entered in the U.S. District Court (DPR). Under the terms of the decree, PRIDCO must take necessary actions to bring its Las Piedras Industrial Park Sewage Treatment Plant (STP), Cayay Industrial Park STP and Naguabo Industrial Park STP into compliance with their NPDES permits by July 1, 1994, July 1, 1993 and July 1, 1994, respectively, by ceasing discharge. The settlement also requires PRIDCO to pay a civil penalty of $1 million for its past violations

of the Clean Water Act. A complaint was filed in this action in August, 1990.

City of Rock Springs (Wyoming): A Class II administrative penalty order was issued on August 11, 1992, against Rock Springs for violations of its NPDES permit. The complaint cited Rock Springs for failure to properly implement and enforce federal pretreatment regulations. This case upholds the preventive nature of the pretreatment program promulgated pursuant to the Clean Water Act. A compliance order was also issued on August 11, 1992, directing the City to correct the deficiencies of its pretreatment program and comply with its NPDES permit. A consent order was issued on August 30, 1993, that requires Rock Springs to pay a civil penalty of $45,000 and undertake SEPs totaling $41,000. The SEPs that will be undertaken include development of a household hazardous waste program, an on-site assistance program for small communities, and a workshop on pollution prevention assessment and waste minimization for Wyoming state pretreatment coordinators.

U.S. v. City of Starke, Florida: The City of Starke settled an administrative penalty action on November 23, 1992. The agreement includes a penalty of $10,300 and a SEP. The SEP consists of a land application/reuse project which will reduce the discharge to Alligator Creek by 40%. The project is estimated to cost $1,600,000, and is to be completed by September 30, 1995.

The City of Starke is located in Bradford County approximately 45 miles northeast of Gainesville, Fla. The City operates a waste water treatment plant, having a capacity of 1.25 MGD, which discharges into Alligator Creek. The facility has a valid NPDES permit with an effective date of August 1, 1989. Beginning in August, 1989, and lasting through August 1991, the facility experienced numerous violations of permit limits for biochemical oxygen demand (BOD), total suspended solids (TSS), total nitrogen (TN), total residual chlorine (TRC), pH and fecal coliform. Numerous schedule and reporting violations occurred during the same period.

In the Matter of Town of Taos, New Mexico: An administrative penalty under the Clean Water Act was assessed on July 8, 1993, for failure of a municipality to handle its sewage sludge in accordance with the requirements of regulations regarding disposal of solid waste under RCRA. The RCRA requirements for handling solid waste were the basis for the requirements in the NPDES permit issued to Taos for sludge handling. The administrative complaint was issued under the CWA because Taos failed to adequately treat and dispose of its sewage sludge. Specifically, Taos failed to treat land-applied sludge with a process to significantly reduce pathogens or with a process to further reduce pathogens. The case was settled with a civil penalty of $125,000 and the requirement to immediately install temporary means of treating the sludge in order to meet the requirements of 40 CFR Part 257. In May 1992, Taos initiated lime stabilization to meet the requirements.

U.S. v. Tennessee Gas Pipeline Co. (W.D. LA): A civil action concluded on August 13, 1993 was EPA's first enforcement case against a natural gas transmission pipeline for water pollution discharges from one of its pumping stations. The court entered a final order for dismissal after the company and EPA reached agreement on a penalty of $725,000 under the CWA for the unauthorized discharges of PCBs from a pumping station near Natchitoches, Louisiana. The company had a NPDES permit to discharge specific quantities of pollutants from its pumping station into the lake serving as the public drinking water supply for the City of Natchitoches. Tennessee Gas had exceeded NPDES permit effluent limitations for the pollutant parameters for oil, grease and chemical oxygen demand, had failed to submit timely self monitoring reports to EPA as required by the permit, and had discharged PCBs from the station into the lake without NPDES permit authorization.

U.S. v. Texas Tank Car Works, Inc. (N.D. Texas): Due to the Agency's increased effort to examine transportation facilities for violations of environmental requirements, a rail car cleaning facility agreed to a court order to pay civil penalties and to prevent unauthorized discharges of polluted water. On June 2, 1993, the U.S. District Court entered a consent decree in which Texas Tank Car Works agreed to pay $60,000 in civil penalties in settlement of a civil action brought under the CWA. This action arose out of Texas Tank Car's failure to obtain a NPDES permit for its discharge of hydrostatic test water from its San Angelo, Texas rail car repair facility.

The water had been used to determine whether the rail car was leak-tight, and the water would be contaminated by the material which had been in the car previously. In addition to the penalty, Texas Tank Car must develop a recycling and disposal program for the hydrostatic test water and make quarterly reports to EPA on the implementation of this program.

U.S. v. Wayne County Michigan et al. (E.D. Mich): On July 2, 1993, the court entered an interim order that requires Wayne County and 12 downriver communities to implement a Project Plan that will significantly expand the carrying capacity of the sewer collection system and will increase the capacity of the Wyandotte POTW. Costs are estimated to exceed $150 million for this project, construction of which will extend into the next century.

As part of the sewer improvements, the defendants will construct a mini "deep tunnel" designed to hold rain waters during storm events. The order also requires all the 12 downriver communities to finance and construct the Project Plan, thus reducing the likelihood that any one defendant city could refuse to finance the needed improvements and thus keep the improvements from going forward.

Terms of the order were negotiated between the U.S., Michigan and Wayne County after it had become clear that the court intended to issue some sort of order to enable the defendants to become eligible for loan monies (SRF funding). The case was originally filed in 1987 against Wayne County; an amended complaint was filed in 1988 adding the 12 downriver communities as parties defendant.

Oil Pollution Act

Colonial Pipeline Company: EPA issued a unilateral administrative order pursuant to §311 of the CWA, as amended by the Oil Pollution Act of 1990, against the Colonial Pipeline Company on April 2, 1993.

EPA, with the assistance of state, local and other federal representatives directed the response of the Colonial Pipeline Company to a March 28, 1993 spill of over 400,000 gallons of fuel oil catastrophically released from a ruptured, thirty-six-inch pipeline near Herndon, Virginia. The spill severely impacted Sugarland Run and deposited oil and oil sheen on the Potomac River as far south as Alexandria. Under the direction of the EPA, immediate cleanup efforts by Colonial's contractors, the U.S. Coast Guard Strike team, and the Navy Supervisor of Salvage resulted in the recovery of 343,000 gallons of fluid oil. Despite these efforts, areas where oil was continually deposited contributed oil and sheen to the waterways, and other remedial measures were warranted. In accordance with EPA's order, Colonial has undertaken measures to address the release of oil into the Sugarland Run Creek and the Potomac River by way of excavation and bioremediation techniques, as well as natural attenuation.

Star Enterprises: On April 9, 1993, EPA issued a unilateral administrative order pursuant to §311 of the CWA, as amended by the Oil Pollution Act of 1990, and §7003 of RCRA against Saudi Refining, Inc., Star Enterprise, Texaco, Inc. and Texaco Refining and Marketing Inc. Star Enterprises is the owner and operator of an 18-acre terminal that operates nine 1.4 to 2.8 million gallon above-ground oil storage tanks and eleven 550 to 10,000 gallon underground storage tanks.

In the fall of 1990, an oil sheen was discovered at a nearby creek. Further investigation revealed that a large underground oil plume, estimated to contain over 100,000 gallons of oil, extended northeast of the Star Terminal across Pickett Road into commercial and residential areas.

The order requires the respondents to study, abate, mitigate, and eliminate such threats from oil, hazardous substances and/or solid wastes that may exist to the public health, welfare and/or the environment, at and around the site. The respondents shall accomplish this by: operating, maintaining, monitoring and modifying the existing on-site removal systems; providing data for EPA's comprehensive assessment of the current and future risk(s); conducting long-term monitoring; evaluating long-term corrective action alternatives for the comprehensive cleanup of oil, hazardous substances and solid waste in all media at the site; fully implementing the EPA selected remedy; properly closing site systems and restoring properties affected by the work; and, undertaking whatever

other actions are necessary to protect the public health, welfare and the environment at the site from imminent and substantial endangerments or threats. The order also requires reimbursement to the U.S. for costs it incurs in association with removal action under the order.

U.S. v. U.S. Oil and U.S. v. Texaco (W.D. Wash): In FY 1993, EPA settled the first two judicial penalties assessed under the new Oil Pollution Act of 1990. One was against U.S. Oil & Refining Co., and arose out of a January 1991 spill of more than 600,000 gallons (14,000 barrels) of oil from a ruptured pipeline into a drainage ditch that ordinarily drains to Commencement Bay in Tacoma, Washington.

The other was against Texaco Refining and Marketing Inc., and involved a spill of approximately 210,000 gallons (5,000 barrels) of oil from a burst pipeline booster pump. A significant amount of the oil entered Fidalgo Bay near Anacortes, Washington, causing an oil slick that killed more than 140 birds.

Under the settlements, U.S. Oil had civil penalties in the amount of $425,000 while Texaco had penalties in the amount of $480,000. U.S. Oil and Texaco were both made to acquire and install state-of-the-art spill detection and prevention equipment at an estimated cost of $800,000 each. U.S. Oil is to reimburse federal spill response costs of $60,000 and Texaco must reimburse $125,000. The estimated complete spill cleanup cost for U.S. Oil is $4,000,000 and $8,000,000 for Texaco.

These cases form a very significant landmark in the implementation of OPA. They represent the nation's first two judicial penalties assessed under OPA, and established the maximum civil penalty for an oil spill as $1,000 per barrel spilled rather than $5,000 per spill. Achieving such significant penalty amounts in the first two cases under the new act, when one spill (U.S. Oil) caused nearly no environmental impact and the other (Texaco) involved nearly no fault on the defendant's part, establishes the new Act as an extremely powerful enforcement tool and a deterrent to future spills, as Congress clearly intended.

Marine Protection Research and Sanctuaries Act (MPRSA)

Ocean Dumping Ban Act Cases

The New York and New Jersey municipalities which were dumping sewage sludge at the 106-mile site off the coast of New Jersey for many years have now eased dumping sewage sludge into the ocean, as required by the Ocean Dumping Ban Act of 1988 (ODBA). The Office of Enforcement was heavily involved in the negotiation and drafting of the federal judicial consent orders that were negotiated with the municipalities.

The ODBA amended the Marine Protection, Research and Sanctuaries Act, 33 U.S.C 1401 et seq., and required NY and NJ municipalities to cease ocean dumping by December 31, 1991. The NJ municipalities were: Bergen County Utilities Authority, Joint Meeting of Essex and Union Counties, Linden Roselle Sewerage Authority, Middlesex County Utilities Authority, Passaic Valley Sewerage Commissioners and Rahway Valley Sewerage Authority. All the NJ municipalities ceased dumping by March 17, 1991. New York was granted a six month extension of time to comply with the statutory deadline. NY ceased dumping half of its sludge by December 31, 1991 and completely ceased dumping by June 30, 1992.

In the Matter of Port Authority of New York and New Jersey: Region II issued an administrative order memorializing a settlement of this ocean dumping case brought under §105 of MPRSA. The settlement provided for payment of a $35,000 penalty, and included a supplemental enforcement project under which the Port Authority will provide a $15,000 grant to a private, non-profit organization for the purpose of purchasing and preserving wetlands in the New York Harbor area. The maximum penalty available under the MPRSA is $50,000 per violation. The Port Authority had received a permit from the U.S. Army Corps of Engineers to dredge dioxin-contaminated material from Newark Bay, and then ocean-dispose of the dredge spoils at a specific location within the "Mud Dump Site," where it would then be capped with clean material. The Port Authority's contractor disposed of 500 cubic yards of dredged material at

the wrong location in the Mud Dump Site, thus violating the Port Authority's permit. The Port Authority subsequently capped the improperly disposed of dredged material with 30,000 cubic yards of clean fill.

Enforcement of Ocean Dumping Ban Act (ODBA) Consent Decrees: In FY 1993, Region II continued to ensure compliance with consent decrees entered into by municipal sludge dumpers under the Ocean Dumping Ban Act. Several enforcement actions were brought to penalize municipalities in non-compliance with their ODBA consent decrees. The Bergen County Utilities Authority was ordered, in December 1992, to pay stipulated penalties of $55,000. In a second action against Bergen County, it agreed to pay penalties of $500,000 and to deposit $780,000 into an escrow account to be returned only if it complies with the consent decree. That consent decree amendment, which also included revisions to interim dates in the schedule of compliance, is before the U.S. District Court for signature.

A third action was brought against the City of New York for its violations of the long term schedule for alternative sludge disposal. The result was an order in August 1993 shortening the schedule for implementation of Phase I of the City's long term alternative and adjustment of interim dates in the Phase II schedule, without a change to the final date. Additionally, the City was required to pay $1.5 million into an escrow account, which can only be recovered if it commences construction of Phase II facilities by August 18, 1995. The City was also required to pay $250,000 to the U.S., and $750,000 to an escrow account to purchase either wetlands or open space in New York City, subject to approval by the N.Y. State Department of Environmental Conservation.

Wetlands Enforcement (§ 404)

Section 404 of the Clean Water Act establishes a joint EPA - U.S. Army Corps of Engineers permit program to regulate the discharge of dredged or fill material into wetlands and other waters of the United States. The two agencies share enforcement authority. Pursuant to a Memorandum of Agreement (MOA), the Corps retains the lead on violations of Corps-issued permits and EPA has the lead on specific categories of permitted discharge cases. The Wetlands Program places a high priority on enforcement against unpermitted discharges. The program utilizes judicial and administrative enforcement authorities as well as voluntary compliance, as appropriate, to obtain environmental results and create deterrence. EPA relies on information provided by the Corps, the U.S. Fish and Wildfire Service, the states, and the public to plan these enforcement efforts. The Wetlands Program participated in geographic-based initiatives as they were defined within the Office of Water.

Casinos: On September 30, 1993, EPA issued penalty orders against three separate casino interests who had violated §404 of the CWA. These violations occurred during the movement of barges off the Mississippi River into adjacent areas for use as waterfront gambling operations. All three have entered into consent agreements totaling $110,000, as well as separate mitigation agreements. A total of seventeen gaming permits have been applied for involving similar barges to be used in this area of Mississippi. It appears that each one will require a separate permit from the U.S. Army Corps of Engineers.

Custom Sand and Gravel, (Charles City County, VA): An administrative order was issued on December 29, 1992, for the unauthorized construction of dikes and roadways, and the clearing and leveling activities associated with this sand and gravel mining operation. This facility has operated for at least the past six years, significantly impacting a wooded swamp adjacent to the Chickahominy River in Southeastern Virginia. In response to this order, a restoration plan was submitted which will result in the restoration of approximately 65 acres of wetland habitat. Restoration activities have commenced with the planting of woody species in a previously cleared, but un-mined area.

El Dorado Gold, Inc. (Utah): On September 30, 1993, EPA filed a consent order settling a CWA administrative penalty action against K. Terry Lindquist, the president of El Dorado Gold, Inc., a now-defunct Utah corporation that operated a placer mining operation on a stream named Browns Gulch Creek in Madison County, Montana. The mine operated in violation of CWA §402 and §404 from 1989 to 1990, and also violated state mining laws. In addition to paying a $10,000

penalty for the CWA violations, the operator of the mine assisted in the restoration of the mine and Browns Gulch Creek. However, the majority of the reclamation work was completed by the State of Montana through forfeiture of the company's reclamation bond.

U.S. v. Charles v. Hansen, III (E.D. TX): On February 5, 1993, the court entered a consent decree in which Charles Hansen agreed to pay $32,500 in penalties and perform restoration of wetlands. The penalty has been paid. Hansen had repeatedly filled coastal wetlands adjacent to Keith Lake, a tidally influenced salt water lake near Beaumont, Texas, without a CWA permit. The original penalty of $24,000 had been assessed against Hansen in an administrative penalty action, which Hansen appealed to a U.S. District Court. After the court had affirmed the penalty, Hansen continued to refuse to pay it. The U.S. then filed an action to require Hansen to pay the previously ordered penalty and interest and costs, and to pay additional penalties for additional violations, as well as to restore the wetlands

Holland Landfill, (Suffolk, VA): An administrative order was issued on September 8, 1993, against John C. Holland Enterprises, Inc. of Suffolk, Virginia for the unauthorized filling of up to 70 acres of wetlands adjacent to the Dismal Swamp in Southeastern Virginia over the last 15-20 years . The enterprise has agreed to comply with the order and is developing a restoration/ mitigation plan to offset the impacts of the unauthorized discharges. Approximately 22 acres are proposed to be restored on-site, 50 acres of PC cropland purchased and reconverted to wetlands at a nearby location, and a yet to be determined amount of wetlands acquired and put into a conservation easement.

Allen Kendell, Kap Brothers Excavating Company, & Eddy L. Shaw Construction Company (Utah): On June 23, 1993, EPA issued a consent agreement and order for compliance under the CWA. Under the order, Allen Kendell, owner of property along the Weber River in Utah, and two contracting companies agreed to remove several thousand cubic yards of building demolition debris and rubble that had been discharged in the Weber River without the authorization required under §404 of the CWA. The impacted reach of the Weber River is rated as a high priority fishing area by the State of Utah and is valued for its considerable natural beauty. In addition to its naturally reproducing populations of cutthroat, brown and rainbow trout, the river's riparian habitats and associated wetlands support nesting birds and are corridors for wildlife in the urbanizing area near Ogden, Utah. The area supports concentrations of wintering bald eagles, and the Boy Scouts of America have adopted this portion of the river as a clean river and a wildlife habitat enhancement project.

U.S. v. Marinus Van Leuzen and Ronald Neal Hornbeck (S.D. TX): The U.S. District Court, after a trial, ordered Van Leuzen to take a number of actions to mitigate repeated filling of coastal wetlands and to pay a penalty. Hornbeck, a truck driver who had hauled fill material for Van Leuzen, was assessed a nominal penalty of $900. Van Leuzen had repeatedly filled wetlands adjacent to Galveston Bay in Texas without a permit, claiming that he could get away with it because he was so old. The court ordered him to pay penalties of between $33,600 and $50,400 over the next 8 to 12 years, and to restore the wetlands by removing a residence, a septic system, and fill material from wetlands over those years. He was also ordered to construct a billboard on the adjacent highway, explaining his restoration activities and the reason that he had to conduct the activities. This billboard is currently in place, visible to passers-by on the busy coastal highway adjacent to the violation site.

Western Diversified Builders, Inc. (Black Hawk, CO): On February 24, 1993, EPA entered into an administrative order on consent for a CERCLA removal action and an order for compliance with §404 of the CWA with Western Diversified Builders, Inc., a construction company responsible for a major road and parking facility built to accommodate visitors to casinos in the Town of Black Hawk, Colorado. The project disturbed and redirected the flow of the National Tunnel mine drain and discharged dredged and fill material into natural drainage in the project area. The National Tunnel discharge is an acidic mine drain included in the Black Hawk/Central City CERCLA NPL (National Priorities List) site, and it and other drainage affected by the Western Diversified project are subject to the requirements of §404 of the CWA. In addition to agreeing to cease all unauthorized activities, the firm will

develop and implement a workplan to remedy the acid mine discharges from the National Tunnel and apply for a Corps of Engineers permit to leave the fill material in the natural drainage affected by the project.

Wells County Water Resources District: On August 8, 1993, EPA filed a consent agreement and order for compliance resolving violations by the Wells County Water Resources District, a North Dakota assessment district that allegedly drained approximately 2,400 acres of prairie pothole wetlands in north central North Dakota without the necessary authorizations under the CWA §404. Under the order, the Wells County Water Resources District will restore drained wetlands on an acre-for-acre basis pursuant to plans being developed by a team comprised of the U.S. Fish and Wildlife Service, the North Dakota Game and Fish Department, and representatives of the water resources district.

U.S. v. Windward Properties, Inc. (N.D. GA): On May 4, 1993, the court entered a partial consent decree in which Windward Properties, Inc. agreed to settle three CWA wetlands violations for: $75,000 in civil penalties; $55,000 to fund a wetlands restoration study; and up to $60,000 for the purchase and preservation of off-site wetland acreage. The restoration study, which will be performed in conjunction with the University of Georgia, is believed to be the first of its kind in the nation.

Windward is a corporation which specializes in development of residential and commercial properties and is a related subsidiary of Mobile Oil Company. These violations arose out of Windward's filling of wetlands without obtaining the required CWA permits during the construction of its 3,500 acre residential development near Alpharetta, Georgia.

Safe Drinking Water Act (SDWA) Enforcement

Public Water Supply System Program (PWSS)

The PWSS program establishes drinking water standards for public water systems (including Maximum Contaminant Levels or MCLs) for a variety of contaminants. Enforcement priorities for FY 1993 emphasized compliance with regulations newly in effect, including the lead and copper rule, targeting lead in water systems, and the surface water filtration rule. The program continued to work toward measured reductions in the numbers of microbiological, turbidity, organic/inorganic, and VOC significant noncompliers.

In FY 1993, the program began an enforcement initiative targeting drinking water systems serving over 50,000 people which have violated the surface water filtration rule. As part of the Data Quality Initiative, the program emphasized violations involving the non-reporting or falsification of compliance information by public water systems. The program also continued to promote compliance through enhanced training and support for regional, state, and Indian tribe compliance programs.

U.S. v. Bethlehem Village District (D. N.H.): This past year, EPA settled a civil court action against the Bethlehem Village District in New Hampshire for violations of the Safe Drinking Water Act. This was the first case nationally which was referred to enforce the June 29, 1993 deadline for installing filtration under the Surface Water Treatment Rule.

The District had voted not to provide the necessary funding to comply with this rule, but has now voted to comply and is cooperating with state and federal regulators. About $2.5 million will be spent on a filtration plant and other system improvements in order to ensure the provision of clean drinking water to the residents of the district. The District also agreed to pay a $15,000 civil penalty as part of the settlement.

Butte Water Company (Montana): EPA reached a settlement (pending judicial approval) with Butte Water Company for a $900,000 penalty for violations of the Safe Drinking Water Act, the largest penalty ever collected for drinking water violations. It is also the only judicial SDWA case impacting a population of 30,000. A portion of this penalty went to the state for their role in the settlement.

U.S. v. Selleck Water System (W.D. Wash): Region X obtained expedited injunctive relief against the Selleck Water System, a small community water system near Ravensdale, Washington, under §1431 of the SDWA. The district court granted the motion for a temporary restraining order to compel the system to take immediate steps to remedy an imminent and substantial endangerment to public health caused by fecal contamination of the water supply provided to about 150 people, including a day-care facility. The system has a long history of SDWA violations. Selleck stipulated to a preliminary injunction to take the steps necessary to remedy the situation.

In June 1993, Region X received reports of people getting sick from drinking the water provided by Selleck. On June 22, Region X issued an emergency administrative order directing Selleck to, among other things, properly operate and maintain its treatment system, advise users to boil water until a disinfection system was installed and working, and submit a corrective action plan. Selleck refused to comply with the order. A court action followed.

This case is significant in that it is one of the few cases nationwide in which EPA sought injunctive relief under the Safe Drinking Water Act. It confirmed the effectiveness of the Act in providing a means for quick relief to avoid an immediate threat to public health from a contaminated water supply.

U.S. v. Virgins Islands Housing Authority (VIHA) (D. VI): On February 24, 1993, the court entered an amended consent decree in this case. Under the amended decree, VIHA is to undertake various capital and O&M improvements at six of its housing projects encompassing over sixty public water supplies. The decree also imposes a monitoring program on VIHA for various contaminants subject to MCLs. VIHA is also required to pay $12,000 in stipulated penalties for its violation of the original decree, which was entered on January 20, 1989.

Underground Injection Control Program (UIC)

The UIC program regulates underground injection practices for five classes of wells. The FY 1993 enforcement priorities included a 'second round' initiative against national oil company service station Class V wells. Other program priorities included potential releases to groundwater, wellhead protection efforts, and oversight of state groundwater protection plans. Particular emphasis will be given to compliance efforts on wells that have a potential impact on water sources and wells subject to the Toxic Characteristic Leaching Procedure (TCLP) amendments to the RCRA regulations.

As part of the national Data Quality Initiative, the UIC program emphasizes reporting requirements involving Class V shallow wells at industrial and transportation maintenance facility wells.

BALCO Inc. (Montana): On December 7, 1992, the federal judge in Billings, Montana, in a default judgment, ordered Balco Inc. to comply with their UIC permit and pay a $1 million penalty for its violations. The violations occurred at Balco's commercial salt water disposal well located in Richland County, Montana and included injection without authorization, injection over pressure, and failure to submit and maintain financial responsibility. Injection at this well has since ceased due to actions by the State of Montana. The U.S. has been unable to collect the penalty and the company is threatening bankruptcy. Liens have been filed against assets the company holds in Montana and North Dakota.

Getty Oil Corporation and Jiffy Lube Corporation: Administrative orders were issued to both the Getty Petroleum Corporation and the Jiffy Lube Corporation. These orders were significant because they ordered the corporations to take action at all of their facilities in Region III having underground injection wells. Since EPA Region III discovered violations in some of the corporations' facilities, the orders required the Corporations to inventory all facilities, to conduct necessary remediation activities, and to implement waste minimization plans.

Hickey's Carting Inc. v. EPA: In an October 28, 1992 decision, the Second Circuit Court of Appeals affirmed an administrative order issued by EPA Region II to enforce UIC provisions. The court affirmed a district court ruling that the administrative order was based on substantial evidence and that the $17,000 penalty assessed was reasonable and in accord with EPA standard

penalty policy. Region II had issued the administrative order in March 1991, finding Hickey in violation of UIC requirements. The order required Hickey to cease injecting fluids into three Class V wells and to pay the penalty for its past violations. Hickey had sought judicial review of the order.

U.S. v. Residual Technologies, Inc. (N.D. OK): EPA assessed one of the largest penalties for UIC violations occurring under a delegated program. On March 25, 1992, a complaint was filed against Residual Technologies, Inc. (RTI). The company had used excessive pressures in its injection of hazardous waste and had failed to meet the various parameters required for proper injection. RTI agreed to the consent decree which assessed a monetary penalty of $300,000 and resulted in the construction of a monitoring well. The cost of construction and monitoring is valued at $58,000.

Resource Conservation and Recovery Act (RCRA) Enforcement

In FY 1993, the RCRA enforcement program emphasized compliance with regulations regarding incinerators, boilers, and industrial furnaces. The program conducted statutorily mandated inspections of Treatment, Storage, and Disposal Facilities (TSDFs) to ensure compliance with both operating requirements and corrective action schedules (if any), as well as inspections of transporters and large quantity generators. The regions and states also gave high priority to addressing facilities that have had significant noncompliance for extended periods.

In FY 1992, the program conducted an "illegal operators' initiative against hazardous waste facility owners and operators, generators of hazardous waste, and transporters of hazardous waste who failed to notify federal and/or state authorities as required under RCRA. This reflected the importance the program attaches to identifying and taking enforcement action against those who operate outside of the regulatory system. Together, the regions and states filed over fifty civil and criminal enforcement cases in this effort, twenty-seven of which were federal cases. Emphasis on those individuals and companies that may be operating outside the RCRA program continued to be a high priority in FY 1993.

For FY 1993, the RCRA enforcement program implemented the Strategic Management Framework for the corrective action program. This framework targets the highest priority facilities to reduce existing risk and prevent future risk. The major criteria the program used to evaluate a facility's overall priority are its environmental significance and long term environmental benefit.

The RCRA enforcement program continued to use its Import/Export Data tracking system to ensure compliance with notification, reporting, and manifest requirements regarding the shipment of hazardous waste. In particular, the program targeted illegal hazardous waste activity and participated in bilateral enforcement activities along the U.S./Mexican and U.S./Canadian borders.

The RCRA program emphasized deterrence through the assessment of appropriate civil penalties, including implementation of the revised RCRA Civil Penalty Policy. The program also continued to integrate pollution prevention/waste minimization efforts into program operations, including incorporating pollution prevention conditions in settlements.

The RCRA program offers extensive training and guidance to states, tribes, and local governments through the RCRA Inspector Institute, including an Advanced Institute which commenced in FY 1993. It also will continue to provide support for NAAG and the four state regional associations. RCRA attorney training through NETI is an additional area of emphasis.

The Hazardous Waste Combustion Initiative

On September 28, 1993, EPA announced a cluster filing of enforcement actions against violators of hazardous waste combustion regulations. The actions seek over $22 million in civil penalties and, where violations are ongoing, to compel the facilities to return to compliance. A total of 30 federal administrative complaints, one state complaint, and 8 federal administrative consent agreements were filed.

The Combustion Initiative is an important component of EPA's ongoing efforts to minimize risks associated with the burning of hazardous wastes. The initiative will serve to penalize and return to compliance boilers and industrial furnaces (BIFs) and incinerators identified by EPA as operating in violation of RCRA requirements, emphasize to the regulated community the importance of complying with BIF and incinerator rules, and address the public's legitimate interest in ensuring that facilities burning hazardous waste do so properly. Moreover, the initiative is consistent with EPA's "Draft Combustion Strategy", announced on May 18, 1993. The Draft Combustion Strategy reinforces EPA's commitment to protecting human health and the environment from hazardous waste risks by, amongst other things, emphasizing enforcement of rules governing the burning of such waste and the importance of pollution prevention.

In re: Chemical Waste Management, Inc.: On December 31, 1992, EPA signed a consent agreement and final order (CAFO) resolving RCRA violations at Chemical Waste Management, Inc.'s Trade Waste Incineration facility in Sauget, Illinois. As Chemical Waste had ceased its on-site ash stabilization activities prior to the filing of EPA's complaint, the CAFO required that prior to the initiation of any future on-site treatment of incinerator ash, the company must submit to Illinois EPA a revised waste analysis plan for review and approval as part of a Class 2 modification to its permit. In addition, Chemical Waste will pay a civil penalty of $275,000.

DSM Chemicals North America, Inc.: In September 1993, DSM Chemicals North America, Inc., agreed to pay a $121,000 penalty for violation of §3008(a) of RCRA. On August 31, 1992, EPA Region IV had issued a complaint and compliance order for violations relating to the BIF rule. DSM is also required to demonstrate compliance with the BIF rule.

ICI Acrylics, Inc.: On September 20, 1993, ICI Acrylics, Inc. of Olive Branch, Mississippi, entered into a CACO, agreeing to pay a $104,000 penalty for violations of RCRA. The settlement also calls for the submission of a certification stating that the company has ceased the burning of hazardous waste in the boiler unit and that the company intends to close the unit pursuant to the RCRA closure requirements.

La Farge Corp.: Pursuant to a CAFO filed on September 28, 1993, La Farge Corporation has agreed to pay a penalty of $594,000 for violations of RCRA. The facility was also required to certify closure of its cement kiln dust waste pile pursuant to Alabama regulations. La Farge, who sold its facility to the Medusa Corporation on February 1, 1993, had operated a cement manufacturing kiln in Demopolis, Alabama.

Nutrasweet Company: A CAFO was filed against Nutrasweet Company of Augusta, Georgia, on May 13, 1993. The respondent agreed to pay $80,000 for violations of RCRA. On August 31, 1992, an administrative complaint had been filed against Nutrasweet alleging failure to continuously monitor and record the feed rate of feed streams being burned in two boilers, failure to make a hazardous waste determination for certain wastes which are stored at the facility, and accumulating hazardous wastes on-site in excess of 90 days.

3V Chemical Corporation: On September 22, 1993, EPA signed a CACO requiring the 3V Chemical Corporation to pay a $57,500 penalty and perform a supplemental environmental project estimated to cost at least $960,000. The central component of the project is the construction of a closed loop non-contact cooling water system which would produce significant environmental benefits. In addition, the settlement includes provisions for the submission to EPA of the documents necessary under the BIF rule to authorize the facility to again burn hazardous waste in the boiler unit.

The Illegal Operators Initiative

EPA announced its second RCRA Illegal Operators ("ILOP") Initiative, in two "waves", on July 1 and July 16, 1993, respectively. A follow-up to the February 1992 ILOP Initiative that involved 50 civil actions, this initiative against "illegal operators" of RCRA facilities -- facilities that had tried to sidestep the system by disregarding RCRA requirements -- included 41 civil actions and 15 criminal actions.

The success of the RCRA Illegal Operator Initiatives highlights a continuing

multimedia enforcement emphasis on data integrity violations. Under several statutes, EPA relies extensively on self-reporting and other data requirements not only to keep track of compliance and make regulatory and enforcement decisions, but also to identify the regulated community. Complete and accurate data are essential to EPA's mission and compliance with these laws is critical to the Agency's effort to safeguard the environment. By targeting these violations of reporting and recordkeeping requirements, EPA is emphasizing that such violations are not just so-called "paper violations". Furthermore, this initiative demonstrates EPA's commitment to end the illegal storage and dumping of hazardous waste that results in injury to both people exposed to the offending facility and the surrounding environment.

General Electric Co.: By a CACO entered on September 27, 1993, the General Electric Company agreed to pay a civil penalty of $83,000 to settle an administrative action filed under §3008(a) of RCRA as part of the July 1993 Illegal Operator Initiative. EPA filed a complaint and compliance order against GE on July 15, 1993, for failure to make a hazardous waste determination on the electrostatic precipitator dust as required under 40 C.F.R 268.7(a). GE operates a facility in Lexington, Kentucky, that manufactures incandescent light bulbs. In 1987, GE installed an electrostatic precipitator (EP) on the furnace stacks to collect particulate matter generated in the furnace. During inspections performed in December 1992, the Commonwealth of Kentucky learned that GE had not been making hazardous waste determinations on the EP dust. As a result of this enforcement action, GE is now appropriately disposing of the EP dust.

See U.S. v. Sherwin-Williams, Co. (N.D. Ill.) in multi-media section of this chapter.

U.S. v. Navajo Refining Company, Inc., (D. NM): As part of the Illegal Operator Initiative, the U.S. filed suit against the Navajo Refinery Company, Inc., in July of 1993, for injunctive relief and civil penalties in the amount of $7,000,000. The suit alleges violations at its Artesia, NM, refinery that include failure to: notify for the TC (Toxicity Characteristic) waste benzene (D018); make a proper waste determination; file a Part A permit application amendment; certify groundwater monitoring or financial responsibility; have a closure plan; have an adequate groundwater monitoring system; or have an adequate waste analysis plan. The facility continues to release up to one million gallons per day of wastewater through a three mile long pipeline to evaporation ponds. The wastewater contains regulated levels of benzene, which has been regulated under the toxicity characteristic rule since September 25, 1990. Sampling by EPA and state agencies, upon which the case is based, has also found benzene in the groundwater.

Land Disposal Restriction (LDR) Follow-up Initiative

On May 13, 1993, EPA and DOJ followed up on the 1991 LDR Initiative by announcing settlements totaling $6.35 million in four major cases involving violations of the RCRA LDRs. The $6.35 million in RCRA civil judicial penalties represents more such penalties announced in one day than in the previous fiscal year. This initiative illustrates EPA's continued commitment to enforcement of the LDR requirements and its interest in securing pollution prevention commitments that are not otherwise required by law.

U.S. v. Dana Corporation (S.D. Ind.): On April 20, 1993, the district court entered a consent decree resolving the litigation in U.S. v. Dana. The decree requires Dana to pay a penalty of $1,300,000 and close surface impoundments and a waste pile where lead-bearing sludges were allegedly deposited at their facility in Richmond, Indiana. The current estimate for the injunctive relief based on the estimated cost of closure and post- closure care is $3,699,788.

EPA became aware of the violations after a EPA Region V review of state inspection records and Dana's response to a RCRA §3007 information request. Dana had discharged wastewater containing lead from cupolas to several settling areas. Dana excavated sludges containing lead from the surface impoundments and placed the sludges in a landfill elsewhere on the property of the Dana Richmond facility, thereby creating a waste pile in violation of the land disposal restrictions.

U.S. v. Group Dekko International, Inc. (N.D. Ind.): A civil consent decree requiring Group

Dekko International, Inc. to pay a $550,000 civil penalty was lodged on May 13, 1993. In addition, the settlement required Group Dekko to exhume and treat approximately 11 million pounds of lead bearing waste. Group Dekko must also: close the waste pile under a plan that requires either exhumation or on-site treatment of an additional 50 million lbs. of waste; pay up to $20,000 in oversight costs; maintain an in-line treatment system that eliminates lead-bearing waste from the firm's waste stream; and implement interim measures to contain the waste pile while treatment is proceeding.

This action arose out of Group Dekko's violation of RCRA's land disposal restrictions for its disposal of lead-bearing waste in a large on-site waste pile at its facility near Kendallville, Indiana. This facility is operated through a division of Group Dekko called Reclaimers, Inc., and is designed to recover copper from scrap wire and cable.

U.S. v. Grumman St. Augustine Corp. (M.D. Fla.): This consent decree, entered on July 20, 1993, settles a RCRA enforcement action as well as potential governmental contractor suspension and debarment claims against Grumman. The decree calls for a civil penalty of $2.5 million. Grumman will initially pay $1.5 million in cash. If Grumman completes several innovative pollution prevention projects, then the settlement amount will be reduced by $1 million.

Grumman strips, paints,and refurbishes aircraft at its St. Augustine, Florida facility. The U.S. brought this action against Grumman on February 22, 1991, as part of the RCRA Land Disposal Restrictions Initiative.

The pollution prevention provisions will substantially reduce or eliminate several highly toxic waste streams, including a paint stripper, methylene chloride and ozone-depleting chemicals (e.g. CFCs). Substituting a nonhazardous paint stripper for methylene chloride may set a precedent for paint strippers across the country as most of them use hazardous solvents in their operations. EPA estimates that up to 240,000 pounds of hazardous emissions per year will be eliminated and toxic sludge will be reduced if Grumman is in compliance with RCRA. Furthermore, approximately 2,412,000 gallons of potable water will be conserved.

U.S v. Sanders Lead Co. (M.D. Ala.): A consent decree was entered on July 15, 1993, requiring Sanders Lead to pay $2 million in civil penalties. In addition, the consent decree provides for injunctive relief whereby affiliated companies will treat wastewater as hazardous waste and conduct corrective action under the Sanders Lead permit to dispose of blast slag, used as fill material for parking lots. This consent decree resolves alleged violations involving illegal disposal of lead-bearing hazardous wastes into approximately eight land disposal units for up to three years after the facility lost interim status by operation of law, as well as for placement of lead-bearing acidic waste into a surface impoundment in violation of land disposal restrictions.

This was the first civil judicial case that the U.S. filed to enforce the land disposal restrictions and settles a RCRA enforcement action concerning violations at a Troy, Alabama secondary lead smelter. The facility manufactures refined lead alloys through the smeltering and refining of lead-bearing scrap materials, including old lead acid batteries.

Geographic Enforcement Initiative

An important geographic initiative focusing on a heavily industrial area of southeast Chicago and northwest Indiana continues to target violations of nearly all environmental statutes. Collectively, the industry in this corridor has contributed to severe water quality degradation of both surface water bodies -- including Lake Michigan -- and a groundwater aquifer, as well as to chronic air pollution problems.

U.S. v. Bethlehem Steel (N.D. Ind.): On August 31, 1993, the district court ordered Bethlehem Steel to pay $6 million in penalties for violation of RCRA and RCRA-related aspects of the SDWA permit at its facility in Burns Harbor, Indiana. Although Bethlehem Steel had argued that the waste mixture in question was not regulated due to the holding in Shell Oil, the court declined to focus on defendant's mixture argument and instead focused on whether Bethlehem Steel's waste met the F006 hazardous waste listing description. The court also denied Bethlehem Steel's motion for summary judgment on July 19, 1993, holding

that the Paperwork Reduction Act is an affirmative defense that must be timely pled or it is waived.

This case was brought as part of the Great Lakes Initiative in response to Bethlehem Steel's failure to perform corrective action as required by its SDWA permit and its failure to treat its waste as hazardous. The penalty judgment was one of the highest ever obtained in an environmental action under any media. The large penalty was influenced by a finding that Bethlehem Steel's violations were willful. This case is currently on appeal to the Seventh Circuit.

U.S. v. Federated Metals, Inc. (N.D. Ind.): On November 17, 1992, the district court entered a consent decree resolving Federated Metals' violations of a 1989 consent agreement and final order (CAFO). As part of the settlement, Federated Metals agreed to pay a $675,000 penalty and perform a corrective measures study and possible corrective action valued in excess of $5,000,000. This settlement is the first resolution in a cluster of complaints filed against companies as part of EPA Region V's Northwest Indiana Geographic Enforcement Initiative. The case is also part of the Agency's lead and primary metals enforcement initiatives.

EPA and Federated Metals had entered into the CAFO on February 1, 1989, in order to resolve RCRA violations at the Whiting, Indiana, facility. The CAFO required the company to provide acceptable evidence of liability insurance, clean up lead pollution and other hazardous substances, and submit written costs estimates, for closing and conducting the annual post-closure monitoring and maintenance of the facility. Federated Metals failed to fully comply with these requirements within the time specified in the CAFO. Hence, on October 16, 1990, the Agency filed a judicial complaint seeking civil penalties and injunctive relief for the CAFO violations.

Other Major RCRA Cases

In the Matter of Abbott Chemical, Inc.: On December 10, 1992, EPA executed an administrative order on consent resolving a complaint alleging that Abbott discharged methylene chloride into the headworks of its wastewater treatment system in concentrations exceeding the 25 ppm limitation in the headworks exemption. Under the order, Abbott agreed to pay a penalty of $180,000 and perform a sampling program to demonstrate that methylene chloride had not been released from its wastewater treatment system into the environment. The agreement further required corrective measures if determinative levels of methylene chloride were detected.

In the Matter of Bloomfield Refining Company, Bloomfield, New Mexico: A corrective action RCRA Administrative Order on Consent was signed on December 31, 1992, for the Bloomfield Refining Company in Bloomfield, New Mexico. Bloomfield had been in operation since 1963. It is an active petroleum refinery and consists of approximately 287 acres. The facility has released or caused to be released hazardous waste and hazardous waste constituents to the groundwater, surface water, and soil at the facility. Surface water contamination consists of elevated levels of organics and inorganics. Light non-aqueous phase liquids exist in the groundwater beneath the facility. The order requires interim measures, A RCRA Facility Investigation, and a Corrective Measures Study.

Boeing Helicopter: EPA has entered into an administrative consent order with Boeing Helicopter of Ridley, PA, requiring the company to pay a cash penalty of $800,000 and to make an additional payment of $350,000 to a non-profit environmental group, for violating hazardous waste regulations. The non-profit group, the Institute for Cooperation in Environmental Management, (ICEM), based in Philadelphia, will use the penalty funds to develop individually tailored programs for small businesses on how to prevent and reduce pollution in their daily operations.

U.S. v. Buckeye Products, Inc., (E.D. Mich.): On January 30, 1991, the district court issued an order holding Buckeye Products, Inc. (Buckeye) in contempt for failing to comply with a 1987 consent decree. The contempt order includes provisions requiring defendant to, inter alia: (1) immediately commence groundwater monitoring on a quarterly basis; (2) fully and timely implement post closure care; (3) pay $104,871.26 as payment of the outstanding civil penalty due, plus interest; and (4) pay $5.31 million in stipulated penalties for violating the consent

decree. Buckeye did not appeal the contempt order. The government subsequently began to garnish Buckeye's assets to satisfy the contempt order. On October 17, 1991, Buckeye filed a Motion to Vacate the Contempt Order, Quash the Writ of Garnishment, and Quash the Writ of Execution. This action was subsequently settled on May 13, 1993; however, Buckeye failed to fulfill the payment arrangement. On September 15, 1993, the U.S. District Court for the Eastern District of Michigan entered a judgment against Buckeye for $5.4 million.

In the Matter of Chem-Met Services, Inc: On February 23, 1993, an administrative law judge (ALJ) denied Chem-Met Services, Inc.'s motion to dismiss an administrative enforcement action. Chem-Met argued that the wastes at issue were treatment residues derived from hazardous wastes and thus not subject to any RCRA subtitle C regulations due to the D.C. Circuit's vacatur of the "derived from" rule in Shell Oil v. EPA. The ALJ, however, confirmed EPA's argument that it had the authority to regulate mixtures and derived-from residues without relying on the specific regulatory provisions known as the "mixture" and "derived-from" rules.

In the Matter of Chemical Waste Disposal Corp.: On February 25, 1993, EPA executed a RCRA §3008(h) administrative order on consent with Chemical Waste Disposal Corp. The order provides for remediation of contamination at the facility located in an urbanized portion of Queens County, New York. The order requires a RCRA Facility Investigation and various interim measures to deal with environmental problems at the site. A Corrective Measures Study and Corrective Measures must also be carried out if EPA determines they are necessary based on the Facility Investigation results. The order was based on an initial administrative order issued in August 1991. Chemical Waste Disposal Corp. and a related company had conducted businesses at the facility involving both the transportation and processing of hazardous wastes.

In the Matter of Cypress Aviation: On November 17, 1992, the Environmental Appeals Board (EAB) held that wastes generated during paint stripping operations, consisting of wastewater, dissolved paint, paint chips, and spent solvent (paint stripper), met the description for "F"-listed spent solvents. The EAB rejected Cypress Aviation's argument that Shell Oil v. EPA should result in dismissal of the claims. The holding affirmed a $25,000 civil penalty assessed by the administrative law judge.

This case was initiated following an inspection of the facility operated by Cypress Aviation in Lakeland, Florida which revealed prohibited solvent contaminated waste water on the land.

U.S v. Ekco Housewares, Inc.: On September 20, 1993, the U. S. District Court granted most of the U.S.' Motion for Partial Accelerated Decision holding that when Ekco Housewares, Inc. (Ekco) caused listed hazardous wastes to be mixed with groundwater, the wastes remained RCRA regulated under a "contained in"/ continuing jurisdiction principle. The court also held that when Ekco physically disturbed hazardous waste disposed of prior to November 1980, Ekco "actively managed" the waste, thereby subjecting it to RCRA jurisdiction. These holdings are significant because they are among the first judicial precedents confirming RCRA jurisdiction over listed waste mixtures after the Shell Oil decision. On January 28, 1994, the U.S. District Court ordered Ekco to pay a civil penalty of $4.6 million.

DOJ filed the complaint in the summer of 1992, on behalf of EPA, for the company's failure to maintain liability coverage and financial assurance in connection with an on-site hazardous waste surface impoundment, as required by RCRA. Ekco owns and operates a bakeware manufacturing facility in Massillon, Ohio. As part of its manufacturing process, Ekco generated waste products which it discharged to an on-site surface impoundment. Between 1980 and 1983, Ecko pumped on-site groundwater, contaminated with, among other things, cadmium, lead, and organic constitutes, which it utilized as a cooling water. Afterwards, Ekco discharged the wastewater back into the surface impoundments.

In the Matter of Hardin County, Ohio c/o Hardin County Commissioners: This case involved an EPA administrative action alleging that a municipality unlawfully received hazardous waste without interim status or a permit. Administrative Law Judge Nissen dismissed EPA's case on the grounds that the Shell Oil decision operated to void the mixture rule retroactively from the date of its promulgation.

EPA appealed Judge Nissen's decision to the Environmental Appeals Board (EAB), which held oral argument on the case on September 30, 1992. In support of its position before the EAB that Shell Oil vacates the mixture and derived-from rules prospectively only, EPA cited the D.C. Circuit's concern with discontinuity in hazardous waste regulation, its invitation to reinstate the rules without notice and comment, and its remedy of vacatur and remand. On November 6, 1992, the case was remanded to the ALJ for determination of whether federal or state law applied to the violations, and it did not rule on the retroactivity argument. On remand, Judge Nissen reaffirmed his earlier position, ruling on May 27, 1993 that Shell Oil is retroactive. EPA appealed that decision, and the EAB heard oral argument on December 8, 1993.

U.S. v. ILCO, et. al. (11th Cir. 1993): On August 4, 1993, the U.S. Court of Appeals for the Eleventh Circuit reversed the district court and held that lead components from spent automobile batteries were discarded and hence could be regulated as "solid waste" under RCRA. The Court of Appeals affirmed the district court's award of $3.5 million in civil penalties and $845,033 in response costs. The action arose from the ILCO's former operations at its secondary lead smelter in Leeds, Alabama, which reprocessed spent lead-acid batteries from cars and trucks.

U.S. v. Marine Shale Processors, Inc. (W.D. La.): At the close of Fiscal Year 1992, the civil judicial action against Marine Shale Processors, Inc. (MSP) was reassigned to U.S. District Judge Adrian Duplantier of the Eastern District of Louisiana. Despite the reassignment to an Eastern District Judge, (which was effective August 13, 1992), the case is still technically within the jurisdiction of the Western District of Louisiana.

On August 2, 1993, Judge Duplantier, among other things: (1) permitted the intervention of the State of Louisiana through the Department of Environmental Quality; (2) postponed the trial of this matter to April 11, 1994, in New Orleans, Louisiana (the trial has since been rescheduled to begin on April 18, 1994); (3) granted the United States' Motion to Amend its Complaint to include additional claims under CERCLA, CAA, and RCRA against MSP and the two intervening defendants (with regard to the RCRA claims only), Southern Wood Piedmont Co. and Recycling Park, Inc.; (4) granted the United States' Motion for a Protective Order with regard to MSP's discovery of matters driven by MSP's "selective prosecution" defense; (5) granted the U.S.'s Motion to Strike MSP's affirmative defenses of double jeopardy, primary jurisdiction and failure to exhaust administrative remedies, estoppel, laches, statute of limitations, and the defense based on the existence of MSP's patent.

On August 24, 1993, Judge Duplantier dismissed nine out of MSP's ten counter claims against the U.S., citing as precedent another RCRA-related decision in an underground storage tank enforcement action, U.S. v. Ownbey Enterprises, Inc. MSP's counter-claims covered a wide array of legal theories based on assertions of negligence, takings, and breach of contract by the U.S. The court agreed with the reasoning of the District Court for the Northern District of Georgia in Ownbey, which found that a claim for damages is not a proper counter-claim to a government regulatory enforcement action. The ninth counter-claim, which was not dismissed by the court, alleged that the U.S. had failed to sufficiently respond to MSP's requests to EPA pursuant to the Freedom of Information Act.

Monsanto Chemical Company: On June 21, 1993, EPA entered into a consent agreement and order with the Monsanto Company in Springfield, Massachusetts. Monsanto will pay a minimum cash penalty of $26,750 and perform a SEP at a minimum cost of $160,500. Monsanto will receive $80,250 credit towards settlement upon completion of the SEP.

As part of the SEP, Monsanto has proposed to install equipment to their melamine resin manufacturing process which would enable them to recover methanol from the methanol-rich distillate waste stream which is currently generated at a rate of 3 million pounds per year. Monsanto estimates that the recovery will result in a 60% reduction of the waste stream or a 1.8 million pound per year reduction.

In re: Peoria Disposal Company: On May 12, 1993, EPA entered into a consent agreement with Peoria Disposal Company (PDC) requiring PDC to pay $25,000 in penalties and to implement a Supplemental Environmental Project valued at $70,000. The SEP is a pollution reduction project,

consisting of: 1) the construction of a containment system for storage of loaded roll-off boxes containing hazardous waste which are being held at PDC's transfer facility for periods of 10 days or less; and 2) asphalt paving over the traffic areas of PDC's truck terminal to assure that any spillage of hazardous waste which might occur is prevented from being released to the environment. EPA had filed an administrative complaint on August 30, 1991 against PDC for violations of the transfer facility storage regulations of restricted hazardous wastes, under § 3008(a)(1) of RCRA, as amended.

Precision Fabricating and Cleaning Inc: A consent agreement and final order providing for a $100,000 penalty in settlement of a complaint alleging violations of RCRA's Land Disposal Restriction Requirements was signed by Precision Fabricating and Cleaning, Inc., Cocoa, FL on August 24, 1993. On August 12, 1992, EPA had filed an administrative action against Precision for improper land disposal of acid (D002), freon (F002), methylene chloride (F002), and acetone (F003), and for failure to determine if these wastes were restricted as required by 40 CFR § 268.7 (c). The violations were discovered as a result of an inspection by Florida Department of Environmental Protection (FDEP). Since FDEP is not authorized to enforce Land Ban violations, EPA took the lead in this enforcement action.

In re: Safety-Kleen Facilities: A consent agreement and final order, concerning RCRA import notification violations at Safety-Kleen facilities in Hebron, Ohio, was filed on May 7, 1993. Safety-Kleen has agreed pay civil a civil penalty of $227,925. EPA had filed an administrative complaint on April 8. 1993, alleging that between 1988 and 1992 Safety-Kleen received numerous shipments of hazardous waste for which it did not appropriately notify EPA. In addition, other violations included notifications sent less than four weeks in advance of receipt of shipments of waste and notifications which incorrectly identified the waste to be received.

In the Matter of Sequoyah Fuels Corporation, Gore, Oklahoma: A corrective action administrative order on consent under RCRA was signed and made effective on August 3, 1993, for the Sequoyah Fuels Corporation located in Gore, Oklahoma. The facility engaged in the conversion of uranium ore to uranium hexafluoride and the conversion of depleted uranium hexafluoride into uranium tetrafluoride which are used to produce nuclear reactor fuel rods and armor-piercing bullets, respectively, from June 1970 to June 1993. This order required corrective action activities to be performed at the site to address the investigation and remediation of past releases of hazardous constituents to the environment from the facility. The order was developed and is being implemented in conjunction with activities of the Nuclear Regulatory Commission (NRC). NRC regulates Sequoyah because they manage radioactive substances. Sequoyah is implementing decommissioning activities under the oversight of the NRC. EPA and NRC have developed the decommissioning and corrective action programs at the site to ensure that all activities at the site are coordinated.

Sharon Steel: A unilateral RCRA §3008 (h) initial administrative order was issued by EPA Region III to the Sharon Steel Corporation following a breakdown of consent order negotiations. The unilateral order was appealed on January 22, 1993. An Administrative Hearing was held on July 22, 1993. On August 5, 1993, the Regional Judicial Officer (RJO) recommended that the order be issued as written, with only a few minor modifications. There were several disputed issues of fact and law raised by Sharon Steel Corp., many challenging the scope of EPA's authority to require corrective action under RCRA §3008 (h), all of which were decided in EPA's favor.

The RJO concluded that the broad corrective action definition of "facility" recently promulgated in the Corrective Action Management Unit Rule was properly applied in this case. Under this definition, property separated from the regulated RCRA interim status unit by a river, but connected by a trestle bridge used and owned by the respondent, is included within the scope of the order. The RJO further concluded that EPA need only show the release of any one hazardous waste into the environment to satisfy the statutory requirement of a "release of hazardous waste." The RJO also agreed with EPA's position that although a substance may not be a listed, hazardous waste or hazardous constituent, if it may pose a substantial present or potential hazard to the

environment, then it falls within the statutory definition of "hazardous waste" (RCRA §1004 (5)). As such, it can provide the basis for a corrective action order. Finally, the RJO affirmed EPA's position that "to compel corrective action investigations or studies, EPA need only identify a general threat to human health or the environment."

In the Matter of Sivyer Steel Corporation, (Bettendorf, Io.): On August 9, 1993, EPA and Sivyer Steel Corporation (Sivyer) entered a consent agreement and consent order in settlement of the RCRA § 3008(a) complaint filed against Sivyer on September 30, 1991. The complaint had alleged failure to conduct a hazardous waste determination on hazardous waste stored in drums at the facility and on waste arc dust, and also alleged storage of hazardous waste for longer than 90 days without a permit or interim status. The order required Sivyer to: 1) pay a penalty of $51,437.50 ($11,617.50 of which is deferred until completion of a supplemental environmental project, described below); 2) undertake closure of its illegal hazardous waste storage area; 3) dispose of its waste arc dust as hazardous waste until such time as it can show, to EPA's satisfaction, that the dust is no longer hazardous; and 4) undertake a SEP. The SEP requires Sivyer to undertake a waste minimization assessment of all waste streams at its facility and to implement the findings of the assessment in accordance with a time schedule to be approved by EPA. Sivyer must also submit a report on the findings of the assessment and the implementation of waste minimization practices to EPA.

U.S. v. Taracorp Industries, Inc.: On June 8, 1993, the U.S. District Court granted in part and denied in part EPA's motion for summary judgment finding Taracorp Industries, Inc. (Taracorp) liable for the cleanup of a hazardous waste site that it bought from the National Lead Company (NLC) in 1979. The court rejected Taracorp's claim that it was "impossible" to obtain financial insurance for the site once it became listed on the NPL, reasoning that "impossibility" went to the issue of relief not liability. On September 2, 1993, the court reversed an earlier decision and found the Taracorp site to be a landfill. A hearing on September 20, 1993 determined civil penalties.

Teradyne Inc.: On July 19, 1993, Teradyne Inc. and EPA entered into a settlement agreement for a 1991 RCRA enforcement action against the company. This matter was settled for a total penalty of $120,000. This includes a cash payment of $50,000 plus credit towards the performance of two supplemental environmental projects. Teradyne will expend approximately $800,000 for the purchase and installation of solvent replacement units, one at the Nashua facility (approximate cost of $350,000), and one at the Boston facility (approximate cost of $450,000). EPA has granted Teradyne a credit of $70,000 for the proposed projects. Teradyne has certified that it is presently in compliance with RCRA requirements.

Tesoro Alaska Petroleum Company, (Kenai, Alaska): In an administrative enforcement action involving a series of complex RCRA regulatory issues, EPA negotiated a settlement with Tesoro Alaska Petroleum Company in which the company agreed to pay a $550,000 penalty. This was EPA's largest cash settlement to date in the Pacific Northwest in an administrative case involving hazardous wastes. The complaint was part of the nationwide Illegal Operator's Initiative.

U.S. v. United Technologies Corporation (D. Conn.): The court lodged a consent decree settling this case on August 23, 1993. The decree provides that United Technologies Corporation (UTC) will pay a total penalty of $5,301,910, of which $4,251,910 will go to the U.S. and $1,050,000 will go to the State of Connecticut. The decree also incorporated an auditing agreement which requires UTC to implement an extensive multi-media environmental audit at all UTC facilities located in EPA Region I.

This case was first referred to the EPA following an inspection of UTC facilities. The inspections detected a wide range of RCRA violations at eight UTC facilities, including its Pratt & Whitney, Sikorsky, and Hamilton Standard operations. The auditing provisions in the UTC settlement are amongst the most extensive ever incorporated into the settlement of an EPA enforcement action.

Washington State University, (Spokane, WA.): In an agreement with EPA, Washington State University (WSU) took the first steps toward creation of an on-campus facility to reuse chemicals and other substances that previously

required expensive handling as a hazardous waste. According to the agreement, WSU would start work on developing plans for a waste exchange on campus that would allow researchers, instructors and students in one university department to be able to reuse materials that had already been used in other departments. Officials at WSU estimated the campus waste exchange would cost more than $87,500. The agreement resulted from an EPA enforcement action involving violations of hazardous waste regulations discovered by inspectors from EPA and the Washington State Department of Ecology. EPA agreed to a penalty of only $22,500 because the university will be implementing the waste exchange and reduction program.

Weyerhaeuser Co., Longview, Washington: In a settlement reached between Weyerhaeuser and EPA in February 1993, it was agreed that unless Weyerhaeuser succeeded in reducing the hazardous waste generated by certain equipment at its Paper Company plant in Longview, Washington by 45 percent, the company would pay a penalty of $38,948 to settle a EPA complaint alleging hazardous waste violations. The arrangement in the settlement would allow Weyerhaeuser to pay only $20,000 if Weyerhaeuser completes the waste reduction program and achieves the reduction. The waste reduction project involves Weyerhaeuser's replacement of 13 devices that have relied on solvents to wash parts at the plant. In 1991, the use of the solvents produced more than 53,000 pounds of hazardous wastes. The waste reduction project was proposed by Weyerhaeuser during negotiations to settle an administrative complaint EPA issued to the company in the summer of 1992. EPA had alleged that Weyerhaeuser failed to follow a number of regulations for the proper management of hazardous waste. Suspending part of the Weyerhaeuser penalty in exchange for the waste reduction project was EPA's first use in the Pacific Northwest of such an arrangement in an administrative case involving hazardous wastes.

Regional Initiatives Cases:

Region III RCRA Data Integrity Initiative: On September 16, 1993 Region III issued five administrative complaints, with penalties, pursuant to §3008(a) of RCRA in support of the Agency Data Integrity Initiative. The Region is seeking penalties totaling over $2.5 million.

Region II Lead-Based Paint Enforcement: During FY 1993, the Region initiated three administrative enforcement cases, seeking penalties totaling nearly $1 million, for RCRA violations arising out of the removal of lead-based paints from architectural structures. Considerable concern has been voiced by residents in New York City and elsewhere about the impact of improper disposal of lead-containing paint chip wastes.

Region II Waste Oil Enforcement Cases: In FY 1993, Region II settled two waste oil enforcement cases. These cases had been filed as part of the Region's waste oil enforcement initiative, carried out during the past several years. On January 4, 1993 the U.S. District Court (DNJ) entered a consent decree in U.S. v. B & L Corporation. The decree requires the company to pay a civil penalty of $25,000 and implement a workplan intended to insure compliance with the waste oil regulations. On January 8, 1993 the District Court entered the consent decree for U.S. v. L & L Oil Service, Inc. This decree imposes a civil penalty of $55,000, and requires L & L to comply with a detailed workplan insuring its compliance with the waste oil regulations. The workplan includes provisions which exceed the scope of the RCRA regulations. In both cases, substantial stipulated penalties are provided in case of failure by the Defendant to comply with the terms of the Decrees.

Underground Storage Tanks

The UST enforcement program continued to be implemented primarily by state, local, and tribal governments. EPA provides technical support and enhancement of state and local enforcement capability as a prerequisite for obtaining program approval.

During FY 1993, the phase-in of release detection requirements began to apply to all tanks installed before 1980. The federal program uses these requirements as the focus for developing strong state enforcement and compliance programs.

The federal program also helped develop tools such as self-certifications and the use of administrative field citations. During FY 1993, the EPA continued some direct compliance and enforcement efforts for portions of regulations which are not fully regulated by states. Federal efforts will target health and ecological risk by focusing on sensitive geographic areas, e.g., ones with vulnerable groundwater, large tank populations, and poor compliance histories.

In Re the Circle K Corporation, et. al.: On March 29, 1993, EPA, DOJ, and the National Association of Attorneys General (NAAG), on behalf of thirty states, announced a $30 million settlement in bankruptcy court with Circle K Corporation (Circle K) and affiliated companies. Circle K operates convenience stores and gasoline stations nationwide. The settlement agreement resolved Circle K's RCRA liabilities with respect to potential petroleum contamination from the underground storage tanks at approximately 1,100 stores that Circle K no longer operates. The settlement amount will be paid in six installments into a State trust fund and used to remediate any contamination from petroleum leaks at these sites. This case represents the growing cooperation between EPA and the states in enforcing the underground storage tank provisions of RCRA.

In the Matter of Frank Mustafa: On September 1, 1993, EPA Chief Administrative Law Judge Frazier, issued an Accelerated Decision and Order in an enforcement action under Subtitle I of RCRA governing regulation of underground storage tanks (USTs). The decision was the first in the nation to construe EPA's Penalty Guidance for Violations of UST Regulations. Judge Frazier found the respondent liable for failure to notify the designated state agency as to the existence of USTs owned by respondent, and for failure to provide a method of release detection, and assessed a civil penalty of $74,105. Frank Mustafa, owns and operates underground storage tanks at two (once three) service stations in the U.S. Virgin Islands. The complaint charged Mustafa with two counts, failure to notify and failure to provide a method of release detection for six underground storage tanks. The parties stipulated as to respondent's liability, and submitted the issue of the amount of the civil penalty to the Judge for resolution.

U.S. v. Somerset Refinery Inc. (E.D.Ky): This case was one of the first judicial actions to enforce the newly listed petroleum refinery hazardous waste F037. EPA filed a complaint on July 16, 1993, for RCRA Subtitle I (underground storage tank) violations and for RCRA Subtitle C (hazardous waste) violations. The complaint was filed as part of the National RCRA Illegal Operators Initiative. The defendant is located in Somerset, Kentucky. The complaint requests injunctive relief and civil penalties for 148 UST violations and for violations in conjunction with the operation of a hazardous waste treatment/storage/disposal facility and for corrective action. The majority of these violations are for failure to comply with leak detection regulations. This case, the first civil referral in the nation to enforce the UST leak detection regulations, arose as a result of a multi-media inspection performed by Region IV RCRA and UST Programs, as well as the Kentucky OSHA program. Somerset is the second largest UST owner in Kentucky.

In re: USX Gary Works: On July 26, 1993, EPA and USX entered into a consent agreement and final order (CAFO) resolving EPA's claims relating to violations of RCRA and the underground storage tank (UST) regulations at USX's Gary Works facility. In the CAFO, USX agreed to pay a penalty of $164,550 and undertake significant corrective actions at the facility. EPA had issued a complaint against USX on January 24, 1992 alleging numerous violations of RCRA and the UST regulations, including violations relating to the manner in which USX had closed certain UST units.

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Enforcement (Superfund)

Superfund potentially responsible party (PRP) commitments have increased dramatically over the last several years (reaching a record high of almost $1.5 billion for private party cleanup in FY 1992 and exceeding $1.0 billion in the two prior years). Currently, responsible parties account for almost three-quarters of the Superfund response action commitments now being obtained.

The Superfund enforcement program emphasizes timely and thorough PRP searches and negotiation of Remedial Investigation/ Feasibility Study and Remedial Design/Remedial Action agreements within established firm deadlines. The enforcement program supports the implementation of the Superfund Accelerated Cleanup Model by participating in negotiations on enforcement activities for PRP responses at earlier stages of the Superfund process. EPA is also emphasizing compliance with consent decrees and administrative orders, and takes enforcement actions where necessary to compel compliance with the terms of settlement agreements, unilateral orders, and judgments to implement response actions.

In order to reduce "transaction" costs, EPA seeks to resolve the liability of more parties and deal with "collateral" PRPs (e.g., small parties) earlier in the process through the use of "de minimis" settlements. To further reduce transaction costs, EPA published its final lender liability rule in June 1992, making clear that lenders with mortgages on contaminated properties are not candidates for enforcement actions unless they actually controlled operations at the facility or foreclosed on the property and caused contamination at the site.

The program maintained its emphasis on case referrals against noncompliers and non-settlers to the Department of Justice. The cost recovery component stresses targeted case referrals and improved claims resolution to maximize reimbursement of Trust Fund revenues. In addition to pursuing §107 cost recovery civil actions (including treble damage claims), the program also increased the use of Alternative Dispute Resolution (ADR) and mediation for settling cost recovery actions administratively.

As part of the FY 1993 Data Quality Initiative, the program emphasized compliance with information requests pursuant to §104(e) and with §103 release reporting requirements.

Enforcement of CERCLA §104(e)(2) information requests continued to be a high priority. Compelling compliance with such requests helps to generate acceptable settlement offers from PRPs. PRPs will, for example, be more willing to settle when they are assured that other parties are not escaping participation by ignoring EPA's information requests or filing incomplete responses.

During FY 1993, the Agency filed several additional cases enforcing CERCLA §104(e)(2) requests as well as continuing to litigate previously filed cases. The Agency has now filed over 30 such civil judicial actions (not including administrative orders it has issued pursuant to CERCLA §104(e)(5)(A)). For §104(e)(2) enforcement, FY 1993 was a highly successful year in several respects, including assessment of a record penalty and development of favorable case law.

CERCLA 104 Cases

Cherokee County NPL Superfund Site, (Kan.): On December 19, 1993, EPA Region VII issued six administrative orders for access pursuant to §104(e) of CERCLA to individuals who own property at the Cherokee County site in Galena, Kansas. In order to conduct the estimated $13 million remedial action at this NPL mine-waste site, EPA needed access to property owned by approximately 150 different individuals. Most of the property owners voluntarily agreed to provide access to EPA. However, six individuals denied EPA access to the site, and administrative orders were issued requiring them to provide EPA with all access necessary to perform the remedial action. Each owner complied with the access order, and remedial action construction activities were able to begin as soon as the design was completed. The case exemplifies the Agency's commitment to obtaining access quickly and using EPA's enforcement tools under CERCLA §104(e).

U.S. v. Custom Leather Services, Inc. (E.D. Penn.): On April 14, 1993, the court issued a decision upholding EPA's authority to request information from a parent corporation respecting its relationship to -- and ability to pay for -- the CERCLA liability of a subsidiary corporation. The court cited U.S. v. Pretty Products Inc., 780 F. Supp. 1488 (S.D. Ohio 1991) as support for the proposition that Congress intended a broad reading of EPA's §104(e)(2) authority. Consequently, the court directed Katy Industries, Inc. to comply fully with EPA's requests related to the American Street Tannery site.

U.S. v. M. Genzale Plating (E.D.N.Y.): In November 1992, the court issued a judgment for $40,000 in penalties against M. Genzale Plating, Inc., the estate of Michael Genzale, and Pasquale Genzale for the defendants' failure to comply with an administrative order issued by Region II pursuant to § 104(e)(5) of CERCLA. The administrative order, which directed the named parties to provide EPA and its contractors with access to their property for response work, was issued in 1989. When defendants refused to comply, EPA promptly obtained a court order compelling compliance. Thereafter, the U.S. sought a determination that the defendants' had unreasonably failed to comply with the order, which is a jurisdictional prerequisite to the assessment of penalties. The court granted that determination in October 1991. In October 1992, a hearing determined the appropriate penalty amount. The court assessed a penalty of $2,000 for each day of noncompliance, or a total of $40,000.

U.S. v. Petersen Sand & Gravel, Inc. N.D.Il): On May 12, 1993, the district court approved a consent decree relating to EPA's response action at the Petersen Sand & Gravel Superfund site in Libertyville, Illinois. The settlement required Petersen Sand & Gravel, Inc. (PS&G) to pay EPA $700,000. Specifically, the decree provided for recovery of $590,000 in EPA's past costs, a $100,000 CERCLA penalty, and a $10,000 CWA penalty for noncompliance with information requests. In addition to the penalties, the decree obligated PS&G to provide a full response to EPA's original information requests and to certify the completeness of such response, at the risk of incurring liability for stipulated penalties if the response is again found to be inaccurate or lacking.

EPA's §104(e)(2) enforcement action arose from PS&G's failure to furnish accurate and complete information relating to its disposal of hazardous wastes at the Libertyville site. PS&G mined sand and gravel at the roughly 1,000-acre site from the 1950's until 1980. Several hundred drums of paints, solvents, and other industrial wastes were dumped at the site during this time. In 1977, the company removed some 400 drums from the site. In response to a 1980 CWA request by Region V, PS&G failed to identify certain additional drums that still remained buried on the site. In 1983, Lake County Grading, Inc., which was operating the site at that time, discovered these additional drums. EPA subsequently oversaw the removal of the drums. In 1986, using CERCLA and RCRA authority, Region V again requested PS&G to provide information relating to these wastes; in response, PS&G denied any knowledge of them. In 1990, EPA made a third request, but PS&G still failed to provide a full history of its past disposal of wastes at this site. During a subsequent deposition of a PS&G employee, EPA finally learned that PS&G's owner and president, Raymond A. Petersen, Sr. (now deceased), had buried these wastes at the site around 1969.

U.S. v. Roger L. Tannery N.D. Tx): The $12,475,000 penalty in this case represents the largest penalty ever for noncompliance with a CERCLA information request, and one of the largest penalties in the history of EPA enforcement. The court assessed the record penalty on December 7, 1992 and also ordered the defendant to provide a full response to EPA's information request.

EPA's information request arose from Mr. Tannery's failure to furnish information relating to his involvement with a Superfund site in Fort Worth, Texas, known as the American ThioChem site. When Mr. Tannery did not comply with the information request, the court assessed the maximum penalty of $25,000 for each day of noncompliance.

Bankruptcy cases

In the Matter of National Gypsum: On November 9, 1992, and February 16, 1993, the U.S. Bankruptcy Court (N.D. Tex.) entered settlement agreements resolving environmental claims between the U.S. and National Gypsum. Under the agreements, National Gypsum will pay EPA $2,650,000 for the Millington Portion of the Asbestos Dump Superfund Site in New Jersey, and $2,000,000 for the Salford Quarry in Pennsylvania. Additionally, EPA received an allowed claim of $89,259,148 for five sites (Operating Unit 2 of the New Jersey Asbestos Dump Site, the Coakley Landfill in New Hampshire, the H.O.D. and the Yeoman Creek Landfills in Illinois, and the Yellow Water Road site in Florida) plus legal fees for litigation costs. Additionally, pursuant to the agreements, a trust

was created for the Salford Quarry site and it received an allowed claim of $10 million. The agreement also provides a mechanism by which the U.S. may make claims against the reorganized National Gypsum Corporation in the future.

In May 1990, National Gypsum Company and it's parent, Aancor Holding, Inc. filed a voluntary petition in bankruptcy under Chapter 11 of the Bankruptcy Code in the U.S. Bankruptcy Court for the Southern District of New York. The U.S. filed a multi-site, multi-region proof of claim in May 1991. During May 1992, the court conducted an estimation hearing to determine the size of EPA's claim at the Asbestos Dump site and the Salford Quarry Site. The settlement agreements resulted from negotiations between the parties before and after the estimation hearing.

In the Matter of Jerald Gershon (D. Kan): On September 3, 1993, the bankruptcy judge confirmed a settlement agreement and stipulated order which settled bankruptcy claims of EPA against Jerald Gershon concerning environmental response costs incurred and to be incurred by EPA at three sites in Kansas. The settlement arises out of the filing by EPA of a cost recovery action against Chemical Commodities, Inc., a defunct corporation in which Gershon was the sole shareholder, and Gershon personally. Gershon responded by filing a Chapter 7 bankruptcy petition. Subsequent to the filing of Gershon's bankruptcy, EPA filed a proof of claim for response costs incurred and to be incurred by it for clean-up activities undertaken and to be undertaken by EPA at the sites. In addition, EPA filed a Complaint Objecting to Discharge of Debtor under §727 of the Bankruptcy Code and an Objection to Claim of Exemptions by Debtor under §522 of the Bankruptcy Code. Gershon also filed an action in the bankruptcy proceeding requesting a stay of the cost recovery action against him and requesting that the bankruptcy court make a determination as to Gershon's liability for the environmental claims EPA had raised in the cost recovery action.
The settlement concludes all of the above pending actions. Under the terms of the settlement, Gershon is required to pay $200,000 to the bankruptcy trustee for distribution to creditors, of whom EPA is by far the largest. EPA estimates it will receive 70%-75% of the money paid into the bankruptcy estate. This settlement represents the most significant monetary contribution made by Gershon relating to the clean-up of the three Kansas sites. This is also the first time that proceedings such as an Objection to Discharge and an Objection to Exemptions have been pursued by EPA in a Chapter 7 bankruptcy.

Other Superfund cases

Aberdeen Pesticide Dumps Site, (Aberdeen, N.C.): On May 3, 1993, EPA Region IV issued 44 unilateral administrative orders (UAOs) under §106 of CERCLA to 44 generator PRPs at this site. The UAOs require the PRPs to perform thermal desorption on pesticide-contaminated soils at the five separate disposal areas which comprise this site. The large number of UAOs reflects the fact that only certain of the PRPs were involved at each of the areas and that probable third-party defenses would preclude enforcement of site-wide UAOs to each PRP. In an attempt to achieve economies of scale, the UAOs allow the PRPs to cooperate by constructing and operating a common treatment facility.

Groundwater at the site will be addressed in two subsequent RODs. In addition, the site is currently the subject of litigation under §107 of CERCLA to recover over $7 million in past response costs incurred by EPA for removals and the RI/FS.

U.S. v. Airco Plating Company, Inc., et.al., (S.D. Fla.): On February 24, 1993, the district court entered a civil consent decree pursuant to CERCLA in which Airco Plating Company, Inc., (Airco) and 11 other persons agreed to pay a total of $415,158 to reimburse the Superfund for response costs incurred by EPA through October 31, 1991, at the Airco Plating Superfund site in Dade County near Miami, Florida. One of the eleven other settlors, Allied Products Corporation, is a Fortune 500 company that had for several years owned most of the land comprising the site. The remaining ten settlors are individuals who were either involved with the site as current or previous landowners, or are persons who had a past or present responsibility for making waste management decisions at Airco.

In the mid-1950s, Airco and its founders began an electroplating business at the Dade County location where it still continues to operate. Airco's metalplating process generated a waste

effluent high in toxic metals such as cadmium, copper, and zinc, and from about 1957 until 1972 Airco discharged this waste effluent directly into three unlined pits. In 1971, the State of Florida and EPA investigated conditions at the site, and the next year Airco altered its disposal practices. Nevertheless, in 1990 the site was placed on the NPL after an expanded site investigation showed serious contamination of soil and groundwater. EPA recently selected the remedy for this site, and is preparing to undertake negotiations with the same settlors for the final site cleanup, and reimbursement of response costs incurred by the U.S. subsequent to October 31, 1991.

U.S. v. U.T. Alexander, et al., (S.D. Texas): On July 23, 1993, Judge Kent granted the U.S. motion to enter the MOTCO Consent Decree. Parties to the consent decree included the U.S., Amoco Chemicals Company, Amoco Gas Company, Amoco Oil Company, Amoco Production Company, Marathon Oil Company (successor by merger to Marathon Petroleum Company), Monsanto Company, Quantum Chemical Corporation (formerly National Distillers and Chemical Corporation) and Texas City Refining, Inc.

Under the decree, the defendants agreed to carry out a combined operable unit (OU) remedy (OU-1, Source Control; OU-2, Management of Migration) and to pay the U.S. $1.3 million in past response costs and all future response costs. The U.S. agreed to forgive $2.25 million in past response costs in consideration for defendants' waiver and termination of all remaining reimbursement claims under the 1987 mixed funding agreement for source control remediation.

U.S. v. Allied Corporation, et al. (W.D.N.Y.): On December 14, 1992, two judicial consent decrees were entered by the district court concerning the Kentucky Avenue Wellfield Superfund site located near Horseheads, New York. Allied-Signal, Inc. and Purolator Products Company, Inc., the current and prior owners and operators of what is referred to as the Facet Enterprises Facility, executed one consent decree; Westinghouse Electric Corporation, the current owner of the Westinghouse Facility, independently executed a separate decree. Both these facilities were determined by Region II to have contributed to contamination of groundwater at the site.

The Allied and Westinghouse decrees required the respective defendants to make payment to the U.S. of $1.1 and $3.9 million, respectively, for past response costs incurred at the site as well as certain future response costs that were to be incurred. Those future costs included in the settlements are limited to the costs associated with the ongoing design and construction of an air stripping unit at the Sullivan Street Wellfield, a municipal well in the southern portion of the site. This response action is being performed by EPA.

U.S. v. American Seating Company, et al. (W.D. Wisc.): On November 25, 1992, the district court entered a consent decree in resolution of this CERCLA action. The decree, which concerns the Mid-State Disposal NPL site in Stratford, Wisconsin, requires the defendants to reimburse the U.S. for $1,578,958 in past response costs. With this settlement, parties other than the U.S. will fund $20,579,000 of the $20,677,000 in costs necessary to remediate the site.

The American Seating consent decree is the second decree approved by the court concerning the NPL site. The first consent decree was entered by the court on March 28, 1990, and contained four settlors' commitment to reimburse a portion of the Agency's costs and to perform Remedial Action/Remedial Design (RD/RA). Two months later, the court thwarted three non-settlors' attempt to stall the cleanup by denying their motions to intervene, vacate, and reconsider the entry of the decree. The court's opinion, which is highly favorable to the U.S. in denying their motion to intervene and in upholding the President's discretion in exercising the United States' CERCLA §122(a) settlement authority, is published in the Federal Rules Decisions Court Reporter, 131 F.D.R. 573 (W.D. Wisc. 1990).

The Mid-State RD/RA decree was modified on November 18, 1992, when the court entered an order adding 16 Wisconsin municipalities as settling defendants. Three of the non-settlors from the earlier RD/RA negotiations, two of whom were also denied intervention and vacation of the Mid-State Disposal decree, are now settling defendants in American Seating. Together, these two decrees represent a 99.6% recovery by the U.S. of the total cost of remediating this site.

U.S. v. Anaquest Caribe, et al.: On January 8, 1993, a consent decree between the government and

four PRPs at the Fibers Public Supply Well site in Guayama, Puerto Rico was entered in U.S. District Court (DPR). The decree provides for performance of cleanup activities and for reimbursement of costs spent by EPA at the site. The PRPs agreed to implement a pump-and-treat and excavation remedy, and to reimburse EPA for $436,000 of its $586,000 in past costs spent at the site, as well as all future RD/RA oversight costs incurred by EPA. The RI/FS for the site was performed by several of the PRPs pursuant to three administrative consent orders issued by Region II in 1985, 1986 and 1989. The projected cost of the remedy is about $6.7 million. The settling defendants are Anaquest Caribe, Inc., Phillips Petroleum Company, Chevron Chemical Company and American Home Products Corp. One PRP, the Puerto Rico Industrial Development Company, declined to participate in the decree.

U.S. v. Anchor Motor Freight (N.D. Ohio): On August 27, 1993, the court granted the government's motion to enter three consent decrees lodged last February in U.S. v. Anchor Motor Freight. Within thirty days of the date of entry, the settling parties collectively are required to deposit $2.7 million into the Hazardous Waste Superfund. This represents a 92.4% recovery of the settling defendants' second-round volumetric share (the calculation of each settling defendant's portion of non-reimbursed response costs) of the government's costs, including enforcement costs and interest.

The United States filed this §107 action to recover non-reimbursed response costs incurred by EPA in connection with the Laskin/Poplar Oil Superfund site in Ashtabula County, Ohio. Two decrees had been entered earlier in this litigation: the first recovered $1.47 million in past costs, and the second for remedial design/ remedial action and recovery of $1.4 million.

Arctic Surplus: EPA entered into an AOC with the Alaska Department of Transportation (ADOT) to conduct removal activities on Badger Road which is contiguous and adjacent to the heavily contaminated portions of the Arctic Surplus site. The ADOT has owned and continues to own the portions of the road which were contaminated during the operation of the Arctic Surplus Scrap Yard. This order, entered on November 4, 1992, provides for the removal of highly contaminated soil and capping of lower levels of contamination both under the road and in the adjacent bike line/path. The road will be repaved as part of this project.

The ADOT order is being conducted concurrently with the RI/FS order with the Defense Logistics Agency (DLA) signed on July 24, 1992, which provides for the conduct of the RI/FS by DLA, a significant contributor of scrap (transformers, batteries, vehicles, drummed liquid chemicals) to the site.

U.S. v. Ariens (E.D. Wisc.): On October 20, 1992, the court entered a consent decree requiring the PRPs in this CERCLA action to implement the Remedial Design and Remedial Action (RD/RA) required by the Record of Decision (ROD) for Operable Unit 1 at the site. This remedial work, which will cost approximately $20 million, includes the construction and maintenance of a slurry wall around the landfill's perimeter and a clay/soil landfill cap and gas collection system. In addition, the decree requires the PRPs to reimburse the Agency for $700,000 in past response costs, thereby funding over 94% of the past costs at this site. .

Lemberger Landfill, Inc. and the Lemberger Transport and Recycling facilities operated as disposal facilities near the Village of Whitelaw in Franklin Township, Manitowoc County, Wisconsin. The two former landfills are located within a quarter mile of each other.

Arkansas Peace Center, et al. v. Arkansas Department of Pollution Control and Ecology, et al., (Jacksonville, Ark.): In July 1993, the U.S. Court of Appeals for the Eighth Circuit ruled that a federal district court lacked jurisdiction to entertain a lawsuit brought under CERCLA by opponents to an incinerator at the Vertac Superfund site. Opponents to the incinerator sought a permanent injunction against EPA and the State because of allegations that the incinerator did not comply with federal regulations concerning performance. The district court judge issued a preliminary injunction on March 17, 1993, which was stayed by the Eighth Circuit court on that same day. In the July 1993 ruling by the Eighth Circuit, the court found that plaintiffs' lawsuit was barred by the plain language of CERCLA §113(h) until completion of the response action. The appeals court panel also

stated that, if the panel had jurisdiction to rule on the merits of the case, it had no doubt that the district court erred in its interpretation of the incinerator performance regulation which served as the basis for the preliminary injunction order.

Augusta/Hyde Park, (Augusta, Ga.): EPA Region IV expended more than $1 million in response to citizens' concerns about contamination of the Hyde Park/Virginia Subdivision neighborhoods in Augusta, Georgia. EPA had issued an emergency order under the SDWA in 1989 to address groundwater contamination in the area. After receiving additional citizens' complaints regarding high incidence of disease in the neighborhood in the summer of 1992, EPA held a meeting with local, state and other federal agencies, including a task force organized by the Governor of Georgia, and determined that there were legitimate concerns for the health of this community. EPA developed a work plan for the area during the fall of 1992, and began sampling surface soils, surface water, groundwater and sediments in February 1993. EPA tested residential areas as well as 18 industrial sites within the neighborhood. Over 1,000 samples were taken and then analyzed for up to 176 constituents, including dioxin analysis for a percentage of samples.

This effort represents the largest scale site assessment in Region IV. This area is a lower income and predominantly African-American neighborhood, and EPA is very conscious of the environmental equity issues inherent in the situation. EPA from the beginning included in its consultations the Governor's Task Force, which includes a number of citizens from the area, and met with the community prior to beginning the sampling effort and attended a May 15, 1993, McKinney-organized community meeting to address citizen concerns.

EPA released the technical report of the data collected at a September 10, 1993 meeting of interested governmental organizations, and has asked ATSDR to analyze the data for health implications. EPA held a public meeting in Augusta on September 16, 1993 to present the data to citizens. The data were such that the Region did not believe an imminent and substantial endangerment exists, and the Region is awaiting a reassessment by ATSDR of the possible connection between contaminants found and health impacts claimed before making final determinations of action for the area.

U.S. v. AVX Corporation, et.al. (D. MA.): On April 23, 1993, the court entered the consent decree for the second operable unit at the Sullivan's Ledge Superfund site in New Bedford, MA. Simultaneously, the court also entered a First Amendment to Consent Decree pertaining to the consent decree for the first operable unit. The expected cost of the remedy is $5.8 million.

The site is an old granite quarry, located in an industrial/suburban area of New Bedford. The site is owned by the City of New Bedford. From about 1935 through the 1970's, the City owned and operated the Ledge as a dump for local industrial wastes and solid wastes. The site was listed on the National Priorities List in 1984.
The settlement requires the PRPs to excavate an ecologically sensitive marsh which lies in the midst of a golf course. Excavated sediments are then to be disposed of beneath a cap to be constructed at the first operable unit. Work at the first operable unit is subject to a previous consent decree. The remedy to be performed by the PRPs is precedent-setting in that it is driven by ecological risks, rather than human health risks.

Under the decree, fifteen entities, including the City of New Bedford, agree to perform the remedy. However, the responsibilities of the parties vary greatly. AVX Corporation agrees to perform all the work (consisting of the remedial action plus operations and maintenance). The City of New Bedford agrees to perform specific portions of the remedial action (not including O+M) and secure access and institutional controls. The consent decree sets up triggers and mechanisms whereby AVX must undertake unperformed obligations of the City. The remaining parties, all of whom, like AVX, settled for the first operable unit, agree to accept under the cap at the first operable unit those wastes that are generated by the second operable unit remedial action. litigation to recover further past costs for the first and second operable units is currently underway.

B & B Chemical Company Site, (Hialeah, Fl.): On May 11, 1993, a Unilateral Administrative Order to Cease Extraction and Treatment of Groundwater was issued to B & B T ritech, Inc. regarding its activities at the B & B Chemical

Company Superfund site in Hialeah, Florida, pursuant to §106(a) and §122(e)(6) of CERCLA.

B & B is a manufacturer of detergents, oxidizing agents, metal cleaners, corrosive inhibitors, and paint strippers. The release of hazardous substances into the soil and groundwater at the site resulted from the company's former methods of handling and disposing of process wastes. Such contaminants include vinyl chloride, benzene, chlorobenzene, and chromium. These substances have been detected in the groundwater at the site in concentrations exceeding the allowable MCLs under state and federal law.

Subsequent to EPA's publication of a proposed plan for remediation, EPA obtained sampling data indicating unexplained increases in groundwater contaminant concentrations. B & B ascribed these increases to its operation of the county-ordered groundwater treatment system for 30 days prior to EPA's sampling. Accordingly, EPA issued the order to B & B requiring it to cease groundwater extraction and treatment until further notice, remove the groundwater pump, and allow EPA to install a lockable well cap. The facility agreed to comply, and the sampling is proceeding on schedule. This will allow EPA to select an appropriate remedy for the site.

U.S. v. BASF Corporation; Carolina Plating and Stamping Corporation; Colonial Heights Packaging Inc.; E-System, Inc.; Metal Products Corp.; and Sterling Winthrop Inc., (D S.C.): On January 4, 1993, the court entered a civil consent decree, in which the settling parties agreed to perform the remedial design and remedial action and pay past costs totaling $71,569. These actions arose out of CERCLA violations for improperly disposing metal substances in lagoons on-site. The site was listed on the NPL in June 1987.

Under the terms of the decree, the settling parties were required to pay past costs to EPA on or before February 4, 1993. The settling parties failed to make timely payment, and on March 3, 1993, EPA issued a letter informing them that stipulated penalties were accruing. EPA received payment for the past costs on March 12, 1993, 36 days after the required date in the decree. On April 12, 1993, EPA sent a demand letter for payment of the stipulated penalties and after negotiations on May 13, 1993, the settling parties paid EPA $83,000 in stipulated penalties.

U.S. v. BASF-Inmont, et al., (E.D. Mich.): On March 17, 1993, the court entered a consent decree concerning the Metamora Landfill site in Lapeer County, Michigan. The decree requires that 34 PRPs perform remedial action at the site, estimated to cost $50,000,000. This remedial action work consists of incinerating barrels at the site, capping the landfill, constructing and operating a groundwater pump and treat system, and remediating site soils. The decree also requires that the settling PRPs reimburse EPA for its oversight costs.

The Metamora Landfill site is a 160 acre site that operated from the mid-1950's until 1980. Both municipal and industrial waste was disposed of at the site. EPA has incurred response costs at the site in excess of $30 million dollars. Because the decree does not recover EPA's response costs incurred prior to the entry of the decree, EPA's final action at the site is recovery of these costs.

J.H. Baxter Superfund Site, (Weed Cal.): On September 30, 1993 EPA entered into an administrative consent order for 92.5% of EPA's past costs ($2,324,381.10) incurred at the J.H. Baxter Superfund site located in Weed, California. This is Region IX's first use of Alternative Dispute Resolution (ADR) in a Superfund context and was proposed for use here as part of the Superfund Improvements Initiative.

The site is located on the northeastern margin of the city of Weed, Siskiyou County, California, and was listed on the NPL in 1989 due to the presence of arsenic, creosote, and PCP in site soils, surface water runoff, and groundwater. The PRPs to this settlement include J.H. Baxter & Co. (Baxter), International Paper (IP), Roseburg Forest Products Co. (Roseburg), and Beazer East, Inc. on behalf of the American Lumber & Treating Company Interests (Beazer East, Inc., Chicago Bridge & Iron, Inc., and the Aluminum Company of America.) In late July 1991, negotiations between EPA and the PRPs failed to result in settlement for performance of the remedial design/remedial action (RD/RA) under the model consent decree. To avoid a repetition of the unsuccessful RD/RA negotiation experience, Region IX proposed mediation for cost recovery negotiations to assist in coalescing the PRP group and reaching settlement with EPA. With the use of mediation, EPA was able to reach settlement quickly. The PRPs continue to perform the cleanup

(valued at $40 million and consisting of extensive soil and groundwater remediation) under a CERCLA §106 unilateral order issued in August 1991.

In the Matter of Beazer East, Inc.,: On March 1, 1993, EPA issued a unilateral administrative order for remedial design and remedial action (RD/RA) for the Koppers Texarkana Superfund site located in Texarkana, Texas. The 62 acre site is contaminated primarily with polynuclear aromatic hydrocarbons (PAHs). The site was a wood treatment facility from 1910 until 1961. The respondent, Beazer East, Inc., is performing the RD/RA pursuant to the unilateral order. The congressionally-mandated residential subdivision buyout (approximately $5.6 million) and the relocation of residents were completed in July 1993. The unilateral order, among other items, requires demolition of structures, removal and disposal of structures and debris in an appropriate facility, and removal and treatment of contaminated soil and groundwater.

U.S. v. Town of Bedford, et al.: On March 18, 1993 a consent decree was entered by the U.S. District Court (S.D.N.Y.) pursuant to which six defendants agreed to pay a total of $1.17 million in settlement of pasts costs incurred at the Katonah Municipal Well Superfund site. This consent decree settles an action which was filed in 1990. One of the defendants, the Town of Bedford, performed the remedial design pursuant to a 1988 EPA consent order, and completed the remedial action construction under the terms of an earlier consent decree. The five remaining defendants are the owners or operators of dry cleaners or owners or sublessors of property where a dry cleaner was located. These defendants had previously declined to participate in or contribute to cleanup work at this site.

U.S. v. Arthur Belanger et al., (W.D. Mo): On July 16, 1993, a consent decree was lodged in court in settlement of this cost recovery litigation initiated in March, 1991. Under the terms of the consent decree, defendants and third-party and fourth-party defendants (59 of 63) will pay $1,215,880 for past response costs incurred by the government at the B & B Salvage site located in Warrensburg, Missouri. The settling defendants include utility companies, corporations, state agencies, and two federal agencies.

In late 1987, EPA responded to a report submitted by the City of Warrensburg that PCB contamination had been discovered at the B & B Salvage Company facility. EPA discovered that B & B Salvage had accepted several hundred scrap PCB and PCB-contaminated transformers in 1985 and 1986 from the Martha C. Rose Chemicals Company located in Holden, Missouri. EPA's site investigation revealed considerable PCB contamination in soils and buildings at the one acre B & B Salvage facility. EPA conducted a removal action at this non-NPL site in the fall and winter of 1987 and 1988, resulting in the expenditure of response costs.

EPA has taken prior enforcement actions at the Holden site, which is currently being cleaned up by a generator steering committee representing over 700 generators of PCBs taken to the site. Three individuals went to prison as a result of EPA's criminal prosecution.

BFI-Rockingham Landfill Superfund Site: The BFI-Rockingham Landfill Superfund site represents EPA's first comprehensive application of the Superfund Accelerated Cleanup Model (SACM) at an NPL site in Region I. The use of SACM expedited response activities at the site by one to two years. Moreover, SACM saved EPA and the PRPs substantial transaction costs in connection with the performance of an RI/FS and the negotiation of an administrative order for a non-time critical removal action.

The BFI-Rockingham site is a municipal landfill located in Rockingham, Vermont. The settling parties in this case include Disposal Specialists, Inc., the owner and operator of the site, and Browning-Ferris Industries of Vermont, Inc., the transporter of waste to the landfill. Both companies are wholly-owned subsidiaries of Browning-Ferris Industries, Inc.

The BFI entities entered an administrative order to perform the RI/FS in August 1992. During the RI/FS, the Region recognized the opportunity to apply EPA's new presumptive remedy for municipal landfills. In February 1993, the PRPs agreed to initiate an engineering evaluation/cost analysis (EE/CA) for the source control component of the remedy. Based upon the EE/CA, EPA issued an action memorandum in September 1993, which selected a multi-layer landfill cap as the non-

time critical removal action. With the ultimate goal of constructing the cap in the summer of 1994, the Region conducted non-special notice negotiations on an extremely expedited schedule, reaching agreement with the BFI subsidiaries by the end of September. The Region has continued this expedited approach during the design phase of the work. The environment will benefit from prompt implementation of the source control measures, which will reduce further migration of contaminants to the environment, most notably groundwater.

This case represents a highly successful use of enforcement and response program initiatives to expedite cleanup at all stages of a Superfund case, including site investigation and development of response alternatives, negotiation of a response agreement, and performance of the action itself.

In re: H. Brown Superfund Site: On November 20, 1992, EPA entered into its first pre-ROD *de minimis* settlement with 145 PRPs, in accordance with the June 1992 Early De Minimis Settlement Guidance, and CERCLA §122(g). According to the administrative order on consent, the settling PRPs are required to pay their volumetric share of the U.S.' past response costs and estimated future response costs for remediating the H. Brown Superfund site. In addition, these parties will pay a settlement premium of 1.0 (i.e. a 2.0 multiplier) for the estimated future response costs for the remediation. Approximately $650,000 was recovered by EPA in this settlement, which represents 50% of past response costs to date.

The H. Brown site, located in Walker, Michigan, had been placed on the NPL on March 29, 1985. It is contaminated with lead, antimony, cadmium, copper, chromium, and nickel as a result of the H. Brown Company having cracked, shredded, and scattered battery casings over the entire site during its lead reclamation activities. On September 30, 1992, EPA issued a Record of Decision which called for the following remedy components: solidifying, in place, the contaminated surface and subsurface soil and sediments in a cement-like form; constructing a multi-layer cap over the solidified soil; surrounding the solidified soil with a containment wall; collecting, treating, and discharging groundwater and surface water from the shallow aquifer; and demolishing buildings which are contaminated.

In the Matter of Caldwell Trucking Site: In 1993, EPA issued two administrative orders for performance of remedial action and groundwater investigative work at the Caldwell Trucking site in Fairfield, New Jersey. On April 19, 1993, the first order was issued to eleven respondents, requiring them to perform the remedial action for the contaminated soils and sludges at the site. The respondents are the current site owner, OKON Corporation, the site operator, Caldwell Trucking Company, and nine generators of hazardous substances found at the site. These parties had declined to perform the remedial action voluntarily, but work under the order has commenced. The remedial action is valued at up to $25 million.

On June 29, 1993 Region II issued the second order to fifteen recipients requiring them to conduct design investigation studies of the contaminated ground water plume at the Caldwell site valued at about $1 million. The additional parties include a second site owner, Baureis Realty Inc.

U.S. v. Charles George Trucking Company, Inc., et al. (D. Mass.): On May 24, 1993, the court entered a civil consent decree in which 54 settling defendants agreed to pay $34,713,000 for response costs at the Charles George Land Reclamation Trust Landfill Superfund site in Tyngsboro, Massachusetts and $1,378,350 for natural resource damages in a cost recovery action brought under CERCLA. The original lawsuit was filed in 1985 seeking past and future costs, responses to information requests, and access to the site for the remedial action. The court granted summary judgment on noncompliance with the information requests and imposed civil penalties. The court also issued an access order.

The landfill disposed of hazardous wastes and also accepted commercial, municipal, and domestic wastes. Estimates are that the full 69 acre site contains about four million cubic yards of refuse. The site cleanup consists of three Records of Decision: ROD I issued December 29, 1983 to install a permanent waterline connecting Tyngsboro to City of Lowell water system which began operation on October 12, 1988; ROD II issued July 11, 1985, was to cap the landfill (which was completed in October 1990); and ROD III issued September 29, 1988, to treat groundwater, leachate and landfill gases, which is presently being implemented.

Chevron Chemical Company Site, (Orlando Fla.): On January 25, 1993, an administrative order by consent (AOC) for the RI/FS for the Chevron Chemical Company site in Orange County, Orlando, Florida was entered into by Region IV and Chevron Chemical Company. This site is unique in that it has been chosen as one of the Region's pilot SACM projects. In the spirit of SACM, Chevron agreed to conduct the RI/FS and pay all EPA's past and oversight costs incurred with respect to the site although the site has not been finalized for the NPL. Further, to keep the project moving along, Chevron agreed to conduct the RI/FS in only three hundred days.

The analytical results from the samples collected during the site investigation indicated the presence of pesticides, benzene, toluene, xylene, chlordane, naphthalene, and metals. In addition, the analytical results for the groundwater samples indicated the presence of metals, benzene, trichlorethylene, xylene, pesticides, toluene, and chlorobenzene.

The purpose of the RI/FS is to investigate the nature and extent of groundwater contamination at the site. Chevron has submitted its preliminary findings from the RI.

U.S. v. Chrysler Corp., et al. (E.D. Mich.): On June 4, 1993, the court entered a CERCLA RD/RA consent decree under which the settling defendants will clean up PCB contamination at the Carter Industrials Superfund site in Detroit, Michigan and pay about $3 million in past costs. The total cost of the clean up is estimated to be $24,000,000. Settling defendants include Chrysler, Ford, GM, Michigan's two public utilities, and the City of Detroit. Unusual features of the decree include provisions for EPA to perform some of the work, and a special covenant not to sue in accordance with §122(f)(2) of CERCLA.
The Carter Industrials facility was the site of a scrap metal business where electrical equipment was stripped of valuable metals while dielectric fluids, including PCB oils, were allowed to drain onto the ground. These activities resulted in high levels of PCB contamination on the facility property and in an adjacent residential area. In 1986, EPA undertook a removal action to consolidate PCB-contaminated soils and debris and contain it on-site. The site was placed on the NPL in 1989. On September 18, 1991, EPA issued a Record of Decision, calling for low temperature thermal desorption of PCB-contaminated soils.

U.S. v. Ciba-Geigy: (D. N.J.) On September 30, 1993, the EPA signed a judicial consent decree between the U.S. and Ciba-Geigy Corporation. The decree was lodged on October 18, 1993. Under the proposed settlement, Ciba-Geigy agreed to conduct remedial design, remedial action, operation and maintenance and post-remediation monitoring for the first operable unit (groundwater) for the site, located in Toms River, New Jersey. The estimated cost of the work is approximately $60 million. Ciba-Geigy also agrees to pay all unreimbursed response costs, approximately $10 million, incurred by the United States for operable unit one and operable unit two (source areas), resulting in a total settlement value of approximately $70 million.

The site is on the NPL. Groundwater at the site is contaminated with organic and inorganic compounds. On April 24, 1989, EPA selected a river discharge remedy in a Record of Decision for operable unit one. The ROD also called for sealing contaminated residential irrigation wells, monitoring groundwater and the Toms River, evaluating lower portions of the aquifer, performing studies on contaminated groundwater to determine appropriate cleanup technologies, and further studying of source areas. On September 30, 1993, the Region also signed an Explanation of Significant Differences (ESD) for the site. The Region modified the ROD to require the recharge of treated groundwater to the upper portion of the aquifer underlying the site instead of the discharge of treated groundwater to the Toms River.

U.S. v. Jack and Charles Colbert, et al. (S.D.N.Y.): On August 10, 1993, a partial consent decree was lodged which provides for payment of $22,500 in civil penalties for the Signo Trading (11 Hartford Avenue) Superfund site by defendants, Jack and Charles Colbert and four of the Colberts' companies. The penalties arise out of those defendants' failure to comply with a 1984 administrative order. The §106 order required the Colberts, and others, to perform a removal action at the site, located in Mount Vernon, New York. A warehouse located at the site was used by the defendants to store hazardous substances and other items. When defendants failed to comply with the order, EPA Region II conducted the removal action itself. In 1992, the government

entered into a consent decree with several other PRPs pursuant to which they agreed to reimburse EPA for $71,000 of its past costs at the site. The Colbert brothers served several years in prison for charges arising out of their mishandling of hazardous chemicals.

U.S. v. Colorado (990 F.2d 1595 (10th Cir. 1993)): The Tenth Circuit held that, at least with regard to a state authorized to enforce its hazardous waste program in lieu of RCRA, the state has the independent right to enforce state law, administratively or judicially, at CERCLA sites within the state's jurisdiction. More specifically, the court held that: [1] §113(h) does not bar a federal court from hearing a state suit to enforce a state administrative order that addresses a CERCLA site because enforcement of provisions of a state-delegated program cannot per se be a challenge to CERCLA response action. The court also held that the state can always enforce state law in state court anyway (to which 113(h) does not apply.) (Here the state had ordered the Army to submit a closure plan for an Operable Unit that was being addressed by a $100 million CERCLA removal action, and the state order specifically prohibited any cleanup/closure activities unless the state first approved); [2] NPL listing has no effect on the application of state law; [3] There is no conflict between the permit waiver at CERCLA §121(e) and a state ordering a party to apply for a state TSD or closure permit for cleanup activities at an NPL site; [4] EPA's interpretation of §122(e)(6) as giving EPA final authority to determine what remedial actions can take place at an NPL site (and thus there can be no remedial action unless EPA approves of it) is "contrary to the plain and sensible meaning" of the statute, and "we do not afford it any deference"; [5] A state may independently order compliance with state law whether or not that law is deemed an ARAR; and [6] RCRA specifically authorizes a citizen suit to enforce RCRA at any CERCLA site, regardless of whether a CERCLA response action is ongoing at that site (and the court suggests, but does not hold; that a state could enforce a delegated state law program as a RCRA citizen suit).

U.S. v. Commencement Bay - Nearshore/ Tideflats (Sitcum Waterway),(W.D. Wash): A consent decree for Superfund remedial action was signed by the Port of Tacoma, Washington, on June 1, 1993, and entered in court on October 8, 1993. The Port, which previously performed the remedial design under an administrative order on consent, is the sole settling Potentially Responsible Party (PRP) and has agreed not to pursue the site's 49 other PRPs for contribution for this action. (They may seek contributions for additional response actions if such actions become necessary.) The remedial action consists of dredging contaminated sediments and confining them in a nearshore fill in another waterway; the estimated cost of this work is $22 million. In addition, the Port will perform habitat mitigation work at two area wetlands to compensate for the adverse environmental impacts of dredging and filling. The Port will also reimburse EPA for $1.3 million in past costs and interest, and settle its liability for natural resource damages by paying $12 million in reimbursement and implementing development restrictions on two properties. Natural resource trustees for the site include two federal agencies, the state of Washington, and two Indian tribes.

In the Matter of Dow Chemical Company, Hercules Incorporated, Uniroyal Chemical Company Ltd.: On June 22, 1993, Region VI issued a unilateral administrative order (UAO) to Hercules, Dow and Uniroyal for remedial design and remedial action (RD/RA) for the off-site operable unit at the Vertac Superfund Site located in Jacksonville, Arkansas. Hercules is conducting the RD/RA under the terms of the UAO. The off-site operable unit encompasses approximately 36 square miles, and is located south of the Vertac Plant site. The site is contaminated with dioxin from the operation of the Vertac facility to manufacture herbicides and pesticides, including Agent Orange.

In re: Dunn City Disposal Landfill: On March 15, 1993, Region V issued a unilateral administrative order, pursuant to CERCLA §106, to Waste Management of Wisconsin, Inc. for performance of the remedial design and remedial action (RD/RA) at the City Disposal Landfill site in Dunn, Wisconsin. The remedy for the landfill requires a cap, soil vapor extraction of VOCs, and groundwater remediation, with an estimated cost of approximately $14.7 million.

The site is a former landfill operated by a corporate predecessor of Waste Management of Wisconsin, Inc. The order was solely issued to

Waste Management, despite the presence of other viable PRPs due to the significantly stronger evidence against Waste Management (which is the former site operator and transporter, and current site owner). Issuing the order to Waste Management alone, also exercises the Region's enforcement discretion and may deter other PRPs' from relying on the assumption that EPA will issue an order to all PRPs following the close of an unsuccessful RD/RA negotiation.

Enterprise Recovery Systems Site, (Byhalia, Ms): On September 27, 1993, EPA executed an administrative order on consent (AOC) with 29 PRPs regarding a removal action at the Enterprise Recovery Systems site in Byhalia, Marshall County, Mississippi. Respondents included Carrier Corporation, Exxon Company, U.S.A., Borg Warner and Teledyne. The AOC required the respondents to perform the removal action and pay all past and future costs, including oversight. The removal action required under the order includes arranging for a permanent alternative potable water supply to local residents whose wells are contaminated by releases from the site, disposing of waste materials stored in on-site drums and tanks, and disposing of contaminated soil and debris.

The Enterprise Recovery Systems, Inc. facility operated from approximately 1979 to 1991 as a fuels blending and solvent recycling facility. The facility ceased operations in October 1991 when its insurer canceled insurance coverage after discovering significant soil and groundwater contamination. Hazardous substances included benzene, xylene, toluene, tetrachloroethylene, trichloroethylene, naphthalene, acetone, 1,1,1-trichloroethane, bis(2-ethylhexyl)phthalate, methyl ethyl ketone, ethanol, methanol, isopropyl alcohol, oils, methylene chloride, perchloroethylene, and chlorinated waste water .

In the Matter of Ewan Property Site: On September 30, 1993, Region II finalized an CERCLA §122(h) administrative agreement with 16 PRPs for 100% of past costs incurred at the Ewan Property Superfund site, plus interest, from the date of the demand letter, $2,438,295. EPA performed RI/FS work and issued RODs for the two operable units at the site, located in Shamong Township, N.J. EPA identified nineteen PRPs which received unilateral administrative orders to perform RD/RA work on the first operable unit at the site. This unit includes the removal of the drums, sludges and soil which contain the source contamination. The PRPs are currently in compliance with those orders and are completing the remedial design work. In August 1991, EPA requested reimbursement of its past costs. The PRPs initially challenged EPA's cost documentation, but finally agreed to pay 100% of the past costs plus interest.

In the Matter of Fibers Public Supply Wells: On July 26, 1993, four PRPs paid the Superfund $150,000 (plus interest) in full reimbursement for the remaining past costs at the Fibers Public Supply Wells Superfund site. Under a consent decree entered in district court in January 1993, those PRPs had agreed to reimburse EPA for $436,815.79 of its $586,815.79 in past costs, in addition to agreeing to implement a pump and treat and excavation remedy and reimburse EPA's future response costs. $150,000 in past costs were "carved out" of that settlement because the Puerto Rico Industrial Development Company (PRIDCO), the owner of the property and a PRP, refused to enter into the settlement. Subsequent to entry of the decree, EPA made it clear to PRIDCO that a cost recovery action would likely be filed against it if the $150,000 in remaining past costs was not paid by September 1993. PRIDCO thereafter entered into negotiations with the other PRPs. The result was an agreement among themselves whereby the four settling PRPs would reimburse EPA for the unpaid balance of the costs in exchange for PRIDCO's commitment to provide in-kind services valued at $465,000.

U.S. v. Fleet Factors Corp., (S.D. Ga.): A bench trail was held, in district court concerning Fleet Factors Corporation's liability for costs incurred in the removal action conducted at the Swainsboro Print Works (SPW) facility in Swainsboro, Georgia. EPA conducted a two-step cleanup of the site which is not on the NPL. From February 6 to 26, 1984, EPA addressed abandoned chemicals that had been left at the site. These chemicals included sodium cyanide, xylene, and varsol. While the cleanup was underway, the presence of asbestos was confirmed at the site. EPA undertook the second part of the response action, the removal of the asbestos, in 1984.

On May 12, 1993, following the bench trial, the court entered a Memorandum and Order finding Fleet jointly and severally liable under CERCLA

In 1984, EPA placed the site on the NPL, identifying 59 hazardous substances in the site's soil and groundwater. A ROD was signed on June 30, 1989, calling for both a landfill cap and ground water treatment. The consent decree was filed in December 1989, however, in January of 1990, Container Corporation of America (CCA), a party with the fourth largest allocated share for a nongovernmental PRP for the site, filed a Motion to Intervene.

The Court heard oral arguments regarding the Motion to Intervene in October of 1989. DOJ filed a Motion to Enter the Consent Decree in January of 1990. Upon the referral of a cost recovery case, DOJ filed a complaint against CCA in December of 1992. CCA filed a third- party complaint against eight signatories of the pending consent decree. In September of 1992, DOJ filed a Motion to withdraw the U.S.'s opposition to CCA's intervention on a limited bases. Upon permitting CCA limited discovery on the "fairness of the settlement," on March 30, 1993, the court entered the decree, excluding CCA. With the decree being entered, the eight third-party defendants will receive contribution protection against CCA, thereby terminating CCA's third-party claim.

U.S. v. Gould, et al.: In April 1993, a judicial consent decree was entered in U.S. District Court (S.D.N.Y.) concerning the Marathon Battery site. The settling parties are Marathon Battery Company (Marathon), Gould Inc. (Gould) and the U.S. on behalf of the Department of the Army (Army). Under the terms of the settlement, EPA will recover $9 million in past costs and interest, $1.5 million in future costs, and oversight costs for the remedial action (RA) of up to $3 million. Gould has agreed to perform the RA in accordance with EPA's design and approved value engineering modifications and to conduct long-term monitoring and maintenance at the site. EPA estimates the remedial action cost at $91 million, making the total value of the settlement package nearly $110 million.

For the remedy, Marathon will contribute $4 million and the Army $37 million in addition to their previous cash settlements (in a prior partial consent decree) of $5.25 million and $5.6 million, respectively. This is a complete settlement of all EPA's claims against the viable PRPs, and a resolution of complicated legal issues. EPA agreed to forgive $7.28 million in past costs and interest in the settlement, and thus recovered about 94% of its costs. The case raised interesting and complicated questions of law because Marathon and Gould were released from liability for "discharges" from the site in a 1974 settlement with the U.S. under the Refuse Act of 1899.

Hamilton Island: Region X negotiated a CERCLA § 120 Agreement with the US Army Corps of Engineers for a comprehensive investigation and remediation of the site. This is the first such agreement with the Corps of Engineers nationally, and it includes an expedited schedule for the cleanup. The final cleanup Record of Decision will be completed in 1996.

In the Matter of Imperial Oil/Champion Chemical Site.: EPA received payment in the amount of $251,685 as reimbursement for a removal action performed at the Imperial Oil/Champion Chemical Superfund site in New Jersey. The action consisted of the removal and disposal of a pile of PCB-contaminated waste filter clay sludge. The money was disbursed from an escrow account maintained by the Monmouth County Probation Department. This escrow account was established as a result of a plea bargain agreement to settle a criminal action between the Monmouth County Prosecutor's Office and the Imperial Oil Company, Champion Chemical Company, and three corporate officers. The purpose of the account was to reimburse parties that performed environmental cleanup actions at the site. Region II had notified the Monmouth County Prosecutor's Office that EPA had performed this work and requested payment.

International Depository, Inc. Removal Site: In the International Depository, Inc. (IDI) removal case, EPA achieved an administrative cost recovery settlement under CERCLA §122(h) for $1.1 million with 56 potentially responsible parties. Additionally, after EPA had conducted initial response measures, it issued the site owner, the Rhode Island Department of Transportation, a unilateral administrative order under CERCLA §106 for approximately half of the necessary cleanup activities.

The IDI site is located near the Narragansett Bay in North Kingstown, Rhode Island. The site was an abandoned hazardous waste transfer facility that contained approximately 3,000 drums of a wide range of improperly stored waste materials.

§107(a)(2), 42 U.S.C. § 9607(a)(2), for all response and enforcement costs (totaling $1,046,541.70) associated with the removal of hazardous substances at the site. The court found that, although Fleet was a secured lender to SPW, and the Lender Liability Rule did apply, the actions of Fleet's agents voided the statutory exemption for secured creditors. Fleet hired Baldwin Industrial Liquidators (Baldwin) to auction off SPW's equipment and inventory. After the auction, Fleet allowed Nix Rigging Company to salvage the remaining equipment and machinery. It was the actions of Baldwin and Nix that voided the protection of the Lender Liability Rule and of the statutory exemption.

In the Matter of Frontier Chemical: On September 30, 1993, EPA issued an administrative order on consent to some 275 PRPs requiring them to conduct a removal action at the Frontier Chemical Superfund site, located in Niagara Falls, N.Y. The response action is to include the removal of over 4,000 drums of waste from the site, as well as 6,700 pounds of laboratory chemicals. The work is estimated to cost about $4.7 million. The consent order also requires the consenting PRPs to reimburse the U.S. for $519,219 in past costs incurred by EPA and also pay certain additional costs which have been and will be incurred by EPA thereafter.

On September 30, 1993, EPA Region II also issued a parallel unilateral administrative order to approximately 103 PRPs which had declined to sign on to the consent order. The unilateral order requires the recipients to cooperate and participate with the settling PRPs in conducting the same response actions as those required by the consent order.

Frontier Chemical Waste Process, Inc. operated a business at the site from 1974 until 1992, which was primarily engaged in hazardous waste processing and management, including wastewater treatment, fuels blending and bulking for off-site disposal. During the course of its operations, Frontier was the subject of numerous orders issued by the New York State Department of Environmental Conservation for regulatory violations. EPA initiated response action at the site in December 1992.

Fuels and Chemicals Site, (Coaling, Alabama): On July 20, 1993, EPA Region IV, executed "participate and cooperate" administrative orders for a PRP-lead removal action at the Fuels and Chemicals site in Coaling, Alabama. The site currently is not listed on the NPL. The "participate and cooperate" orders represent an innovative approach to CERCLA enforcement and PRP-lead removals. The orders consist of an administrative order on consent with a group of 11 cooperating PRPs, and a unilateral administrative order (UAO) issued to three PRPs who chose not to cooperate with EPA and the PRP Steering Committee.

The orders were the first in the nation to use the "participate and cooperate" language developed in conjunction with DOJ. The UAO requires the respondents to work with the cooperating PRPs and either perform or pay for part of the work at the site. Use of the "participate and cooperate" UAO improved the sense of fairness in the Superfund process, and the progress of AOC negotiations with the cooperating PRPs, by requiring response action of the recalcitrant PRPs.

The Fuels and Chemicals, Inc., facility operated from 1981 to 1992 as a fuels blending and treating facility and was abandoned in September, 1992. The site includes 31 tanks with a total capacity of 840,000 gallons and approximately 1,200 drums. The approximately 800,000 gallons of hazardous substances stored on-site in unstable and leaking tanks and drums included: lead, chromium, mercury; perchloroethene, trichloroethane, methylene chloride, and 1,1,1-trichloroethane.

The cooperating PRPs continue the removal activities at the site as required in the AOC. In anticipation of additional removal activities at the site, EPA and the PRP Steering Committee are working together to identify additional PRPs. EPA also is evaluating options to enforce the orders against respondents who did not comply.

U.S. v. General Refuse, et. al. (S.D. Ohio): On March 30, 1993, the court entered a RD/RA consent decree for the Miami County Incinerator site. The decree embodies an agreement between the Agency and 120 governmental and industry PRPs. It calls for the settling defendants to conduct 100% of the selected remedy and to pay 50% of future oversight costs. The settling defendants are also required to pay up to 50% of past response costs after the U.S. uses "best efforts" to recover past response costs from non-

Numerous containers stored in the open bays were exposed to the elements, and there was evidence of drum leakage. In some instances, incompatible wastes were stacked three drums high, posing a threat of explosion and fire.

EPA staged, sampled, properly containerized the waste materials and disposed of the extremely hazardous and sensitive materials. Pursuant to the unilateral administrative order, the site owner is currently disposing of the remaining drummed wastes, excavating contaminated soil, and decontaminating the buildings and storage bays.

The settling parties under the administrative cost recovery agreement are generators and transporters of hazardous substances sent to the site. The agreement provides that the settlors will pay EPA $1.1 million, the majority of EPA's costs. In an effort to facilitate settlement, the Region developed a volumetric ranking list which the PRP group used to develop its internal allocation scheme. The majority of the settlors are commercial entities. A number of federal, state and local entities also participated in the settlement.

U.S. v. I. Jones Recycling (N.D. Ill.): On July 8, 1993, the court entered judgment for costs and treble damages exceeding $10 million against four defendants in the CERCLA cost recovery cases involving the I. Jones Recycling, Clinton Street site in Fort Wayne, Indiana. The judgment order: (1) holds Aqua-Tech, Inc; I. Jones Partnership; Frederick J. Cook, Jr.; and Thomas J. Hanchar jointly and severally liable for $784,400.77 in anum response costs and prejudgment interest on those costs; and (2) holds each of the latter three defendants liable for treble damages of $9,663,884.94 for their failure to comply with three unilateral orders issued for removal actions at the site.

The I. Jones Recycling, Clinton Street site collected, stored and treated a wide variety of hazardous substances from 1980 through September, 1986. The facility was closed after a chemical fire emitted potentially toxic fumes and required evacuation of adjacent areas, leaving a vast number of containers holding hazardous substances, and widespread contamination within the buildings and soil. EPA filed its cost recovery complaint on March 25, 1991, against all owner/operators of the site and against the one viable generator (Aqua-Tech) that had not entered into administrative cost recovery settlements for the site.

EPA issued unilateral orders on October 14; 1986 and September 3, 1987, requiring the owner/operators to perform extensive removal actions. The owner/operators did not comply and EPA performed removal actions costing over $2.3 million. By the time EPA was ready to initiate the final phase of site cleanup, the Agency had identified a group of over 150 generators who had sent waste to the site. On July 27, 1988, EPA issued a unilateral order to all generators and owner/operators. A group of generators complied with that order incurring costs in excess of $3 million.

In the Matter of Kin-Buc Landfill: On November 11, 1992, EPA issued a unilateral administrative order in connection with the Kin-Buc Landfill site in New Jersey. The order requires that eleven respondents, responsible parties at the site, perform the RD/RA for the second operable unit (OU2) component of the remedy which was selected in the ROD issued by Region II in September, 1992. The work required under OU2 includes excavation of PCB contaminated soils and sediment from an area known as the Edmonds Marsh located next to one of the fills at the site. The excavated material is to be placed onto the landfill before it is capped. OU2 also requires that mitigation measures be carried out in wetlands at the marsh area from which the PCB contaminated material is to be excavated. The estimated cost for the OU2 work is $4.1 million. The respondents were all owners and/or operators of the landfill.

Lindane Dump Site, (Harrison Township, Pa): On June 28, 1993, in a consent decree entered by the court (E.D. PA), Elf Atochem North America, Inc. agreed to reimburse EPA 100% of its past costs totaling $238,451 and implement the site remedy totaling $15 million. Additionally, the decree introduces an alternative dispute resolution provision providing for non-binding mediation for issues arising under the additional work and periodic review provisions of the decree, the first such language in a judicial decree.

Mathis Brothers/South Marble Top Road Landfill NPL Site, (Walker County, Georgia): On

at the Mathis Brothers/South Marble Top Landfill NPL site in Walker County, Georgia. The order, which was issued after no PRPs were willing to enter into a consent decree with EPA after a 120-day negotiation period, requires the PRPs to implement the remedial action/remedial design (RD/RA) for the site. The remedial action selected by EPA provides for excavation and incineration of landfill wastes and associated soil, excavation and bioremediation (an innovative technology that will be tested during remedial design) of contaminated subsurface soil, and trenching to collect contaminated groundwater for off-site treatment. The remedy is estimated to cost $12.98 million.

The site is a landfill which was operated under a state permit between 1974 and 1980. Wastes at the site include wastes from the production of dicamba and benzonitrille by Velsicol Chemical Corporation, and wastes from the latex and carpet industry. Hazardous substances to be addressed at the site include benzonitrille, dicamba, phthalates, dichlorobenzene, and styrene.

In the Matter of U.S. v. Morrison-Quirk Grain Corporation, FAR-MAR-CO Subsite, (D.Neb.): On April 19, 1993, the court entered a CERCLA §107(a) cost recovery consent decree for costs incurred in connection with the FAR-MAR-CO subsite of the Hastings Groundwater Contamination site. The decree required the defendant to pay $2,150,000 for investigative costs incurred by the U.S. through December 31, 1990, and entered declaratory judgment for all future costs. The defendant has already paid the past costs as required by the consent decree.

The consent decree settled an action that the U.S. had commenced on December 31, 1988. The U.S. had won a summary judgment motion on liability and was set to go to trial on the amount of costs owed to the government. Because the costs were incurred in connection with a subsite of the Hastings Groundwater megasite, numerous cost allocations were performed to arrive at a figure representing the FAR-MAR-CO subsite costs.

U.S. v. Motorola, Inc., (D. Ariz.): On August 11, 1993, the court entered the second and final remedial design/remedial action (RD/RA) consent decree for the North Indian Bend Wash (NIBW) Superfund site. Together with the first settlement, this consent decree provides for private sector cleanup of the entire NIBW site, including the restoration of the area-wide aquifer and provides for the recovery of 95% of EPA's past costs and all future costs.

The Indian Bend Wash Superfund site (IBW) encompasses approximately 13 square miles in Scottsdale and Tempe, Arizona and consists of two study areas - NIBW and South Indian Bend Wash. The NIBW site encompasses ten square miles and includes land developed for residential, commercial, and industrial uses. The site was placed on the NPL in 1982 due to the presence of VOCs in the groundwater.

The decree requires the defendants to conduct the RD/RA for the vadose zone and shallow groundwater as specified in the NIBW Record of Decision (ROD) dated September 12, 1991. The estimated value of this work, including EPA oversight costs, is $11 million to $14 million. These remedial actions build upon the remedy and corresponding first consent decree for deep and middle-depth groundwater selected in the 1988 Scottsdale Groundwater Operable Unit ROD. The decree also requires the payment of EPA's past response costs of $5,066,048.44, as well as future oversight costs which are estimated at $2.5 million.

In re: Muskego Sanitary Landfill: On December 9, 1992, EPA issued a unilateral administrative order to 46 potentially responsible parties at the Muskego Sanitary Landfill Superfund site in Muskego, Wisconsin. This order requires the PRPs to perform a source control operable unit remedy that includes: establishing site controls; upgrading the landfill cap; instituting a leachate control system; and performing soil vapor extraction of a specified fill area. EPA selected this remedy in its June 12, 1992 Record of Decision (ROD), and estimated that the remedy would cost $12.9 million.

After issuance of the ROD, EPA and the PRPs cooperated to expedite the cleanup process so that the PRPs could begin performing the cleanup in 1993. In particular, the parties agreed that EPA would forego the special notice process and simply proceed to issue a unilateral order after making an effort to identify additional PRPs. EPA also helped facilitate an ADR process to help the PRPs develop an allocation process.

Establishing this process before compliance with the order was required helped EPA obtain broad participation by the PRPs; 42 of the 46 PRPs agreed to perform the work.

National Electric Coil/Cooper Industries Site, Dayhoit, Kent.): A unilateral administrative order for performance of an interim action remedy was issued to Cooper Industries, Inc. on December 15, 1992, after the respondent refused to conduct the remedy voluntarily. Cooper operates an equipment rebuilding and remanufacturing facility at the site in Dayhoit, Kentucky. The site is located on the flood plain of the Cumberland River and is in close proximity to a small mobile home park. Cooper Industries, a subsidiary of McGraw-Edison Co., acquired the facility from National Electric Coil in 1987. Solvents used to clean industrial equipment were released to the ground surface on the banks of the Cumberland River and through drainage pipes leading from the site to the river. PCB laden oils were also released.

In February 1989, the Kentucky Department of Environmental Protection (KDEP) detected high concentrations of volatile organic compounds mainly trichloroethane, dichloroethene, xylene and toluene in residential wells near the site. The site was proposed for the NPL in July 1991 and listed in October 1992. Cooper is conducting the interim response activities concurrently with RI/FS and post-RI/FS activities.

U.S. v. City of Newport, et al., (E.D. Ky.): On December 29, 1992, the court entered two civil consent decrees representing a partial settlement of the CERCLA cost recovery litigation for the Newport Dump Superfund site, Wilder, Kentucky. The decrees involve five of the six potentially responsible parties (PRPs) named in the original complaint. The settlement collectively provides for the recovery of $2.4 million, representing approximately 50 percent of the total past costs, and also provides for the performance of operations and maintenance activities.

On July 26, 1993, the U.S. Bankruptcy Court lodged a proposed Stipulation of Settlement addressing the U.S. claim against the remaining PRP, G. Heileman Brewing Company, Inc. Under the Stipulation of Settlement, the U.S.' claim against the company will be allowed as an unsecured claim in the amount of $800,000.

U.S. v. Niagara Transformer Corporation: On January 20, 1993, a consent decree was lodged which partially resolved this 1989 action concerning the Wide Beach Development Superfund site. The decree reflects a *de minimis* settlement with six of seven defendants in the lawsuit. The complaint was filed against the settling *de minimis* defendants and Niagara Transformer Corporation. Under the decree the settlors will pay a total of $575,000 to the U.S., and $57,500 to the State of New York, in reimbursement of past governmental site expenditures. Region II intends to pursue the action against Niagara Transformer Corporation, and will continue to investigate whether additional persons may be liable for remaining response costs at the site, estimated to be between $32 and $40 million dollars.

U.S. v. Orban Industries, Inc.: On April 23, 1993, an amended default judgment was entered by the U.S. District Court (W.D.N.Y.) imposing penalties upon a defunct corporation, Orban Industries, Inc., under CERCLA §106 for failure to comply with a Region II administrative order in connection with the Madison Wire Site Superfund site located near Buffalo, N.Y. The court awarded $925,000 in penalties. Previously, in August, 1992, the court had awarded EPA $500,000 in response costs and $1.1 million in punitive treble damages for failure to comply with the order; however, the court did not award penalties pursuant to CERCLA §106(b) at that time. The court had erroneously read CERCLA as requiring proof of willfulness in order to impose §106 penalties. In this amended order, the court corrected that error.

U.S. v. Ottati & Goss (D.N.H.); IMCERA Group Inc. v. EPA, et. al (D. NH): In September of 1993, the United States lodged a civil consent decree in which IMCERA Group, INC. (IMCERA) and 355 contribution action defendants (sued by IMCERA) agreed to pay to the U.S. and the State of New Hampshire a total of $4,000,000 as a "cashout" settlement, effectively ending approximately 13 years of litigation. The settlement resolves claims initially brought under RCRA §7003, seeking injunctive relief for cleanup of the site, and under §§310 and 309 of the CWA. In 1983, the U.S. amended the complaint to seek injunctive relief and recovery of past costs under CERCLA §§106 and 107 arising from the disposal of

different chemicals were found at the site, including volatile organic compounds , acid and base/neutral compounds, metals, cyanide, and PCBs.

The site is located in the town of Kingston in southern New Hampshire and was placed on the NPL in September 1981. On January 16, 1987, EPA issued a ROD outlining remedial action for the site. The ROD called for on-site incineration of contaminated soils and sediments and for a pump-and-treat system for contaminated groundwater. Under the terms of settlement, the remedy and associated operation and maintenance for the site will be completed by the U.S. and the State.

In the Matter of Philmar Electronics: On September 30, 1993, EPA entered into an administrative cost recovery agreement with the United States Air Force (USAF) regarding the Philmar Electronics site located in Morrisonville, New York. Under the Agreement, the USAF will pay EPA $864,493 in reimbursement for all of EPA's unreimbursed past response costs with respect to the site as of July 30, 1993. The agreement will become effective after a public comment period is held, pursuant to CERCLA §122(i). USAF is the major source of the hazardous substances at the site. For a number of years, 55-gallon drums containing hazardous substances, such as cleaning solvents, used oils and jet fuel, were picked up from the Plattsburgh Air Force Base and disposed of at the site. The past costs covered by the agreement were incurred in connection with a removal action performed by EPA at the site.

U.S. v. Purolator Products Company, Inc.: On June 17, 1993, a judicial consent decree was entered by the U.S. District Court (W.D.N.Y.) concerning the Facet Enterprises Superfund site. Purolator Products Company, Inc., the current and a prior owner and operator of what is referred to as the Facet Enterprises Facility, executed the decree. The consent decree requires Purolator to implement the remedy selected by EPA Region II for the site, estimated to cost about $4.8 million. In addition, Purolator will pay $625,174.09, plus interest, for past response costs incurred by EPA at the site, and make payment to the United States of future response costs that will be incurred in overseeing the implementation of the remedy.

Redwing Carriers, Inc. (Saraland) Site, (Saraland, Ala): On July 16, 1993, EPA issued an UAO for RD/RA against ten private parties to cleanup the Redwing Carriers, Inc. (Saraland) Superfund site in Saraland, Alabama. The Redwing Carriers, Inc. site is located at 527 U.S. Highway 43 in the City of Saraland. From 1961 to 1971, Redwing Carriers, Inc., operated a trucking terminal at the site using the property to maintain, clean and park its fleet of trucks and tank trailers, which transported chemicals, asphalt and other substances. During the cleaning process, residual portions of the substances transported in the trucks were released untreated to the ground. AKZO Chemical, Inc. and Olin Corporation used Redwing to transport hazardous materials in tanker trucks residual portions of which were disposed of at the site.

A low income housing apartment complex was constructed on the site in 1972. Saraland Apartments, Ltd, the current owner, rather than removing the contamination, contracted with the Meador Construction Company who graded the property, burying pools of tar and spreading the contamination over the entire site.

The UAO was issued to Saraland Apartments, Ltd, its general partners, Roar Company and Robert Coit, and its limited partners who exercise pervasive control over the partnership, Hutton Advantaged Properties and H/R Special. Also included in the UAO are Redwing Carriers, AKZO, Olin, Meador, and the managing agent, Marcrum Management Company. Redwing and AKZO gave notice of their intent to comply with the UAO. The partners of Saraland Apartments, Ltd., and Olin responded that they would not comply. Neither Marcrum nor Meador submitted a response.

In the Matter of Richardson Hill Road Landfill Site: During 1993, EPA issued two unilateral administrative orders and one consent order regarding the Richardson Hill Road Landfill site, located in Sidney, New York. The first order, issued unilaterally on June 21 to Amphenol Corp., requires the company to deploy absorbent booms and pads to remove an organic sheen from a pond at the site. The second order, issued on consent on September 22 to Amphenol and Allied/Signal, Inc., requires the respondents to

install in-house water treatment units at certain residences near the site. The third order, issued unilaterally September 30, also to Amphenol and Allied/Signal, requires respondents to excavate and remove waste material and contaminated soil and debris from a waste oil pit and two other hot spots located within the landfill. The third order also requires the respondents to design and implement a system that can contain and remove light non-aqueous phase liquid from the groundwater and that can also remove and treat free phase liquid.

The purpose of the system is to mitigate the migration of contaminated water into the "South Pond" at the site, which is on the NPL. A RI/FS is presently being conducted by the respondents under an administrative consent order issued in 1987. The response actions required by the third 1993 order are not intended to serve as a permanent remedy, but rather as an interim or "early" response action.

In the 1960's, the Bendix Corporation contracted with an independent contractor to dispose of hazardous substances, including waste oil, at the site. Respondents are successors of the Bendix Corp., and therefore liable as PRPs under CERCLA. The work required under the three 1993 orders is estimated to cost about $4.54 million.

U.S., et al. v. Rohm & Haas, et al.: On January 19, 1993, a consent decree was lodged with the U.S. District Court (D.N.J.), partially resolving this action concerning the Lipari Landfill, the highest scoring site on the CERCLA National Priorities List. In this decree, the U.S. and the State of New Jersey settled the liability for work done pursuant to the first two Records of Decision (RODs) and two components of the third ROD at this site. The settlors were the three primary defendants at this site: Rohm & Haas, Owens-Illinois, and ManorCare. These companies have agreed to a cash-out valued at nearly $53 million. These three defendants sent or transported an estimated 92% - 98% of the hazardous wastes dumped at the site. The first ROD required the construction of a containment wall keyed into the underlying clay, enclosing a 16-acre site. The second ROD required batch-flushing of the contained area and treatment of the wastewater. The two components of the third ROD covered by this settlement relate to the installation of a French drain and an extraction system for an underlying aquifer and the treatment of wastewater collected from these systems.

On September 27, 1993, EPA issued an unilateral administrative Order requiring Rohm & Haas to perform those portions of the third ROD not settled in the January consent decree. ROD III addressed the "off-site" portions of the Lipari site. In addition to the elements described above, that ROD also provided for excavation and treatment of marsh soils by low temperature volatilization, excavation of sediments from two streams adjacent to the marsh and from the downstream Lake Alcyon, with treatment of those sediments if necessary. Under this order, Rohm & Haas is required to implement all of these remaining components of the ROD III remedy, work valued at approximately $48 million. When added to the cash-out under the consent decree, the total value of these enforcement actions exceeds $100 million.

Sapp Battery Site, Cottondale, Florida: On September 30, 1993, EPA entered into administrative settlements with thirteen *de minimis* generator PRPs under §122(g) of CERCLA at the Sapp Battery Superfund site located outside of Cottondale, Florida. The settlements total $152,180, of which $105,746 will be applied to EPA's outstanding past costs. This settlement had been offered to 39 recalcitrant *de minimis* generators. In addition, five generators accepted an earlier *de minimis* offer made to 25 generators. EPA anticipates sending out two more *de minimis* offers to an additional 60 generators. *De minimis* generators were defined in this case as those PRPs generating less than 0.1% of the total documented waste disposed of at the site.

The site is contaminated with lead, acid and battery casings. An emergency cleanup was done at the site by the Florida Department of Environmental Resources, in response to citizen concerns about the high level of acid and lead in nearby Steele City Bay. EPA conducted a removal, RI/FS and RD in 1989-1991. The site was listed on the NPL in August 1982. A number of PRPs are now conducting Operable Unit One (soil) under a consent decree which will constitute 80% of the cleanup. No agreements have yet been reached for groundwater remediation under Operable Unit Two, or the cleanup of nearby Steele City Bay (Operable Unit Three).

U.S. v. Shell, (C.D. Cal): On September 28, 1993, the district court granted the Governments' Motion for Partial Summary Judgment on Liability against four major oil companies in the McColl Superfund site cost recovery action. The McColl Site is located in Fullerton, California, and has been on the NPL since 1983. The 22-acre site contains over 100,000 cubic yards of highly acidic refinery sludge dumped in the early 1940's. The sludge, which contains a variety of hazardous substances including benzene, toluene, and arsenic, periodically seeps to the surface, emitting high levels of sulfur dioxide and posing a threat of dermal contact.

The court ruled as a matter of law that Shell, Union Oil, ARCO, and Texaco are liable for past and future cleanup costs as arrangers for disposal under CERCLA §107(b)(3). The court also ruled that McAuley LCX Corporation, a small privately-held company, is liable as the owner of the site property, rejecting an innocent landowner defense. The U.S. and the State of California, as co-plaintiffs, are seeking over $25 million in past costs. EPA recently selected a remedy valued at $80 million. The four oil companies are performing remedial design activities pursuant to unilateral administrative orders.

In granting summary judgment on liability, the court rejected the oil companies' "act of war" defense. This is the first reported decision interpreting the defense, which the court held should be narrowly construed. The oil companies claimed that disposal occurred as part of a government-directed war effort. The court also granted the Governments' motion to bifurcate the case and permit the cost phase to proceed immediately. Plaintiffs have now filed a summary judgment motion for these past costs. The court further stayed the companies' counterclaim against the U.S., ruling that the contribution action should not interfere with the replenishment of the Superfund.

Silresim Superfund Site (D. Ma.): On April 27, 1993, the court lodged the consent decree for the Silresim Superfund site. The consent decree consisted of a global settlement with 223 parties, 179 of those parties were *de minimis* settlors. The parties paid approximately $41 million for a cash-out settlement. The decree also included a re-opener if the remedy costs more than $54.8 million.

The Superfund site is located in Lowell, Mass. The Silresim Chemical Corporation operated a chemical waste reclamation facility on the site. The original facility consisted of approximately 4.5 acres, however the extent of contamination includes approximately 16 acres and groundwater contamination. The major problem at the site is contamination by dense, non-aqueous phase liquids in the groundwater.

U.S. v. Smuggler-Durant, Inc. (823 F. Supp. 873 (D. Colo. June 8, 1993)): The court held that the defenses provided by CERCLA §107(b) are exclusive, and struck all of the equitable defenses asserted by defendant Pitkin County. Additionally, the court held that defenses which alleged that the governments' response costs were not "cost effective or prudent" or "reasonable" were not valid affirmative defenses because the only issue as to recoverability of response costs is consistency with the National Contingency Plan. The court also held that the defendant could not challenge the listing of Smuggler Mountain Superfund site on the NPL as an affirmative defense in this action.

U.S. v. Texaco Inc., (C.D. Cal): On August 22, 1993, the court entered a consent decree for performance of the remedial design and remedial action at the Pacific Coast Pipeline Superfund site in Fillmore, California . Under the consent decree, Texaco, Inc. and its subsidiary Texaco Refining and Marketing Inc., the sole PRPs, will construct and operate a soil vapor extraction system and a groundwater extraction and treatment system as required by the ROD. The primary contaminant of concern is benzene, which is present in the soil and groundwater at the site. The remedial action is expected to cost $4,000,000. Under the decree, the defendants have agreed to reimburse California for past response costs and the U.S. for future response costs. Texaco, Inc. paid EPA's past costs pursuant to an administrative order on consent for the RI/FS. EPA has the lead for the site and the California Department of Toxic Substances Control is the support agency. The Pacific Coast Pipeline Superfund site was listed on the NPL on October 4, 1989. Texaco, Inc. is currently conducting the remedial design of the remedy in accordance with the consent decree.

U.S. v. Union Scrap Iron & Metal, et al. (D. Minn.): On January 14-15, 1993, the court entered three consent decrees under which a total of 65

defendants will pay approximately $1,450,000 of EPA's past response costs for the cleanup of the Union Scrap Iron & Metal facility in Minneapolis, Minnesota.

The Union Scrap facility was the site of a battery breaking business. During its operation, the company purchased spent lead acid batteries from numerous customers and reclaimed the lead plates by cracking open the plastic battery cases and extracting the plates. This process highly contaminated the soil at the site and seriously threatened human health and the environment. In 1986 and 1988, EPA undertook several remedial activities to remove the lead-tainted soil and debris. Then, in 1989, the Agency initiated CERCLA §107 proceedings against various defendants in order to recover the approximately $2.1 million expended during the remediation. Allocation issues, however, were extremely difficult since Union Scrap had declared bankruptcy in 1985, and few site records were available from which to construct a waste-in list. A mediator was subsequently employed to help resolve these matters after the conclusion of discovery and while the case was on the court's trial call.

U.S. v. W.R. Case & Sons Cutlery Co.: On November 30, 1992, the U.S. District Court (W.D.N.Y.) entered a consent decree in this action against W.R. Case & Sons Cutlery Co. (Case). The decree required Case to pay EPA $700,000 toward EPA's past and future response costs at the Olean Well Field NPL site and also required Case to pay a $50,000 civil penalty to EPA as a result of Case's noncompliance with a unilateral administrative order issued in 1986 under §106(a) of CERCLA. That order, issued to six PRPs including Case, required respondents to carry out a remedial action at the site. The remaining five respondents complied, but Case declined to participate. In 1988, the government filed a cost recovery action against all six PRPs to recoup its past expenditures, and also included a count against Case for civil penalties for its noncompliance with the order. The five other PRPs agreed to pay $1,175,000 of EPA's past costs in a partial consent decree entered in August, 1989. The 1992 decree settles the remainder of the 1988 lawsuit.

Western Processing Superfund Site: As part of the remedial action for the Western Processing Superfund site in Washington State, a consent decree entered on October 16, 1986 required the PRPs to clean up a creek located on site. The site falls within the boundaries of the City of Kent, which demanded that the PRPs obtain a city permit for the creek cleanup. EPA and the PRPs responded that, under federal law, no permit was required for this work. The city then issued a stop work order to the PRPs, and the PRPs ceased creek cleanup activity. In response, EPA obtained a declaratory judgment from the federal district court stating that no permit was required to perform the cleanup work The city then lifted its stop work order, and cleanup proceeded.

Westinghouse Superfund Site, (Sunnyvale Ca.): In September 1993, EPA issued a unilateral administrative order (UAO) for RD/RA to Westinghouse Electric Corporation for design of the groundwater treatment system for the Westinghouse Superfund site. The UAO terminated an administrative order on consent (AOC) for remedial design negotiated in 1992, except for provisions related to payment of EPA response costs. Westinghouse, the sole PRP identified for the site, submitted a timely Notice of Intent to Comply in November 1993. Issuance of the UAO is anticipated to allow remediation of soil contamination to proceed prior to the final approval of the design for groundwater remediation. Termination of the AOC will allow some remedial action to begin prior to the completion of all remedial design tasks without the complications of overlapping and potentially conflicting orders.

The Westinghouse Site was formerly used to manufacture electrical transformers and is currently used to manufacture steam generators, marine propulsion systems, and missile launching systems for the Department of Defense. Releases of PCBs, volatile organic compounds and fuel compounds have resulted in soil and groundwater contamination. The October 1991 Record of the Decision for the site requires remediation of PCBs in the soil, containment of PCB contamination in groundwater in the source area where dense non-aqueous phase liquids are present, and cleanup of all other groundwater contaminants throughout the site.

Whitemoyer Laboratories Superfund Site, (M.D.Pa.): On November 4, 1993, the consent

decree between the Estate of Clarence W. Whitmoyer, Sr. and the United States for reimbursement of $2.9 million in past costs was entered in court. This past costs-only settlement is significant in that the PRP's estate agreed to reimburse the U.S. to resolve the PRP's CERCLA liability for the Whitmoyer Laboratories site in Jackson Township, Pa.

Earlier, on February 9, 1993, the consent decree between SmithKline Beecham Corporation and Rohm and Haas Company and the U.S. for reimbursement of $250,000 in past costs and implementation of the $124 million RD/RA was entered in the U.S. District Court (M.D.Pa.). This combined settlement, in excess of $127 million, represents a 98.3% settlement of all site-related costs for one of the largest Superfund cases

Toxic Substances Control Act (TSCA) Enforcement

The Toxic Substances Control Act (TSCA) allows EPA to regulate commercial chemicals--both those already in the market (§6) and new chemicals prior to market entry (§5 premanufacture notice), as well as chemicals for import and export (§§12 and 13). The act also requires reporting about chemicals and their effects (§8) and chemical testing (§4).

One focus for FY 1993 was to emphasize workplace compliance with chemical controls. More than 500 individual chemicals are subject to specific EPA administrative orders requiring workplace or manufacturing controls. Under a Memorandum of Understanding (MOU), EPA and the Occupational Safety and Health Administration (OSHA) share information and target joint inspections to detect noncompliance. The program also continued to emphasize PCB compliance and enforcement priorities, including disposal and commercial storage facilities, other high risk facilities, underground mines, pulp mills, and natural gas pipelines. Inspections of in-progress asbestos abatement activities was also a priority.

TSCA enforcement efforts focused on assuring accurate and timely data about chemical substances, specifically those involving adverse health or environmental data. The program is currently implementing an initiative regarding TSCA §8(e) data (information that indicates the chemical may cause significant risk) under the CAP (Compliance Audit Program) program in which 123 companies, representing more than 1,000 facilities, are auditing records for 8(e) data. The program targets subpoenas and conducts field investigations of selected firms that are not part of the CAP program.

As part of the national Data Quality Initiative, the program conducted inspections at chemical testing facilities in order to ensure that such facilities were in compliance with established Good Laboratory Practices, including the use of a Quality Assurance Program and proper record keeping. It also targeted non-submitters of §5 premanufacturing notices (PMNs).

In the international enforcement arena, the program ensures that chemicals imported into the United States are properly registered under the TSCA Chemical Inventory. In FY 1993, EPA continued working with the U.S. Customs Service to evaluate customs declarations and shipping manifests to ensure compliance. Following the recent favorable decision of the U.S. Court of Appeals for the Second Circuit affirming EPA's ability to enforce both TSCA and Customs requirements in unified enforcement actions, EPA expects to step up border patrols for non-conforming substances.

Section 313 of The Emergency Planning and Community-Right-to-Know Act (EPCRA) requires certain categories of industrial manufacturers to provide annual Toxic Release Inventory (TRI) data regarding the total emissions level of certain toxic chemicals from subject facilities. These data are now used by all the agency's media compliance programs to help target inspections and identify settlement conditions. The program will expand enforcement against non-reporters. As part of the national Data Quality Initiative, the program ensures that TRI data are timely, comprehensive, and accurate by prosecuting violations of false or late reporting discovered during data form reviews or facility inspections.

During the last several years, the TSCA program has been in the forefront of agency efforts to foster innovative enforcement approaches, including environmental auditing and pollution prevention. During FY 1992, almost eighty percent of all pollution prevention-oriented SEPs were negotiated as part of EPCRA 313 administrative settlements. During FY 1993, the TSCA program continued to negotiate administrative consent orders which emphasized source reduction.

Briggs Associates, Inc.: A consent agreement and order was signed on December 30, 1992, concerning Briggs Associates, Inc.'s alleged failure to conduct adequate air clearance monitoring at numerous asbestos abatement response actions at various local education agencies (public schools) in New Hampshire. The violations were alleged pursuant to Title II (the Asbestos Hazard Emergency Response Act of 1986) of TSCA.

The settlement consists of a $34,000 cash penalty payment plus a supplemental environmental project (SEP) valued at $23,800. The SEP required Briggs Associates to offer free asbestos handling training to employees of local education agencies. The training sessions are to be conducted over a twenty-four month period beginning January 1, 1993, until the value of the training project as a whole has reached at least $23,800. The settlement also required Briggs to return to the locations of violation to conduct the required sampling.

In the Matter of Chemical Waste Management, Inc.: On December 7, 1992, EPA executed a settlement of an administrative enforcement action initiated in 1989 against CWM for violations of the TSCA regulations governing disposal of PCBs. The complaint alleged that CWM operated a mobile PCB disposal unit that had an incorporated heating unit which had not been approved by EPA. Use of the unit with the heater resulted in disposal of PCBs at temperatures greater than those specified in the EPA Approval. CWM has agreed to pay a cash penalty of $300,000 and to expend $730,000 on two supplemental environmental projects. CWM will purchase an emergency response vehicle and other related equipment for Niagara County, New York and will train local volunteers in their use. The vehicle and equipment were to be donated to Niagara County, a county with heavy chemical transportation and major hazardous waste facilities. CWM has also developed and implemented a household hazardous waste collection and disposal project in Niagara County, which includes outreach programs to apprise the community as to the nature of household hazardous wastes.

Ciba-Geigy: The Environmental Appeals Board approved a consent agreement between Ciba-Geigy and EPA. Pursuant to this agreement, Ciba-Geigy conceded to EPA's conclusions of law and fact as alleged in the complaint and agreed to pay a cash penalty of $62,000 and perform a TSCA §5 audit to ensure compliance with EPA regulations. The stipulated penalties resulting from this voluntary audit are capped at $1 million. This case was part of the TSCA §5 initiative filed between December 17-18, 1992.

Cressona Aluminum Company: In FY 1993, a judicial consent decree was entered into under TSCA. This decree was an innovative solution which addressed the improper use, storage, and disposal of PCBs at the Cressona Aluminum Company. As part of the decree, Cressona is required to remediate the PCB contamination at the 115 acre facility. All plant equipment, including the hydraulic and wastewater treatment systems, will be decontaminated, the concrete floors will be removed where necessary, and the plant outfalls will undergo a toxics' reduction evaluation to eliminate the discharge of PCBs into the Schuylkill River.

Dow Corning: Dow Corning, of Midland Michigan, agreed to pay a penalty of $46,000 and perform a SEP in settlement of a TSCA §5 PMN and TSCA §13 case. EPA filed a complaint against the company in 1992 for $172,000. The Agency provided a 50% reduction in the proposed penalty for timely and voluntary disclosure of the violation; 15% for good attitude and a 15% reduction for the SEP. The SEP involves the installation of a spill control measure which involves a skimmer attached to the pipe that leads to one of the outfalls in the Carrolton plant's NPDES permit which in turn leads from this plant to the Ohio River. Dow Corning certified that the project would cost a minimum of

$500,000 and the project would capture spills of chlorosilanes or silicones. Dow Corning will begin the construction of the project within one month of the effective date of the agreement.

In re: General Electric Company: On November 9, 1992, EPA filed a consent agreement and final order (CAFO) in settlement of EPA's administrative action against General Electric Company, GE Aircraft Engines. Pursuant to the CAFO, GE must pay, after offset in consideration of its having spent over $272,750 on a supplemental environmental project, a $1,000 civil penalty and maintain compliance with the requirements of TSCA.

Region V filed a complaint on August 18, 1989, alleging in two counts that GE had violated TSCA's PCB requirements, 40 C.F.R. §§ 761.20(a) and 761.40(a)(7), by failing to reduce the PCB concentration in its Building 703 Cell Five hydraulic test stand to less that 50 parts per million by July 1, 1984; by failing to mark the test stand; and by improperly using a PCB contaminated oil/water separator and drainage collection system. After EPA filed its complaint, GE investigated other areas of the facility and found extensive PCB contamination of, among other things, compressor systems and piping. As a result of this discovery, GE is completing a comprehensive cleanup of PCB contamination at its Evendale, Ohio, facility at a cost exceeding $5,000,000.

In addition to the above mentioned corrective action, GE has undertaken an extensive pollution prevention supplemental environmental project. Specifically, GE has removed several score of PCB transformers not required by law. While GE could legally continue to use these transformers, removal significantly reduces the risk of accidental discharge of PCBs to the environment.

Hall-Kimbrell Environmental Services Inc.: Since February 1990, EPA Regions II, V, VII, VIII, and IV filed more than 20 civil administrative penalty actions against this Lawrence, Kansas, company for violations of the requirements of the Asbestos Hazard Emergency Response Act (AHERA) and its implementing regulations. The violations most often cited against Hall-Kimbrell, one of the nation's largest asbestos consulting services, consisted of the failure to identify all materials suspected of being asbestos-containing during Hall-Kimbrell's inspections of primary and secondary schools pursuant to AHERA. Other alleged violations included the failure to properly prepare asbestos management plans, also required by AHERA, for certain school districts in Regions V and IX.

All of these cases against Hall-Kimbrell have been settled in the past year. In total, the settlement of these 20 cases included $445,000 in penalties. Prior to settlement, Hall-Kimbrell provided EPA with documentation that it had already spent more than $5,000,000 during the course of negotiations to address problems with asbestos inspection reports and management plans. All of the settlements require Hall-Kimbrell to revisit schools with deficient asbestos management plans.

Halocarbon Products Corporation: This TSCA administrative civil penalty action is one of the few cases involving alleged violations of the substantial risk reporting requirements of §8(e) of TSCA. The case arose from a chemical release incident exposing two Halocarbon employees at the company's Hackensack, New Jersey facility, which resulted in one fatality. The settlement includes a payment of $60,000, and the conduct of a TSCA §8(d)/8(e) compliance audit of Halocarbon's facilities. Administrative Law Judge Vanderheyden earlier in the litigation denied a motion by respondent to compel discovery on the grounds that Halocarbon's request had not met the prerequisites of the Consolidated Rules of Practice governing discovery (40 CFR 22.19(f)), and because of the attorney work product privilege asserted by the Agency.

House Analysis and Fred Powell: On December 16, 1992, Administrative Law Judge Greene accepted EPA's Motion for Default against House Analysis and Fred Powell and ordered a civil penalty of $51,000 for failing to submit required information requested in a §114 letter and compliance order (Asbestos NESHAP) and for not responding to a motion for accelerated decision or default. These actions stemmed from EPA's discovery in February 1992 of asbestos containing materials in a garage utilized by respondent.

The Housing Authority of New Haven, Connecticut: On August 10, 1993, EPA approved the settlement of claims alleged in a civil

administrative complaint issued in December 1990 against the Housing Authority of the City of New Haven, a federally funded low-income housing provider. The complaint alleged violations of regulations governing polychlorinated biphenyls (PCBs) uncovered during an inspection, in June, 1990, of an unoccupied, seven-building, low-income housing complex known as the Elm Haven Extension Housing project in New Haven. Specifically, the Housing Authority was cited by EPA for failing to properly dispose of PCBs, failing to maintain records concerning PCBs, and failing to properly mark and store PCB transformers. The Elm Haven complex was built in the 1950s and demolished in 1990.

The settlement requires the Housing Authority, in lieu of paying a penalty, to spend at least $112,000 on an environmental compliance program designed to protect public housing residents from future environmental risks through better identification and reporting of potentially hazardous conditions involving pollutants such as PCBs, asbestos, pesticides, and rodenticides. Specifically, the settlement requires the Housing Authority to hire an environmental consultant to train Housing Authority personnel at all levels in recognizing and reporting environmental problems, as well as to perform an environmental audit of all 32 Housing Authority properties. This sort of settlement, known as a supplemental environmental project, permits those targeted for EPA enforcement to offset penalty payments with environmentally beneficial expenditures not required by law.

This settlement evidences EPA's commitment to principles of environmental justice and reduces the environmental risks to the low-income tenants. Because of the age and condition of available housing stock, such tenants arguably face potential hazards from pollutants commonly associated with such housing such as asbestos, lead paint, pesticides and rodenticides.

Kennecott Utah Copper (Utah): On November 3, 1992, Kennecott Utah Copper and the EPA agreed to settle a complaint issued by the Agency on December 30, 1991, for violations of TSCA, CERCLA, and EPCRA in the proposed penalty amounts of $1,129,000, $22,500, and $269,850 respectively, for a total proposed penalty of $1,421,350. The respondent agreed to a cash payment of $480,000 and to purchase an upgraded emergency computer system valued at $70,000 for the Salt Lake County Local Emergency Planning Committee. As a part of the settlement, the respondent agreed to remove and properly dispose of all transformers containing fluids with PCB concentrations of 50 ppm or more. A significant cash payment was insisted upon by the EPA to emphasize the seriousness of the violations. This complaint corresponds to an instance of the ubiquity of PCB use by the mining industry. The nationwide use of PCBs in the mining industry and the need for regulation has been a concern for some time.

Lonza, Inc.: A consent agreement and consent order (CACO) was approved by the Environmental Appeals Board on August 5, 1993 in which Lonza, Inc. (Lonza), agreed to pay a civil administrative penalty of $240,640 for violations of §5 and §8 of TSCA. In 1988, Lonza self-disclosed that it had, on two occasions, manufactured for commercial purposes a potentially new chemical substance without submitting a premanufacturing notice (PMN) to EPA. In 1990, Lonza self-disclosed eighty (80) errors including 13 nonreporting violations, 6 under-reporting violations, and 61 over-reporting violations in the original Forms U submitted to the EPA pursuant to the TSCA Inventory Update Rule (IUR).

In re: Mitsui & Company (U.S.A.), Inc., (Houston, Texas): A CACO under TSCA was signed on June 15, 1993, assessing a $58,500 civil penalty against Mitsui & Company. The CACO concluded an EPA Region VI enforcement action against Mitsui for failing to submit to EPA by February 12, 1987, Preliminary Assessment Information Reports (PAIR) for two imported chemicals, as required by §8(a) of TSCA. A PAIR is required for chemical manufacturers and processors to report production, use, and exposure-related information on listed chemical substances.

PPG Industries Inc.: On January 14, 1993, EPA's Environmental Appeals Board issued a consent order settling the Agency's civil administrative enforcement action against PPG Industries, Mazer Chemicals Division, of Gurnee, Illinois. PPG-Mazer was charged with failure to file premanufacturing notices (PMNs) 90 days before commercial manufacture of five new chemical substances, and late submission of TSCA Inventory Update Reports for fourteen chemical substances,

in violation of TSCA. The order requires PPG-Mazer to pay a civil penalty of $359,550.

In the Matter of Puerto Rico Department of Health, et al.: On August 27, 1993, EPA issued an administrative consent order requiring the Puerto Rico Department of Health to pay a penalty of $49,920. The order also includes a supplemental enforcement project, requiring the respondent to certify that it has retrofilled and reclassified its four PCB transformers to non-PCB status; this work is estimated to cost approximately $142,868. The order settles a September 1991 complaint which alleged that the Health Department and the Arecibo Community Health Care Center had not timely registered its PCB transformers with appropriate fire response personnel; did not have records of inspection and maintenance history for four of its transformers; had not begun cleanup of a leaking transformer within 48 hours of discovery; and did not have annual documents for the disposition of its PCBs and PCB items for a specified period. The Arecibo Health Care Center filed a motion to dismiss the complaint against it and,later, for reconsideration of the ALJ's adverse ruling. Both motions were denied. Puerto Rico filed a motion to dismiss the complaint and the motion also was denied.

Sanncor Industries, Inc.: In this TSCA administrative action, the failure by Sanncor's Leominster, Massachusetts, facility to submit TSCA §5 premanufacture notifications (PMNs) and a TSCA §8(b) notice of commencement (NOC) was alleged. The consent agreement and consent order settling this case requires payment of a $211,050 penalty, a TSCA compliance audit by Sanncor with stipulated penalty provisions, and the development and implementation of SEPs consisting of isocyanate and hydrazine closed-loop storage and delivery systems. The isocyanate and hydrazine closed-loop storage and delivery systems will substantially reduce atmospheric emissions, employee exposure and handling, and potential spillage of isocyanate and hydrazine used by Sanncor, and eliminate the isocyanate/hydrazine-contaminated rinse water generated from cleaning the transport/storage drums which otherwise must be disposed of as hazardous waste. These SEPs will cost approximately $240,000, and are due to be completed in December 1994.

Sika Inc.: Sika Inc. of Lyndhurst, New Jersey, settled this TSCA §5 administrative civil penalty action for $1,120,700. Sika imported chemicals from Europe that were not registered with the TSCA Inventory of Chemical Substances in violation of TSCA. In the CACO executed by the Environmental Appeals Board, Sika agreed that it violated TSCA and is liable for the full penalty proposed in the complaint of $6,500,000. Due to Sika's demonstrated inability to pay the full proposed penalty, and remain in business, EPA agreed to a reduced payment of $1,120,700 following an exhaustive analysis of financial records. This settlement amount is one of the largest penalties ever collected under TSCA §5, which requires chemical manufacturers to notify EPA prior to manufacturing a new chemical.

Texas Eastern Consent Decree: The first modification of the Texas Eastern consent decree was finalized and submitted to the U.S. District Court in Houston in June 1993. Negotiations on the second modification to the Texas Eastern decree regarding the integration of the Pennsylvania Agreement with the federal decree are nearing completion. The intent of the modification is to harmonize the existing state and federal agreements into one comprehensive agreement. To date, 17 of the 49 Texas Eastern sites have been characterized and remediated under the consent decree for PCBs and other hazardous substances. The period of performance of the consent decree, estimated to cost more than $750,000,000, is from 1989 to 1999.

3M Company v. EPA (U.S. Court of Appeals for the D.C. Circuit): On March 4, 1994 the Court of Appeals held that the 5-year federal statute of limitations does apply to TSCA penalty actions. In 1988, EPA had assessed a $1.3 million fine against 3M for importing two new chemical substances between 1980 and 1986 without submitting a premanufacture notice (PMN) as required by §5 of TSCA. After a hearing, the Administrative Law Judge (ALJ) reduced the penalty to $104,700. EPA appealed the penalty reduction on the ground that the ALJ had not properly applied EPA's TSCA §5 enforcement response policy. During the appeal, 3M argued that the ALJ erred in narrowly construing the general statute of limitations as not applicable to an administrative action for the assessment of a

civil penalty under TSCA. In the last opinion from EPA's Chief Judicial Officer (CJO), the CJO ruled that the general five-year federal statute of limitations does not apply to the assessment of civil penalties under TSCA. (The Environmental Appeals Board now handles appeals that were formerly heard by the chief judicial officer.) 3M appealed the CJO's decision to the U.S. Court of Appeals for the D.C. Circuit.

U.S. v. Transwestern Pipeline Company, (D.N.M.): On May 31, 1990, the U.S. District Court entered a consent decree under TSCA between the U.S. and Transwestern Pipeline Company, Houston, Texas for the characterization and remediation of PCB contamination at four natural gas compressor stations and, if appropriate, ancillary facilities, in New Mexico. This was the first Regional consent decree under TSCA to address PCB contamination at natural gas pipeline compressor stations and ancillary facilities. Additionally, the decree required groundwater monitoring; submission of procedures for the use, handling, storage and disposal of PCB-contaminated liquids during pipeline operations; installation of source control measures; that the company provide an oversight contractor to monitor compliance of the terms of the consent decree for EPA; and the payment of a penalty of $375,000.

This decree was terminated in U.S. District Court, New Mexico, on March 8, 1993, when the company met all terms and conditions of the settlement. An estimated 144,991 tons of PCB-contaminated soil and debris was excavated and disposed of in a TSCA landfill. Groundwater monitoring at the four sites revealed benzene, toluene, and xylene groundwater contamination at two sites. Ongoing groundwater monitoring is being overseen by the New Mexico Oil Conservation Division.

University of New Hampshire, (Durham, NH): On March 10, 1993, EPA settled a TSCA civil action for violation of PCB regulations. The case was settled for a penalty of $62,500 and a supplemental environmental project with an estimated value of $271,000. The project included the removal and disposal of three PCB and 28 PCB-contaminated transformers, and sponsoring, organizing, presenting and financing, a one-day seminar on the management of PCBs for area schools, colleges and universities. The removal of all PCB items from the University eliminates the possibility of future violations and potential releases into the environment at this facility. The seminar for area schools, colleges and universities will help to ensure the future compliance of this portion of the regulated community that has exhibited a poor compliance history.

In the Matter of Wego Chemical and Mineral Corp.: On February 24, 1993, EPA's Environmental Appeals Board upheld Administrative Law Judge Vanderheyden's penalty of $42,000 on Wego Chemical and Mineral Corporation. This case stems from a June 1988 administrative complaint, alleging that Wego had failed to report to EPA regarding its importation of chemical substances. The EAB decision upheld EPA's application of its TSCA penalty policy, and EPA's interpretation of "naturally-occurring substances" under §8 of TSCA. The decisions followed a two day trial held in New York in June, 1990.

Weyerhaeuser Company, (Longview, Wa.): A Consent Agreement and Consent Order for Payment of Civil Penalties (CACO) was signed on May 13, 1993, ordering Weyerhaeuser Company to pay a penalty of $118,950. This CACO settled an August 11, 1992, TSCA complaint for violations of the recordkeeping and storage provisions of the PCB regulations. $59,075 of the penalty was suspended and deferred on the condition that Weyerhaeuser Company spent at least $118,950 in actual disposal costs for the removal of TSCA-regulated PCB equipment from use at its Longview facility. Weyerhaeuser has 18 months from the date of the CACO to document these expenditures.

Emergency Planning and Community Right-to-Know Act Enforcement (EPCRA)

EPCRA establishes a structure at the state and local levels to assist communities in planning for chemical emergencies and requires facilities to provide information to EPA on various chemicals present in the community, which shall be made available to the public. Under §313 certain manufacturing facilities must provide EPA with annual data on the amounts of chemicals that they release into the environment, either routinely or as a result of

accidents. In addition, facilities must report accidental releases of "extremely hazardous substances" and CERCLA "hazardous substances" to state and local response officials, and report to state and local officials inventories of chemicals on their premises for which Material Safety Data sheets exist.

BP Oil Refinery (Ferndale, Wa.): EPA contended that BP Oil had failed to provide immediate notification of releases of reportable quantities of sulfur dioxide in 1992 to the State Emergency Response Commission (SERC) and to the Local Emergency Planning Committee (LEPC) in violation of §304 of EPCRA. A resulting consent agreement and consent order assessed $162,000, one of the largest EPCRA §302-312 penalties ever collected.

Catano Region of Puerto Rico: On February 24, 1993, Region II filed administrative complaints charging four Puerto Rico companies with failing to submit hazardous chemical information to the Commonwealth and local planning and emergency response organizations, in accordance with §311 and 312 of EPCRA. Region II is seeking $980,220 in total penalties for the violations. These complaints are part of EPA's multi-media environmental initiative in the Catano region of Puerto Rico.

In the Matter of Crown Metals, Inc.: An EPA administrative law judge issued an Initial Decision in this case involving three separate violations of §313 of EPCRA. The complaint alleged that respondents had failed to timely submit its EPCRA Forms R for three chemicals it had used at its Kenilworth, New Jersey facility. A hearing was held in October 1989, during which, pursuant to EPA's oral motion, the judge entered a finding of partial liability for reporting failures. The hearing then focused entirely upon the amount of an appropriate penalty.

EPA sought $5,000 for each violation. An administrative law judge ordered respondent to pay $1,500 altogether, $500 per violation. The judge's decision was based upon a series of earlier decisions that similarly had rejected the reasoning in EPA's December 2, 1988 penalty policy. Respondent had filed the Forms on September 15, 1988. Under the 1988 policy, a Form R submitted after the July 1st deadline and which is also submitted after EPA has contacted the facility is nonetheless considered a "failure to report" for purposes of assessing a penalty. As had several other administrative law judges, this judge refused to enforce this provision. The judge's reasoning parallels that of the other ALJs: the size of the penalty should be proportionate to the extent of the delay in providing the report, regardless of whether or not there has been intervening EPA contact with the facility.
Since the reports in question here were ten weeks late, the judge assessed the figure that the 1988 penalty policy matrix assigns for such reports where no EPA contact with the facility has occurred. In addition, the judge emphasized that, at the time of Crown Metal's violation, the EPCRA program had just been initiated and that respondent had undertaken "significant efforts to determine its own responsibilities under the new program".

Enforcement Initiatives: In June 1993, the ten EPA Regions issued civil administrative complaints seeking $2.8 million against thirty-seven facilities for failures to file Form Rs under § 313 of EPCRA. The facilities cited include a wide variety of industries, including paper manufacturers, motor vehicle manufacturers, makers of railroad equipment, makers of ammunition, and many others. Region V issued eleven administrative complaints as part of the initiative, with total proposed penalties of over $1 million. EPCRA §313 established the Toxics Release Inventory and requires certain U.S. facilities to report by each July 1 their releases and transfers of almost 400 listed toxic chemicals. In addition, under the Pollution Prevention Act, those facilities must include in their reports certain toxic chemical source reduction and recycling activities.

Fujitsu America, Inc. (Hillsboro, Oregon): Fujitsu America is a manufacturer of computer equipment. The company was inspected for compliance with TRI requirements in September 1992. The inspection documented that the company had failed to file Reporting Form R for the chemical Freon 113 for five years from 1987 to 1991. The company was issued an Administrative Complaint with a proposed penalty of $77,375.

The company was given a 25% reduction in penalty in consideration of its cooperative attitude and the rapid nature in which it came into compliance. A CACO was signed on August 2,

1993, which obligated the company to pay a final assessed penalty of $58,031

Genicom Corporation: The Environmental Hearing Board affirmed Administrative Law Judge Harwood's decision to assess $74,812 in administrative penalties against Genicom Corporation in Waynesboro, VA for its failure to immediately report two releases of cyanide to the authorities designated pursuant to §304 of EPCRA and §103 of CERCLA. The Board determined that use of the EPCRA/CERCLA penalty policy was appropriate and that EPA properly applied that policy.

The Board, expressly rejecting Genicom's appeal, ruled that the §304 (a) EPCRA requirement does not require that actual exposure to harmful levels of a hazardous substance must be shown to establish an EPCRA reporting violation. "Under EPCRA §304 (a), once a facility owner or operator has knowledge of a release of a reportable quantity of a hazardous substance from the facility, the obligation to notify is triggered without further consideration of risk." This overturns an Order on Motion in Holly Farms, Inc. in which the ALJ found that §304 (a) of EPCRA requires some exposure to humans.

The Board also confirmed that each release carries its own reporting obligation, and §103 of CERCLA and §304 of EPCRA relate to the failure to notify, not the failure to prevent a second occurrence.

The Board never reached the issue of whether notification to the State Water Control Board, as a member of the Virginia Emergency Response Commission, could be imputed to satisfy the §304 EPCRA reporting. The Board concluded that the Region properly objected, in a Motion to Strike, pursuant to 40 C.F.R. § 22.30 (c), that this issue had not previously been raised in the proceedings.

Geneva Steel Company: On August 18, 1993, Geneva Steel Company of Orem, Utah and the EPA reached a consent agreement resolving all issues arising under an administrative complaint for violations of EPCRA. The complaint and consent agreement were filed simultaneously. The respondent agreed to a penalty of $82,600. The EPCRA violations dealt with the failure of Geneva Steel to file Form Rs for five §313 toxic chemicals, and the failure of Geneva Steel to adequately notify customers of the presence of toxic chemicals above *de minimis* levels in mixtures and trade name products supplied to the customers.

Golden Foods/Golden Brands: On December 15, 1992, EPA approved a consent agreement and consent order (CACO) entered into by EPA and *Golden Foods/Golden Brands in settlement of* three administrative complaints issued for violations of EPCRA §311, 312, and 313. The initial complaint included violations of §103 of CERCLA and §304 of EPCRA for failure to report a release of sulfuric acid. The CACO provided for payment of a civil penalty of $50,000 in addition to several supplemental environmental projects (SEPs).

The SEPs included the donation of $90,000 to the Local Emergency Planning Committee (LEPC) for a Hazmat truck and the expenditure of $120,000 on a project to install of a clarifier at the respondent's facility. The purchase of the Hazmat truck was a result of the Region's coordination with the LEPC. The installation of the clarifier is intended to reduce loading to the Metropolitan Sewer District to which the respondents presently discharge.

In re: J.W. Harris Company, Inc.: On October 21, 1992, a consent order resolved an administrative complaint against J.W. Harris Company, Inc. of Cincinnati, Ohio. The order requires the company to correct its past violations of EPCRA and maintain compliance, to pay a civil penalty $10,950, and to expend $180,000 to modify its industrial processes. EPA estimates that these modifications will reduce the company's total metal fume and particulate matter emissions for silver by 713 lbs/yr, for copper by 1,592 lbs/yr, for antimony by 55 lbs/yr, for zinc (fume) by 5,847 lbs/yr, and for nickel by 15 lbs/yr.

The Agency's action in this matter had begun on December 4, 1991, with a complaint against J.W. Harris Company for its failure to file timely the required Toxic Chemical Release Inventory Reporting Form, for its use of copper and silver at its facility in calendar years 1987 and 1988, and for its use of antimony and lead at its facility in calendar year 1988, in violation of EPCRA §313.

In re. Inland Steel: On December 30, 1992, Region V settled its EPCRA administrative action

against Inland Steel of East Chicago, Indiana. Pursuant to a CAFO, Inland must pay, after offset in consideration of its having spent $165,000 on a supplemental environmental project, a $100,000 civil penalty and maintain compliance with the requirements of EPCRA.

EPA's action in this matter had begun on December 16, 1988, when the Region filed a complaint alleging in 33 counts that Inland had violated EPCRA §313 by failing to file Form Rs by July 1, 1988, for its releases of toxic materials during 1987.

The supplemental environmental project Inland agreed to implement will reduce Inland's use of percloroethylene, a toxic chemical, by about 200,000 pounds per year. The SEP involves modifying a parts cleaning process and replacing percloroethylene with a non-toxic cleaning agent.

Kemira, Incorporated: On November 25, 1992, EPA issued a CACO concluding an administrative action against Kemira, Inc. (Kemira), of Savannah, Georgia, to settle Title III CERCLA and EPCRA violations pending against the company. An administrative complaint was filed against the company, a manufacturer of titanium oxide for white paint production, for violations of §§103 and 109 of CERCLA and §§304, 311, 312, and 325 of EPCRA. The complaint charged Kemira for failure to notify and or provide a written follow-up notice following a June 25, 1989, release of sulfur dioxide that exceeded the reportable quantity for sulfur dioxide; for failure to notify the National Response Commission following nine separate releases of sulfuric acid over the 1,000 pound reportable quantity limit; and for failure to submit material safety data sheets as well as Georgia Emergency and Hazardous Chemical Inventory Forms for propane and Number 2 fuel.

Kemira agreed to a $25,000 penalty and to perform two supplemental environmental projects. The major SEP is a pollution prevention project that should result in an average net reduction of approximately 135 pounds of sulfur dioxide per hour from Kemira's Savannah facility. This involves the installation of a $1.4 million sulfur dioxide scrubber system in its Savannah facility's calciner system. In addition, Kemira agreed to make a $100,000 cash contribution to the Georgia State Emergency Response Commission for the purpose of establishing a Chatham County Local Emergency Planning Committee.

In re: Eli Lilly & Company: On October 28, 1992, EPA signed a consent agreement and final order in settlement of the an administrative action against Eli Lilly & Company's Clinton, Indiana, facility. The company has agreed to pay a penalty of $99,025 for violations of EPCRA §304(a) and (c) and CERCLA §103(a).

Region V had filed its complaint on June 9, 1992 alleging that Lilly's July 10, 1991 notifications of its July 5, 1991 release of an estimated 21,516 pounds of dichloromethane was not "immediate" under either CERCLA §103(a), which contains a knowledge requirement, or EPCRA §304, which does not. The complaint further alleged that Lilly's EPCRA §304(c) follow-up notifications, submitted between one week and three months after the release, were not "as soon as practicable." It is extremely important in EPCRA enforcement to litigate the issue of immediate notification, as the purpose of law is to provide for immediate response, if necessary.

In the Matter of Mobil Oil Corp.: On August 13, 1993, Region II executed consent orders resolving nearly all counts contained in three administrative complaints issued against Mobil for violations of EPCRA §304 and CERCLA §103 at its Paulsboro, N.J. facility. The orders provide for payment of penalties totaling $35,000. One remaining count could not be settled. An adjudicatory hearing was held, also in August, 1993, on both liability and penalty issues with respect to that count; a decision is pending.

The settlements arose out of Region II's successful Motion for Partial Accelerated Decision in the three cases, which EPA Chief Administrative Law Judge Frazier, granted without qualification on September 30, 1992. That motion addressed two legal questions: (1) what is a "federally permitted release," and (2) what is "immediate" notification to the National Response Center ("NRC") pursuant to §103(a) of CERCLA.

What constitutes a "federally permitted" air release was an issue of first impression. Mobil argued that so long as a facility has an air emissions permit, the EPCRA and CERCLA reporting requirements do not apply to it, even where the air release exceeds the quantity

authorized by a permit. This argument was based on the use of different statutory language to define federally permitted air releases, as opposed to federally permitted releases into other media. While the statute exempts air releases that are *"subject to"* a permit or control regulation, the statute exempts releases regulated by other federal regulatory programs, such as the Clean Water Act and the Solid Waste Disposal Act, only where the subject releases are *"in compliance with"* permits or control regulations. EPA attempted to clarify this apparent ambiguity by issuing a 1988 Notice of Proposed Rulemaking ("NPRM") which explicitly addressed this issue. The NPRM however, does not have the force of law, and Mobil accordingly challenged EPA's interpretation. Judge Frazier dedicated 31 pages of his decision to the federally permitted release issue and found EPA's interpretation to be eminently reasonable and consistent with the purposes of both CERCLA and EPCRA. He stated "I find the validity and persuasiveness of EPA's reasoning to be unassailable".

On the issue of whether Mobil had immediately notified the NRC, Judge Frazier found that Mobil delayed approximately 26 hours where the statute unambiguously requires immediate notification. On this count Judge Frazier concluded that Mobil "did not even come close to meeting [the immediacy] requirement under the circumstances presented in this case".

Philadelphia Newspapers, Inc. (PNI): A consent agreement and consent order (CACO) was signed July 15, 1993, concerning Philadelphia Newspapers, Inc. (PNI), resolving claims that the company failed to report the presence of hazardous substances at its production facilities as required by §312 of EPCRA. The CACO imposes a fine of $67,500 on PNI for neglecting to prepare or submit emergency and hazardous chemical inventory forms to state and local environmental and public safety authorities for 1989, 1990 and 1991. PNI self-confessed to EPA.

PNI, publisher of The Philadelphia Inquirer and The Philadelphia Daily News, maintains supplies of gasoline, diesel fuel and oil-based ink at its main plant in Philadelphia. These materials are highly flammable and contain hazardous chemicals such as the carcinogens; toluene, xylene, and hexane. EPCRA requires the owner or operator of a facility where these materials are stored to submit an inventory form to the state emergency response commission, the local emergency planning committee, and the local fire department for emergency planning and preparedness purposes. PNI has now submitted emergency and hazardous chemical inventory forms for 1989, 1990, and 1991 to the proper authorities.

In the Matter of San Antonio Shoe, Inc., (Conway, Ark.): In an Interlocutory Order issued on March 18, 1993, Chief Administrative Law Judge Frazier ruled on a controversial issue in the EPCRA §313 program. Section 313 requires the reporting of the releases of certain chemicals for the Toxics Release Inventory. The issue was whether a facility has violated the §313 requirements and should be penalized when the facility's best information, at the time the Form R was required to be submitted to EPA, indicated that it was not required to report for the chemical, although the facility later received clear information showing that it should have reported. San Antonio Shoe admitted that it did know that acetone was in the product, but claimed that it did not know the percentage of acetone. EPA argued that because of this knowledge, San Antonio Shoe knew, or should have known, that the acetone in the product was "otherwise used", and thus had a duty to make an investigation about the percentage of acetone in the product. San Antonio Shoe claimed to have received a Material Safety Data Sheet (MSDS) showing the acetone content of the product being used only after the 1988 Form R was required to be filed but before the 1989 Form R was due. The judge ruled that after receipt of the MSDS, San Antonio Shoe was liable for penalties. The judge found, however, that San Antonio Shoe was not liable for penalties with respect to similar failures to report for 1987 and 1988 for the same substance, and he dismissed the complaint with respect to these allegations. In dismissing those violations, Judge Frazier noted that San Antonio Shoe did not have information indicating that it was required to report for acetone for 1987 and 1988 until "long after" the Forms R were due. He held, "there is no requirement in the EPA regulations that facilities, which acquire the necessary information described in §372.30(b)(3)(iii) after the due date of a Form R, retroactively recalculate its releases to include the additional amounts of a toxic chemical that may have been

contained in a trade name product." In the complaint, EPA had alleged that San Antonio Shoe knew or should have known the concentration of the acetone being used.

Sara Lee Corporation: On September 29, 1993, EPA Headquarters issued a civil administrative complaint against the Sara Lee Corporation for self-disclosed violations of EPCRA § 304, EPCRA § 313, and CERCLA § 103. On the same day, Sara Lee and EPA signed a consent agreement which, if approved by the Environmental Appeals Board, will settle the case for a penalty of $118,830 and the conduct of a corporate-wide compliance audit. The self-disclosed violations occurred at three different Sara Lee food facilities: one in Forest, Mississippi, one in Fort Worth, Texas, and one in New London, Wisconsin. The violations included failure by the Mississippi facility to report an emergency release of ammonia to the National Response Center and to file written follow-up notification of that release to state and local authorities; failure by the same facility to submit Toxic Release Inventory forms (Form Rs) for ammonia; and failure by the Wisconsin and Texas facilities to submit Form Rs for ammonia, sulfuric acid, and hydrochloric acid. The complaint contained fifteen counts and sought a penalty of $139,800; that amount included the maximum allowable reductions for voluntary disclosure under the EPCRA and CERCLA penalty policies.

In the agreement, Sara Lee has agreed to a supplemental environmental project in which it will audit over 140 of its manufacturing and food service distribution facilities for compliance with all provisions of EPCRA and §103 of CERCLA, and pay stipulated penalties for violations detected. The stipulated penalties range from $8,000 for violations of EPCRA §§311 and 312 to $20,000 for violations of EPCRA §304 and CERCLA §103. The final adjusted $118,830 penalty includes a fifteen-percent reduction in recognition of Sara Lee's agreement to conduct the compliance audit. This case is the first issued by Headquarters under EPCRA §313 or CERCLA§ 103. The Agency hopes to use the settlement as a model to encourage voluntary disclosures of violations by other corporations.

Federal Insecticide, Fungicide, & Rodenticide Act (FIFRA) Enforcement

States have primary enforcement authority under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). EPA issues national guidance establishing national enforcement priorities and activities which are implemented by the states and overseen by EPA regional offices.

The program emphasizes protection of the public from pesticides. Priority attention is given to ensuring compliance with the new farmworker protection regulations (e.g., specifications on times that fields must not be entered without protective equipment and clothing). These requirements require relabeling for more than 8,000 commercial products. Enforcement of relabeling requirements and, ultimately, use restrictions is being phased in over a two-year period beginning in FY 1993. Training seminars for states and technical assistance for public and private groups was included in this effort.

Anti-microbials (chemicals that kill viruses or bacteria, including those used in hospitals) must be registered with EPA under FIFRA EPA has initiated a program to test all registered sterilant and disinfectant products through EPA and Food and Drug Administration (FDA) laboratories. Enforcement efforts against violators of registration requirements continued throughout FY 1993. The program also continued to emphasize enforcement of major cancellation and suspension violations; changes in a pesticide product's classification or labeling to restrict its sale, distribution, and/or use; and FIFRA §3(c)(2)(B) suspensions.

As part of the FY 1993 national Data Quality Initiative, the program targeted inspections, tracked compliance with data submission requirements, and continued to emphasize inspections of registrants and contract laboratories under the Good Laboratory Practices (GLP) enforcement program to identify noncompliance with established lab practices. Pesticide testing studies submitted in support of product registrations also are evaluated as are adverse effects data submitted under FIFRA § 6(a)(2).

Anti-microbial Initiative

In FY 1993, the Agency continued the aggressive implementation of the anti-microbial

enforcement strategy through issuance of civil administrative complaints against major producers of ineffective sterilant products, including Sporocidin International (proposed administrative civil penalty of $450,000) and Healthcare Products of Canada (proposed administrative civil penalty of $200,000). Under the authority of FIFRA, EPA is working to ensure that registered disinfectant products are safe and effective. In the past four years, the agency has done much to evaluate the efficacy of hospital and medical office sterilant products to ensure that they kill life threatening bacteria and viruses, including tuberculosis, Hepatitis B and HIV. FIFRA requires that such products that kill microorganisms be registered as "pesticides" and that data be submitted to demonstrate effectiveness.

In 1991, the Agency filed the first of a series of cases against ineffective hospital and medical office-grade disinfectants including Sporocidin International. Sporocidin is most notable in that it fulfilled an Agency commitment made to Congress to investigate the disinfectant product industry. The Sporocidin case is further noteworthy in that it was effectively coordinated with the Department of Justice, Food & Drug Administration (products failed to sterilize medical devices, such as kidney dialysis equipment) and Federal Trade Commission, (false and misleading advertising claims) which also took enforcement or seizure actions against the company and its products. A settlement was reached with Sporocidin which included payment of an $86,000 civil penalty and cancellation of the product's registration.

Bulk Repackaging Initiative

In its ongoing efforts to prevent the distribution and sale of contaminated pesticides, Region VII continued its regional initiative, commenced during FY 1992, for enforcement of the FIFRA bulk repackaging requirements. During FY 1993, the Region filed 12 additional cases which name both the repackager and the original pesticide registrant as Respondents jointly liable for the contamination of repackaged pesticides.

Two of the cases have been settled through payment in full of the penalty proposed in the complaints by the repackagers. In addition, partial consent agreements have been reached in five cases in which the repackagers have paid total cash penalties of $6,900 and have agreed to the performance of SEPs valued at $343,990, in order to settle total proposed penalties of $25,000. The SEPs include conversion to equipment dedicated to sole use for bulk repackaging activities, thereby eliminating the possibility of product contamination, and the installation of enhanced diking, storage, and loading facilities, which minimizes the likelihood of spills of the pesticides into the environment.

Data Quality Initiative

On April 16, 1993, EPA issued seven civil administrative complaints against pesticide registrants, seeking a total of $223,000 in penalties for violations of the FIFRA Good Laboratory Practices Standards (GLPs), §8 of FIFRA, and § 6(a)(2) of FIFRA. Respondents include Clarke Mosquito Control Products, Inc., Riverdale Chemical Co., Rhone-Poulenc Ag. Co., Wexford Labs, Inc., Roussel Uclaf Corp., Boehringer Ingelheim, and Dupont. EPA also issued warning letters citing FIFRA GLP violations to other registrants and to laboratories which conducted studies supporting pesticide registrations. Recipients include Cosmopolitan Safety Evaluation, Innovative Scientific Services, CBC Biotech Laboratory, P.A.C.E. International, Abbott Labs, Plant Sciences, Ciba-Geigy, Nichimen America and Stillmeadow Inc. Bio Test Laboratory.

FIFRA §14 authorizes the assessment of a civil penalty of up to $5,000 per offense against the registrant of a pesticide. Other persons, such as pesticide testing facilities, must receive a written warning prior to being assessed a civil penalty. FIFRA also allows for a Notice of Warning to sponsors/registrants of studies for minor violations, if such warning is determined to be adequate to serve the public interest. Failure to comply with EPA's GLPs and the Pesticide Adverse Effects Reporting Requirements hinders EPA's ability to adequately assess the risks posed by pesticides and to ensure that pesticides do not pose unreasonable risks to public health or the environment.

Biotrol International, Inc.: EPA and Biotrol International settled two existing cases involving

this pesticide producing establishment (1990 and 1992 civil complaints) for a $21,000 penalty. A third civil action was issued on September 30, 1993, against Biotrol and Stepan Company (subregistrant and registrant) seeking $15,000 and $5,000 respectively for making unsupported claims for the disinfectant Vacusal.

Boehringer Ingelheim Animal Health, Inc.: Boehringer Ingelheim agreed to settle a case charging the pesticide registrant with four counts of falsifying information submitted to EPA by representing that a study complied with the FIFRA Good Laboratory Practice Standards (GLPS), when in fact the study contained at least four significant deviations from the GLPS. Boehringer Ingelheim moved to dismiss on the grounds that because it only submitted a single statement affirming compliance with the GLPS, there could only be one unlawful act and only a single penalty assessed. EPA argued vigorously that Boehringer Ingelheim made four implicit representations of compliance with particular requirements of the GLPS, which can be proven false, and that each of the four violations independently affects the quality of data relied upon by EPA. Boehringer Ingelheim agreed to settle the case for 80% of the proposed penalty rather than wait for a decision by an Administrative Law Judge.

Circle of Poison and Agricultural Pesticides: Certain pesticides exported from the U. S. may return to consumers as toxic residues in imported food products. Many of the fruits and vegetables consumed annually are produced outside the U.S. borders. EPA, with FDA assistance, imposes permissible tolerances for pesticide residues on food products. FDA is responsible for analyzing imported food while EPA is responsible for ensuring that any exported pesticides meet certain export requirements. In the past, beef, winter fruits, and even coffee have been found to be contaminated with toxic pesticides.

Existing pesticide export requirements include bilingual labeling instructions (to aid in providing appropriate foreign worker protection and proper application; methods and allowable crops) and foreign purchaser acknowledgements, given to EPA and the nation of destination and use. This helps to ensure that illegal or unwanted pesticides are not illegally exported or improperly used. In the past two years, EPA enforcement actions against exporters have collected over $700,000 in fines. (see Shield-Brite case below)

Craven Labs: On November 20, 1992, EPA issued Notices of Suspension against Craven Laboratories, Inc., Don Craven, Edward Peterson, Dale Harris, and Donald Hamerly, based on their criminal indictments for violations of the FIFRA Good Laboratory Practice Standards. The laboratory and each individual are suspended from all direct federal procurement and from participation in federal assistance, loan and benefit programs and activities. Suspension is temporary pending completion of investigation or ensuing debarment proceedings.

E.I. Dupont de Nemours and Co., Inc., et al.: A CAFO was signed on April 27, 1993, assessing a penalty of $97,200 for sale/distribution of an adulterated pesticide. The settlement represents a partial resolution to a civil complaint issued in 1991 against E.I. DuPont de Nemours and Company, Inc., et al, for sale/distribution of a herbicide-contaminated fungicide, DuPont's Benlate 50DF.

In re: Environmental Chemical Corporation: On October 16, 1992, EPA filed a consent agreement and consent order resolving the enforcement action brought against Environmental Chemical Corporation of Canton, Ohio. The action had been initiated on September 30, 1991, pursuant to FIFRA §14(a), when EPA filed a complaint alleging the company's failure to register an establishment, failure to report, and misbranding. Environmental Chemical is obligated to maintain future compliance with FIFRA and to pay a civil penalty of $16,000.

In the Matter of FPPF Chemical Co., Inc.: On December 16, 1992, EPA settled one of its largest FIFRA misbranding cases. The FPPF Chemical Co. Inc. of Buffalo, New York, agreed to pay a civil penalty of $14,400 for violating FIFRA. After receiving evidence regarding the sale in North Carolina of a diesel fuel product manufactured by FPPF, the label of which made pesticidal claims, EPA obtained sales records from FPPF indicating additional sales of the product. EPA issued a complaint charging FPPF, a manufacturer fuel propellants, with four counts of distributing and selling an unregistered pesticide in violation of FIFRA § 12(a)(1)(A).

U.S. v. Orkin, Inc.: EPA assisted DOJ to bring a probation revocation action against Orkin.,Inc. for violating the terms of a court ordered probation. The probation was part of the sentencing in a 1988 criminal case involving pesticide misuse in which two people died when a Galax, Virginia home was improperly fumigated by Orkin. A probation-revocation hearing was held on June 1, 1993, in the U.S. District Court in Roanoke, resulting in the court finding Orkin had violated the terms of its probation and reinstating $35,000 of the original suspended penalty. Orkin had already paid $350,000 in penalties in the case prior to this probation-revocation action. This was the first time a company, not a person, had been placed on probation for a FIFRA violation and also the first time a company was being accused of violating the terms of its probation.

In re Rek-Chem Manufacturing Corporation, (Albuquerque, N.M.): After an administrative hearing on October 14-15, 1992, Administrative Law Judge Frazier issued an Initial Decision dated May 10, 1993, finding Rek-Chem liable on all four counts and assessed a civil penalty of $12,996. EPA had issued a FIFRA administrative complaint on March 22, 1989, alleging that Rek-Chem Manufacturing Corporation violated §12 of FIFRA on four counts. These counts were: distribution of an unregistered pesticide; distribution of a misbranded pesticide (failure to include an EPA Establishment Number on the label); failure to submit required reports of production or distribution data required under §7(c) of FIFRA; and distribution of a misbranded pesticide. On August 2, 1993, the Environmental Appeals Board dismissed Rek-Chem's appeal of the decision since the appeal was filed late.

Sporicidin International: This case was commenced December 13, 1991 with the filing of a civil administrative complaint and a Stop Sale Use and Removal Order against a sterilant product with FDA laboratory analysis had shown to be ineffective. This was the first case filed in the sterilant initiative. The litigation of the case was concluded with the signing of a consent agreement in June 1993 and voluntarily cancellation of "Sporicidin Cold Sterilizing Solution." An important ruling came out of the litigation; the judicial opinion was that the fact that EPA and FDA had followed an abbreviated set of laboratory procedures other than the the full GLPs did not mean "as a matter of law the test results are unreliable and may not be used to support the the misbranding alleged in the complaint." This was important to EPA which had saved resources by eliminating many of the non-scientific and record keeping requirements of the GLPs in order to expedite the testing process. It was also important for all of the ensuing cases in the initiative because they were also based on the abbreviated test methods.

Sporicidin International, Inc.: This second civil administrative case was filed in October 1992 as a result of a GLP laboratory audit which showed that the respondent had failed to respect the Stop Sale Use and Removal Order issued against its product prohibiting the shipment of its product. The audit uncovered not only the fact of six violative shipments but also produced further evidence of the product under the SSURO's failure to act effectively as a sterilant. The opinion in this case reiterated that FIFRA is a strict liability statute and that any shipment of a product in violation of the terms of the order was a violation of FIFRA per se.

Multi-Media Enforcement

AVCO Corporation, Textron Lycoming: On August 19, 1993, EPA entered into the settlement of administrative actions filed under TSCA and the RCRA against AVCO Corporation, Textron Lycoming of Stratford, CT. The proposed agreement requires a penalty payment of $151,625 ($84,500 for the TSCA violations and $67,125 for the RCRA violations). The agreement also requires respondent to perform a SEP valued at at least $434,800. The project consists of the facility replacing its current method of parts cleaning using 1,1,1-trichloroethane with an alternative method using an aqueous based cleaner or ultrasonic cleaning. The effects of this SEP will be the reduction of the trichloroethane waste stream, lessening the potential for spills and ground contaminations and reducing the levels of hazardous waste generated at the facility.

U.S. v. Bethlehem Steel Corporation (N.D. Ill.): On August 31, 1993, the court ordered the Bethlehem Steel Corporation to pay a $6 million penalty for violations of RCRA and SDWA. The court found that a $4.2 million penalty was appropriate for Bethlehem's RCRA and SDWA violations of the corrective action requirements of

its UIC permits, and a $1.8 million penalty was appropriate for Bethlehem's various violations of RCRA requirements related to its landfill. This is the highest RCRA/SDWA penalty assessed by any court.

The case involved Bethlehem's past and continuing noncompliance with the corrective action program required under the UIC permits which EPA issued to defendant, and also based on Bethlehem 's past and continuing failure to comply with the applicable RCRA interim status performance standards for a landfill and two polishing lagoons containing the listed hazardous waste F006.

On March 19, 1993, the U.S.' Motions for Partial Summary Judgment was granted, and the court ordered the injunctive relief requested by the government. After the U.S.' request for injunctive relief was granted, the court held a civil penalty hearing, which was concluded on July 21, 1993.

In the Matter of Burlington Northern Railroad Company: On April 1, 1993, EPA Region VII issued a unilateral administrative order, under the combined authorities of §7003 of RCRA, §106 of CERCLA, and §311 of the CWA, as amended by the Oil Pollution Act of 1990, to Burlington Northern Railroad Company, Inc., concerning its Hobson Yard facility located in Lincoln, Nebraska. The order required Burlington, among other things, to immediately cease the discharge of oil and hazardous constituents into an inland saline wetland located in the Hobson Yard.

Burlington's Hobson Yard stretches over four miles on the west side of Lincoln where, among other activities, the fueling and service of locomotive engines takes place. A comprehensive "french drain" storm sewer system lies beneath much of the Hobson Yard, through which storm water run-off is drained into the wetland area and ultimately into a creek bordering the facility. The wetland is heavily contaminated with oil and chlorinated solvents resulting from the release of diesel fuel and various chlorinated solvents from the facility into the facility's storm sewer system.

As a result of the issuance of the order, BNRR has nearly completed a storm water processing facility designed to capture and treat storm water run-off before its discharge into the wetland area. The order also requires BNRR to conduct a removal of the contamination present in the wetland area. BNRR has developed a work plan, currently under review by EPA, proposing, among other things, bioremediation of soils in the wetland area.

In the Matter of Conagra, Inc.: Consent agreements and final orders were entered during FY 1993 settling six multi-media complaints which had been filed against Conagra, Inc. and its subsidiaries for violations of the TSCA PCB regulations, TRI reporting requirements under EPCRA §313, and the accidental release notification requirements under CERCLA § 103/ EPCRA § 304 at six Conagra facilities in Region VII. The complaints had been filed in May, 1992, and sought total penalties of $196,300. In settlement of these matters, Conagra and its subsidiaries agreed to the performance of supplemental environmental projects at a cost in excess of $900,000, and involving the six facilities named in the complaints as well as six other Conagra- owned facilities located in Region VII. In addition, respondents are required to pay cash penalties totaling $70,000, with penalties of $126,300 deferred pending successful completion of the SEPs.

The SEPs include: 1) installation of ammonia leak detection systems at five facilities, which systems are designed to detect ammonia leaks in an expedient manner, thereby allowing the facility to isolate the leak and turn off the ammonia flow to that area more quickly than in the past; 2) reduction of ammonia usage as reportable pursuant to EPCRA §313 at a Conagra facility located in Lincoln, Nebraska, to below 10,000 pounds per year (usage of ammonia during FY 1991 for the facility was in excess of 51,000 pounds); and 3) installation of computerized auditing systems to track all EPCRA chemicals used at seven facilities.

U.S. v. City of Gary (N.D. Ind.): On October 23, 1992, the court issued an order entering the Second Modified Consent Decree in this case, which involves both CWA and TSCA claims. Still pending before the court is an Agreed Modification of Certain Dates in the Second Modified Consent Decree, which was filed as a part of the United States' Motion to Enter. The government will advise the court by letter that this Agreed Modification remains unresolved.

The Second Modified Consent Decree is the third decree entered into by the City of Gary and the Gary Sanitary District since 1978. It requires Gary to undertake and complete capital and operational improvements at its wastewater treatment plant, adequately fund operations and maintenance, and pay a civil penalty of $1,250,000. In addition, Gary has agreed to perform a supplemental environmental project, valued at $1,700,000, which consists of a study and the development and implementation of a remedial plan for sediments located in the Grand Calumet River, covering an area of submerged lands, from Gary's main outfall to Cline Avenue.

U.S. v. Georgia-Pacific Corporation (D. Me.): On September 9, 1993, EPA, the State of Maine and Georgia-Pacific Corporation lodged a consent decree resolving a multi-media enforcement action against Georgia-Pacific Corporation's pulp and paper mill in Woodland, Maine. The case was originally filed as part of EPA's pulp and paper mill enforcement initiative in September 1992.

The consent decree settles an enforcement action against Georgia-Pacific for violations of the CAA and CWA at the Woodland, Maine facility. In 1990 and 1991, Georgia-Pacific intermittently violated air emission and water discharge standards as well as frequently failed to comply with its air license's monitoring requirements. The enforcement action arose out of a joint EPA-state inspection and review of emission and discharge reports submitted by the company. The consent decree requires Georgia-Pacific to pay a civil penalty of $390,000 for these violations, to be split between the State of Maine and the federal government. The action reflects Region I's commitment to coordinate enforcement between different media and between state and federal governments. Maine was an active participant in the development of the case and in the settlement negotiations with the company.

U.S. v. Inland Steel (N.D. Ind.): On June 10, 1993, on behalf of EPA, the court entered a consent decree against Inland Steel Company worth approximately $54.5 million. The decree, which assessed a $29.5 million penalty against Inland, requires Inland to pay a cash civil fine of $3.5 million, and perform $26 million on environmental projects in Northwest Indiana. This large penalty is in addition to the estimated $25 million Inland will spend to undertake RCRA corrective action in an innovative phased approach, address NPDES permit violations through treatment upgrades and source investigations, and eliminate air discharge violations through operational and design changes at their coke batteries and no. 405 boiler. The injunctive relief package was developed and is being overseen by a cross-program team to insure that the complex environmental problems at the facility are addressed in an efficient manner.

In August 1990, EPA re-referred three previously referred cases under the CWA, RCRA, SDWA (UIC), and CAA to DOJ. The combined re-referral sought the original injunctive relief and penalties, and sought to include the previously un-obtained sediment remediation as part of the injunctive relief in the consolidated complaint. In October 1990, DOJ filed this inaugural multi-media case.

The SEPs obtained will result in measurable environmental cleanup in NW Indiana and demonstrate EPA bias for action. Inland will spend $19 million to clean up contaminated sediments adjacent to its property, and to study and sample sediments in the Canal, Grand Calumet River and Roxanna Marsh, a wetland area in NW Indiana. As much as 750,000 cubic yards of sediments will be cleaned up in this environmental restoration project. Inland also must spend $7 million on pollution prevention and waste reduction projects at its facility. Through these projects, EPA's pollution prevention goals and the reduction of TRI emissions in the Region will be emphasized. Overall, the holistic approach to the negotiations allowed the case team considerable flexibility in designing the injunctive relief and considering SEPs. Through the decree, the Region obtained a nationally significant resolution of the Agency's first multi-media complaint, thereby making an outstanding contribution to the Agency's Great Lakes Water Quality Initiative.

In the Matter of The Knapheide Mfg. Co.: The Knapheide Mfg. Co. manufactures truck bodies at several locations in the Midwest. One facility is located in West Quincy, Missouri. The facility generates paint waste. The RCRA 3008(a) complaint, issued as part of the RCRA 1992 Illegal Operators Initiative, alleged the facility failed to conduct a hazardous waste

determination, illegally operated a hazardous waste treatment and storage facility without obtaining interim status or a RCRA permit, failed to label containers as hazardous waste, retain copies of land disposal notifications, maintain adequate aisle space in storage areas, maintain an updated contingency plan, maintain training documentation, and properly manifest hazardous waste shipments.

EPA reached a multi-media settlement with the facility that included additional EPCRA notification violations, for a penalty totaling $428,533. The settlement includes SEPs to partially offset the penalty. The initial SEP is an environmental compliance audit, which in part will identify and propose additional SEPs as binding commitments under a process defined in the settlement. The facility was extensively flooded during the 1993 Midwest flooding, and work has been delayed. It was featured on national news. EPA suggested the enforcement schedule extensions to reflect the disruption caused by the flood. However, the environmental audit will now be expanded to study whether contaminants had been transported to or spread at the facility as a result of the flood.

U.S. v. LTV Steel (S.D. New York): On April 15, 1993, the bankruptcy court approved a settlement agreement and stipulated order, resolving environmental claims of the U.S. for Superfund liability as well as civil penalties pursuant to RCRA, CWA, CAA, and TSCA. The agreement also provides a mechanism by which the U.S. may make claims against the reorganized LTV debtors in the future. Pursuant to the order, EPA will receive cash of $1.2 million plus an allowed claim of $28.2 million for Superfund claims at 16 sites in Regions IV, V, VI, and VII, and an allowed claim of approximately $2.5 million for pre-petition penalty claims under RCRA, CWA, CAA, and TSCA for facilities in Regions III and V.

In July 1986, the 66 related LTV debtors filed a voluntary petition in bankruptcy under Chapter 11 of the Bankruptcy Code in the U.S. Bankruptcy Court for the Southern District of New York. The U.S. filed a multi-site, multi-region proof of claim in November 1987. The U.S., the debtors, and certain other interested parties appealed the court's opinion of March 1990. In March 1990, the court ruled that CERCLA claims arise when there has been a release or threaten release of hazardous substances, whether or not known to either EPA or the debtor. In September 1991, the U.S. Court of Appeals for the Second Circuit affirmed the district court's decision. Negotiations conducted since that appellate decision have resulted in the settlement agreement and stipulated order approved by the bankruptcy court.

U.S. v. MTD Products, Inc. and Columbia Manufacturing Company, Inc. (D. Mass.): The court entered into a consent decree on August 11, 1993 with defendants MTD Products, Inc. and Columbia Manufacturing Company, Inc. for violations of RCRA and the CWA. MTD and Columbia are the former and present owners and operators, respectively, of a bicycle and furniture manufacturing facility in Westfield, MA. The initial action was filed on February 22, 1991, and was amended on November 8, 1991.

The decree provides that defendants pay a civil penalty of $100,000 to the U. S. ($90,000 for RCRA and $10,000 for CWA). In addition, the decree requires the defendants to complete any RCRA corrective action determined to be necessary at the site and to assess the adequacy of the plant's CWA treatment facilities.

Columbia Manufacturing Company, which owns the real property at the site filed a Chapter 11 bankruptcy petition. Without this consent decree, therefore, the site would likely lay unexamined for years. Entry of this decree is extremely beneficial because it will result in completion of an RCRA Facility Investigation and corrective action.

U.S. v. Murphy Oil USA, Inc. (E.D. LA): Separate air and water enforcement cases were combined in one consent decree. On December 16, 1993, one consent decree was entered to settle two enforcement cases under different environmental statutes with a civil penalty of $235,000. Under the CWA, Murphy Oil USA, Inc., at its Meraux, Louisiana, refinery, had discharged water pollution in excess of the effluent limitations in its NPDES permit. Under the CAA, the same facility had constructed two volatile organic compound storage tanks subject to New Source Performance Standards and had failed to provide the required notification to EPA. The CWA penalty was $210,000, the CAA penalty was $25,000.

U.S. v. Sherwin-Williams, Co. (N.D. Ill.): On July 16, 1993, the U.S. filed a civil complaint against Sherwin-Williams for violations of RCRA, the CAA, the CWA, and the Emergency Planning and Community Right-to-Know Act (EPCRA). In addition to demanding substantial penalties, the government is seeking to ensure that Sherwin-Williams attains and maintains compliance with all environmental laws. Of specific concern is the possibility that solvents and heavy metals from the facility may be leaching into the already seriously contaminated groundwater in the area. Furthermore, the facility may be contributing to the pollution of nearby Lake Calumet.

The Sherwin-Williams facility that is subject to this action is a 123-acre facility which is located in an area where there are numerous other sources of pollution and where the surrounding neighborhood is largely populated with African Americans as well as people of lower income levels. At this facility, Sherwin-Williams manufactures both solvent based and latex paints. In the past, the company has also manufactured or used resins, varnishes, lacquers, and other substances that have contributed to the environmental problems at the site. This action was brought as a result of an inspection which revealed violations including the illegal management of hazardous waste without a permit or interim status, the use of improperly closed, marked, and inspected tanks and containers, and the failure to maintain adequate waste analysis and contingency plans. This announcement underscores EPA's commitment to data integrity enforcement, cleanup of the Southeastern region of Chicago, and environmental justice.

U.S. v. United Technologies Corporation (D. CT): On August 23, 1993, a consent decree was lodged and a second amended complaint was filed in which United Technologies Corporation (UTC) agreed to pay penalties totaling $5,301,910 for violations of federal and state hazardous waste and water pollution control laws. As part of the settlement, UTC will implement an extensive multi-media environmental audit at all of its 26 New England facilities.

The decree requires the payment of $3,701,910 by UTC to the U.S. for violations of RCRA and marks the highest civil penalty ever obtained in a settlement of a civil RCRA action. UTC will also pay a penalty of $1.6 million for violations of the federal CWA and state water protection laws, with $1,050,000 paid to Connecticut, and $550,000 paid to the U. S.

Central to the settlement is a multi-media environmental audit in which UTC must retain an independent management consultant to make recommendations concerning how UTC can alter its management systems in order to improve its environmental compliance. After recommended changes to its management systems are made, the company must retain an outside audit firm to conduct a compliance audit. Penalties for any violations will be negotiated in accordance with the relevant penalty policies, and the company will have 60 days to correct the violations. Additional annual follow-up compliance audits will verify that UTC is complying with all environmental laws. The audit process is expected to cost millions of dollars and take several years to complete, during which time EPA and the state DEP will continue to inspect UTC facilities for compliance.

The violations under RCRA included improper handling of hazardous waste, storage of hazardous waste without a permit, inadequate recordkeeping, inadequate training of personnel, failure to complete waste analysis, and inadequate groundwater monitoring. Under the CWA, UTC was cited for the discharge of pollutants without a permit, the discharge of inadequately treated wastewater to surface waters, and the discharge of water with a high pH that caused a fish kill in the Connecticut River.

UTC was cited for violations at ten UTC facilities located in Connecticut: seven Pratt and Whitney Aircraft Division facilities (in the towns of Southington, East Hartford, North Haven, Middletown, Rocky Hill), a Hamilton Standard Division facility in Windsor Locks, the Sikorsky Aircraft facility in Stratford, and the United Technologies Research Center in East Hartford. UTC facilities named in the suit design and manufacture jet engines and parts, aircraft and spacecraft components, and helicopters.

USX: USX and EPA entered into a consent agreement, under §3008(h) of RCRA, on April 20, 1993, in which USX agreed to conduct a RCRA

Facility Investigation (RFI), Corrective Measure Study (CMS), and to implement Interim Measures at the site. This is a multi-media case since EPA is focusing on several media including the cleanup and stabilization of PCB's, slag, sediments from NPDES discharges, petroleum and other wastes potentially threatening human health or the environment. The USX site is a steel manufacturing and finishing facility located in Fairless Hills, PA, along the west bank of the Delaware River. The plant occupies approximately 3,000 acres of land. Steel manufacturing and finishing operations at USX have been active since the 1950's. The production of coke stopped in the early 1980's and production of raw steel ceased in 1991. At present the only major steel operation at the facility involves steel finishing.

In the Matter of Virgin Islands Alumina Corporation: In FY 1993, Region II executed two administrative consent orders with VIALCO, resolving violations identified in a 1992 multi-media inspection. One order, issued in March, 1993 under §113 of the Clean Air Act, arose out of a complaint alleging that VIALCO was subject to, and had violated numerous federal New Source Performance Standards. In the settlement, VIALCO committed itself to compliance with those requirements, and also agreed to install a continuous emissions monitoring system on its aluminum oxide kiln and comply with the standards set forth in the Virgin Island Rules and Regulations. VIALCO also agreed to pay a civil penalty of $110,000. The other order, issued in February, involved violations of the underground storage tank (UST) leak detection requirements promulgated pursuant to RCRA. VIALCO and Texaco, Inc., a co-respondent in this matter, agreed to pay a penalty of $12,678 for this violation.

Federal Facilities Enforcement

In the Matter of Camp Stanley Storage Activity and Lackland Air Force Base, (San Antonio, Tex.): Camp Stanley Storage Activity is located just a few miles northwest of San Antonio, Texas. Lackland Air Force Base is located a few miles southeast of San Antonio. Based upon information received from the RCRA permits staff, case development inspections (CDIs) of these facilities were conducted in January 1993. It was determined during the CDIs that both facilities had existent active Open Burning/Open Detonation (OB/OD) Units that had never notified, received a permit, or attained interim status under RCRA. Furthermore, Camp Stanley had not included the OB/OD in its facility closure plans.

The risk to the environment and human health associated with these OB/OD units comes from the hazardous constituents of the waste ordnance. For instance, trinitrotoluene (TNT), an aromatic hydrocarbon, breaks down biologically into isomers that are known to be carcinogenic and mutagenic, and have been extensively used by the military as an explosive for decades.

Complaints were issued to Camp Stanley and Lackland AFB on June 30, 1993, for operation of hazardous waste units without a permit or interim status. High priority violations mandate multi-day penalties. Proposed penalties requested were $693,000 against Camp Stanley and $346,500 for Lackland AFB.

In re: U.S. Department of Energy (Fernald, Oh.): On April 9, 1993, EPA signed an Agreement Resolving Dispute Concerning Denial of Request For Extension of Time to Submit Operable Unit 2 Documents with the U.S. DOE for the Fernald, Ohio site. Pursuant to the agreement, DOE must pay a cash penalty of $50,000, spend $2,000,000 implementing a supplemental environmental project, accelerate work on three other operable units, and submit the Operable Unit 2 (OU 2) Proposed Draft Record of Decision (ROD) by January 5, 1995, or pay an additional cash penalty of $25,000.

On February 9, 1993 EPA notified DOE that it did not approve a DOE request for an extension of time to submit a Remedial Investigation Feasibility Study, Proposed Plan reports, and the ROD for OU 2, and further that it intended to assess stipulated penalties for U.S. DOE's failure to submit the reports by February 8, 1993. On February 16, 1993, DOE invoked the dispute resolution provisions of the Amended Consent Agreement (ACA) regarding EPA's February 9, 1993 non-concurrence.

Implementation of the SEP required by this settlement will significantly reduce discharges of

uranium from the Fernald site to the Great Miami River. In addition, the assessment of a cash penalty will require U.S. DOE to report to Congress the reasons for the penalty. The combined value of the SEP and penalty amount to over 90% of U.S. DOE's exposure in this matter.

In re: U.S. Department of Energy (Portsmouth Plant, Oh.): On May 10, 1993, EPA signed an Agreement Resolving Dispute Concerning Revised Quadrant III RCRA Facility Investigation Work Plan for the Portsmouth Gaseous Diffusion Plant facility in Piketon, Ohio. Pursuant to the agreement, U.S. DOE must pay a cash penalty of $50,000 for past violations of the AOC; spend $1,000,000 to implement a supplemental environmental project; and perform a EPA-approved modified RFI workplan. In addition, the combined RCRA 3008(h) and CERCLA 106(a) administrative order by consent (AOC) for the facility was amended.

On December 14, 1992, EPA had issued DOE a notice of violation alleging violations of numerous requirements of the AOC. EPA agreed to the stipulated penalty provisions based largely on the Fernald facility AOC with DOE, with the express proviso that EPA does not consider the provisions to be precedent for other federal facility orders, decrees, or agreements, or at other federal facilities.

In the Matter of the Federal Aviation Administration Technical Center Superfund Site: On August 18, 1993, EPA entered into a Federal Facility Agreement with the Federal Aviation Administration (FAA) under §120 of CERCLA. The agreement requires FAA to remediate approximately 25 areas of contamination at the FAA Technical Center Superfund site in Atlantic City, New Jersey. The site covers 5,052 acres and is contaminated largely due to fire and crash testing exercises as well as the testing and storage of jet fuels. Section 120 of CERCLA requires that agencies, such as the FAA, enter into an agreement with EPA to address the contamination at sites they own which are on the CERCLA NPL. This is the first agreement under CERCLA §120 for the cleanup of a U.S. Department of Transportation facility. The work required under the agreement is expected to cost approximately $55,000,000.

In the Matter of Griffiss Air Force Base: On January 13, 1993, EPA issued a ten count administrative complaint to Griffiss Air Force Base for failure to properly classify restricted waste, failure to maintain a container of hazardous waste in good condition, failure to submit notifications for restricted waste shipped off-site, failure to mark the accumulation start date on containers of restricted hazardous waste, failure to develop a complete waste analysis plan, failure to properly manifest waste off-site, unauthorized storage of hazardous waste, failure to maintain adequate personnel records, and failure to post a warning sign. The complaint does not propose a penalty because the violations preceded the effective date (October 6, 1992) of the newly enacted Federal Facility Compliance Act (FFCA). The violations were detected during inspections at the base between 1987 and 1992. Previously, a Notice of Deficiency had been issued to the Base in December, 1986, regarding a deficient Part B permit application. This complaint was intended to resolve all outstanding violations.

On July 19, 1993, Region II executed a consent agreement and consent order with the Air Force resolving the matters raised in the January complaint. Both the complaint and the consent order are among the first such documents to be issued in the country under the FFCA. Pursuant to the order, the facility submitted a statement detailing the remedial actions taken rectifying the alleged violations at the site.

Loring Air Force Base Superfund Site, (Maine): On May 19, 1993, the Air Force agreed to pay stipulated penalties in the amount of $50,000 for failure to meet enforceable deadlines under the Loring Air Force Base CERCLA Federal Facility Agreement (FFA). The Air Force also agreed that in the future EPA may assess stipulated penalties under the FFA for any documents which are technically incomplete because they fail to meet the requirements of CERCLA, the National Oil and Hazardous Substances Contingency Plan, applicable EPA guidance, or applicable state law.

Loring Air Force Base is a federal facility on the Superfund NPL. The Air Force is conducting the cleanup under the FFA which includes the Air Force, EPA and the State of Maine as parties. Loring is also a closure base under the Defense Base Closure and Realignment Act of 1990.

On February 1, 1993, the Region assessed the

penalties for failure of the Air Force to meet the enforceable FFA schedule for two deliverables (a Remedial Investigation and a Remedial Investigations/Focussed Feasibility Study (RI/FFS)) relating to two operable units at the facility. In December, 1992, the Region with state concurrence denied an Air Force request for extension of time to submit the documents. The Air Force based its request on lack of available funds in October and November, 1993, even though the Air Force had assured the State and EPA in early October that new DOD budget funding had already been given to the base.

The agreement reached with the Air Force reflects the Region's efforts to ensure that DOD components will submit technically complete documents in a timely manner at federal facility NPL sites.

Naval Construction Battalion Center **(R.I.):** On September 30, 1993, EPA issued an administrative complaint and compliance order (complaint) to the Naval Construction Battalion Center (NCBC) located in the town of Davisville, Rhode Island for hazardous waste violations. The complaint proposes the assessment of a civil penalty in the amount of $101,062.

On March 31, 1993, representatives of EPA conducted a RCRA compliance evaluation inspection (CEI) at the NCBC. On the basis of this inspection, EPA determined that the respondent failed to properly conduct hazardous waste determinations, failed to include the EPA hazardous waste number and corresponding waste treatment standard on the Land Disposal Restriction (LDR) Notice, failed to retain copies of LDR notices on site for certain shipments of waste restricted from land disposal, failed to provide annual hazardous waste training to its employees who manage hazardous waste, failed to maintain a written hazardous waste training program and other required records for all personnel who handle or manage hazardous waste, failed to label hazardous waste containers with the dates of accumulation, and failed to conduct weekly container inspections.

In the Matter of Reese Air Force Base, **(Lubbock, Texas):** An administrative order under RCRA §7003 was issued to Reese Air Force Base as a result of an imminent and substantial endangerment to health resulting from Base activities. In March 1993, EPA learned that Reese had detected trichloroethylene above safe drinking water standards in some privately-owned drinking water wells near the Base. After confirming the data, EPA issued an agreed-on administrative order under §7003 of RCRA on June 1, 1993. The order requires the Base to collect water samples from water wells in a 36 square mile area (within a 2 mile perimeter of the Base) in order to determine the extent of the contamination, to notify the owners of any contamination, to supply an alternate source of drinking water to the residents with contaminated wells, and to monitor the ground water in and adjacent to the plume. Reese has completed the initial sampling of about 950 wells, provided carbon filters for all the impacted water wells, and connected some of the users to the City of Lubbock's water system. The city is in the process of connecting its water lines to the residents that live within the city limits. The residents living outside the city limits may use the water wells after carbon filtering.

Criminal Enforcement - All Statutes

Criminal enforcement continues to be the fastest growing component of the agency's enforcement effort. New criminal investigator offices opened last year in Houston, Los Angeles, Buffalo, St. Louis, and Miami. FY 1992 set records for criminal fines ($66.9 million before suspension. almost a five-fold increase over the previous record year), court-ordered imprisonment cases successfully prosecuted, and new referrals to the Department of Justice. In FY 1993, the criminal enforcement program continued to support program-specific enforcement priorities and was increasingly used to support multi-media and international enforcement efforts and to address interstate violations. In addition, the program referred 140 new cases to DOJ, a 31% increase over the prior record number in FY 1992.

In FY 1993, the Office of Criminal Enforcement (OCE) worked closely with the media programs to implement the new Guidelines of the U.S. Sentencing Commission. for Organizational Defendants (primarily corporations) convicted of environmental crimes. Implementing these guidelines will call for

extensive regional program technical input and coordination to develop recommended conditions of corporate probation including restitution, remediation, and compliance-related relief. The goal is smooth coordination within the limited timeframe so that EPA can provide support to sentencing judges and probation officers.

The 1990 Pollution Prosecution Act called for no less than 110 criminal investigators on board during 1993. This gave EPA a unique opportunity to seek out a new kind of Special Agent -- the hiring strategy in the OCE shifting from a focus on experienced law enforcement officers (who were then expected to develop their expertise in environmental law) to a focus on recruits, including minorities and women, with existing technical and scientific environmental expertise who are trained as law enforcement officers. The criminal enforcement program is strengthened by combining the experience of its veteran Special Agents and the environmental background of the new recruits.

The Criminal Enforcement Addendum to the Policy Framework for EPA/State Enforcement Agreements improves coordination and communications among federal, state, and local law enforcement units. Its major provisions include the designation of one or more intrastate contacts to serve as a focal point for exchanging information regarding the status of criminal investigations and cases, cross referral of cases, technical support and training, and coordination of state/federal civil and criminal proceedings. It also calls for the increased use of Law Enforcement Coordinating Committees and environmental task forces as appropriate to investigate specific cases, enhance reporting of state criminal enforcement accomplishments, and continued federal support to heighten state criminal enforcement capability.

State, local, and tribal criminal law enforcement capability are enhanced through the association networks, the Federal Law Enforcement Training Center (FLETC), and the National Enforcement Training Institute (NETI), including the tribal investigator training pilot developed by OE-FLETC and the Office of Federal Activities (OFA). In order to support state accomplishments, OE worked with the four regional state association law enforcement networks in FY 1993 to collect more comprehensive non-federal environmental crimes data. One potential use of these data is to indicate, in general terms, the level of criminal enforcement activity on the state and local level.

U.S. v. Action Manufacturing Company (E.D. Pa.): An explosives manufacturer was sentenced to pay a $500,000 fine ($400,000 suspended) and $500,000 in clean-up costs of a hazardous waste disposal area contaminated by years of unpermitted hazardous waste dumping. Action Manufacturing Co. of Atglen, Pa., was sentenced September 2, 1993. The company paid $100,000 of the fine at sentencing, with $400,000 of the fine suspended pending completion of a five-year period of probation. Terms of probation include clean up of the "burn pits" under the direction of EPA and compliance with a debarment compliance agreement negotiated among Action, EPA, and the Department of Defense. Action manufactures explosives primarily for the U.S. government, and failure to comply with the terms of the probation will result in debarment.

Following a joint criminal investigation by EPA, the FBI, and the Army CID, the company was charged with illegally disposing of hazardous waste for several years by pouring liquid and sludge wastes resulting from explosives manufacturing into "burn pits" and igniting the material. At about the same time, EPA was overseeing a CERCLA response action, and EPA then negotiated a debarment compliance agreement because the company, in shaky financial condition already, would go out of business if it was debarred, leaving no choice but for the government to pay for a site clean up. At sentencing, the judge noted that incorporation of the compliance agreement and clean up provisions in the plea agreement was "a hammer" over the company that caused him to approve the terms of the plea.

U.S. v. Action Testing and Consulting (N.D. Ga.): A generator of hazardous waste and its owner were sentenced for the illegal dumping and subsequent runoff from drums of hazardous waste at three separate sites in Dekalb County near Atlanta, Ga. At the direction of James R. Hunt, owner of Action Testing and Consulting, company employees had hired workers to transport and abandon the drums, many of which contained ignitable and corrosive wastes.

On July 8, 1993, the company was sentenced pursuant to its guilty plea to a felony violation of RCRA. It received three years of probation and a fine of $142,749. Hunt, who pled guilty to a misdemeanor violation of CWA, was sentenced to four months of home detention, a $25,000 fine, and three years of probation.

This case relates to the conviction and sentencing in 1991 of Reginald Max Goldsmith to forty-six months of incarceration for two felony violations of RCRA for the illegal transportation of the drums of hazardous waste. Goldsmith's fraudulent company had been hired by Action Testing and Consulting to transport and dispose of Action's hazardous waste.

U.S. v. Advance Plating Works and Eugene Doughty (S.D. Ind.): On March 24, 1993, Eugene Doughty and Advance Plating Works, Inc. were charged in a four-count indictment alleging violations of the CWA and RCRA at two Advance facilities in Indianapolis. Doughty, the president and an owner of Advance, was charged with numerous violations of the pretreatment standards for electroplaters, tampering with a monitoring device installed by the City of Indianapolis, and lying to an Indianapolis Department of Public Works employee about an unpermitted discharge point. The corporation was charged with the pretreatment violations, as well as with illegal storage and disposal of hazardous waste under RCRA. On October 8, 1993, Doughty was sentenced to one year in jail.

According to the indictment, Advance Plating's Shelby Street facility discharged nickel, zinc, copper, and chromium in excess of the pretreatment standards between February and May 1992. In February 1992, the City installed an automatic sampler inside Advance Plating's Shelby Street plant. Doughty opened up the sampler, and replaced the contents of the sample jar with clean water. During the same period, Doughty also falsely told a City inspector that all waste was routed through a single sample point. Finally, Advance Plating stored and disposed of F006, F007, D002, and D007 hazardous wastes at both of its facilities without a permit. The case was developed with the assistance of the Indianapolis DPW and the FBI, working through the Indiana Environmental Task Force, chaired by the U.S. Attorney's Office for the Southern District of Indiana.

U.S. v. Aerolite Chrome Corporation (D. Nev., aff'd 9th Cir.): During 1993, the Ninth Circuit Court of Appeals affirmed the 1990 conviction of a corporation, despite the acquittal of the individual perpetrator, the corporate president. The Aerolite Chrome Corporation had been convicted on December 11, 1990, for ten felony violations of CWA pretreatment requirements, involving discharges of large volumes of wastewater contaminated by metal processing to a public sewer system flowing to the publicly owned Reno-Sparks treatment works. It was sentenced on July 12, 1991, to a $55,000 fine, six years of probation, and as a condition of probation, to no longer engage in electroplating operations.

But the company president and sole agent of the corporation involved in the illegal acts, Arthur Thomas, was acquitted by the jury on all counts, so the corporation appealed asserting that it too must be acquitted as a matter of law. The Court of Appeals disagreed, stating that an apparently inconsistent verdict could easily be as wrong against the government as against the defendant, or could in actuality be the result of jury lenity toward the individual defendant, and that there was ample testimony supporting the corporation's conviction for the illegal acts of its agent Thomas.

U.S. v. Tariq Ahmad, et al. (C.D. Cal.): Following a jury trial in a case that generated international interest, a chemical laboratory owner's scheme to burn down his lab for the insurance proceeds and his illegal export to Pakistan of hazardous waste generated by the lab led to heavy prison sentences on the individuals convicted. On August 9, 1993, Tariq Ahmad, the lab owner, was sentenced to 97 months of imprisonment upon his conviction on April 15, 1993, for the illegal export of hazardous waste, conspiracy to commit arson, and for money laundering and racketeering. Rafat Asrar, Ahmad's colleague, was sentenced to 60 months following guilty verdicts for conspiracy to commit arson, money laundering, and racketeering. An appeal is pending.

This case stemmed from a scheme by Tariq Ahmad to burn down his analytical laboratory in Southern California for the insurance proceeds in 1990. In its processes, the lab generated hazardous-waste chemicals. To avoid the costs of disposal, Ahmad shipped the chemicals to Pakistan for incineration and dumping down a

mine shaft. When the government of Pakistan learned of the shipment from a news reporter, the chemicals were refused entry into Pakistan and returned to Long Beach, California, where the U.S. Customs inspected and sampled the container.

U.S. v. Applied Coating Services, Inc. (S.D. Tex.): The illegal handling of paint and sandblasting wastes by an off-shore oil rig painting company resulted in the company's conviction and sentencing for violating RCRA. On April 5, 1993, A jury convicted Applied Coating Services, Inc. of transportation without a manifest to its North Houston facility, of four counts of illegal storage there, and of disposal without a permit. On July 21, 1993, the company was sentenced to pay a $50,000 fine, and ordered to reimburse clean-up costs by the payment of $20,000 to Liberty County and $105,000 to the Union Pacific Railroad.

U.S. v. Walter Baker and Matthew Girdich (W.D. Pa.): In a case of special interest to those concerned with data quality and information integrity provided to meet CWA requirements, two former municipal officials have been sentenced for NPDES reporting violations involving the Penn Hills, Pa., Water Pollution Control Department. At one sentencing, the judge commented that environmental crimes are very serious because the responsible regulatory agencies rely so extensively on truthful data, and that the message has to get out to the regulated community that falsifying data will not be tolerated.

On April 2, 1993, Walter Baker, former Assistant Director of the Penn Hills, Pa., Water Pollution Control Department, was sentenced to one year of incarceration, one year of supervised release, and a $5,000 fine for falsifying discharge monitoring reports. Baker was convicted on February 3, 1993, on six counts of falsifying DMRs in the late 1980s to cover up NPDES permit violations at several of the municipality's sewage treatment plants.

On March 19, 1993, Matthew Girdich (Baker's predecessor) was sentenced to five years of probation, a $5,000 fine, and two years of community service. Girdich had pled guilty on December 30, 1992, to one count of falsifying DMRs. Girdich was responsible for NPDES reporting for the five sewage treatment plants in the municipality until he retired in 1988. Over several years, violations in reporting were uncovered by the Allegheny County Health Department, which sought federal assistance in investigating and prosecuting the violations.

U.S. v. Gordon S. Bird, Jr. (D. Utah): The president and owner-operator of a mineral recovery company was convicted and sentenced for unpermitted storage and disposal of arsenic and cadmium in pits or surface impoundments at his gallium recovery operation located in Blanding, Utah. On February 12, 1993, Gordon S. Bird, Jr. was sentenced to perform 1,000 hours of community service that must be related to environmental protection, and he also was placed on three years of probation. On December 3, 1992, Bird was convicted by a jury of one count of violating RCRA and one count of aiding and abetting in violation of 18 U.S.C. § 2.

U.S. v. Robert M. Brittingham and John J. LoMonaco (N.D. Texas): Two prominent Dallas businessmen, high-ranking former officials of a substantial corporation, were convicted and sentenced to pay multi-million dollar fines for ordering subordinate employees to illegally dispose of the hazardous waste in a gravel pit. On May 21, 1993, defendants Robert M. Brittingham and John J. LoMonaco were sentenced to pay a total of $12 million for violations of RCRA. Brittingham must pay a $4 million fine, LoMonaco must pay a $2 million fine, and together they must pay $6 million into a trust account set up to administer a lead abatement community service project. Each defendant also received a five-year term of probation, during which they each must spend a substantial number of hours weekly to implement the community service project. The project is designed to abate the City of Dallas' lead problem and its effects on children by funding educational awareness programs on lead exposure and by testing children who may suffer learning disabilities as a result of lead exposure. The defendants must also place an advertisement in a widely-circulated trade journal describing their violations of environmental requirements.

Brittingham was former chairman of the board and part owner, and LoMonaco was president and a former board member, of their former company, Dal-Tile Corporation, which was sold to an investment group in 1990. Dal-Tile, which makes ceramic tiles, has several plants and warehouses

and employs more than 5,500 people throughout the United States and Mexico. During 1987, Dal-Tile used lead-based compounds in glazing and coloring ceramic tiles at its large plant in Dallas. Evidence showed that Dal-Tile's ceramic tile process produced waste sludge with high concentrations of lead which can cause serious health effects, including damage to the central nervous system. Although laws require that heavy metals, like lead, must be disposed of in an approved hazardous waste disposal facility, and even after Dal-Tile employees warned Brittingham and LoMonaco that the sludge was toxic and being disposed of illegally, Brittingham and LoMonaco ordered that the toxic sludge be dumped in a gravel pit in the Dallas suburb of Seagonville.

U.S. v. Walter M. Caldwell, III (W.D. La.): The owner of a Louisiana truck stop, who cleared approximately twenty-five acres of wetlands, filled several acres, and dug a ditch across his property to drain the wetlands behind his place of business without a U.S. Army Corps of Engineers' CWA § 404 permit, was sentenced for his violation of the CWA. On June 30, 1993, Walter M. Caldwell, III, was sentenced to three years of probation, to pay $6,500 for the costs of his supervision and a fine of $5,000, and to restore the property to its original condition in compliance with a restoration plan agreed to with EPA. Caldwell had pled guilty on April 21, 1993, to a CWA misdemeanor charge. Caldwell's 103 Truck Stop is located along Interstate 20, near West Monroe, Louisiana.

U.S. v. Darrell W. Caster (D. Mt.): The president of a precious metals plating business was convicted and sentenced for the illegal disposal of hazardous waste, namely mixtures of acids and heavy metals, into a large, unpermitted underground tank located on the business premises near Bonner, Montana. On February 2, 1993, Darrell W. Caster was sentenced to six months of home incarceration, three years of probation, $8,000 in restitution, and 100 hours of community service. On December 1, 1992, Caster pled guilty to one count of unpermitted disposal of hazardous waste in violation of RCRA.

U.S. v. Craven, et al. (W.D. TX): A criminal case involving a contract laboratory for EPA has a mistrial in U.S. District Court, an appeal on double jeopardy grounds, and affirmation by the Fifth Circuit Court of Appeals for a new trial. On September 22, 1992, Craven Laboratories, Inc., (Craven Labs) Don Craven, Donald Hamerly, Dale Harris and E. Stanley Peterson were indicted and charged with 20 felony counts in connection with pesticide residue analysis testing. The charges filed against the defendants included violations of 18 U.S.C §1001 (false statements to the government), 18 U.S.C. §371 (conspiracy), 18 U.S.C. §1341 (mail fraud), and 18 U.S.C. §1505 (obstructing agency proceedings).

The case proceeded to trial on February 1, 1993. Four defendants (Craven Labs, Craven, Hamerly and Harris) moved for a mistrial after learning that one of the Government's witnesses had spoken to a juror, and had discussed being nervous about testifying. Peterson objected to the mistrial, and indicated that he was ready to proceed with the case with the jury that was sitting. After the court granted the defense motion for a mistrial for all defendants, all five defendants moved to acquit or dismiss the Indictment, claiming that the mistrial was the result of bad faith or Government misconduct. The court ruled that the mistrial was not the result of any bad faith on the part of the Government, and denied the defense motions.

The defendants then filed Motions for Acquittal and/or Motions for Dismissal of the Indictment, claiming that jeopardy will attach if the defendants were retried. When these motions were denied, the defendants appealed to the Fifth Circuit. On September 9, 1993, the Fifth Circuit affirmed the judgment of the district court, and sent the case back to the district court for retrial. To date, twelve individuals have pleaded guilty to charges ranging from FIFRA misdemeanors to conspiracy. The case is scheduled to be re-tried on November 29, 1993.

U.S. v. John Hoyt Curtis (D. Alaska, aff'd 9th Cir.): On March 8, 1993, the Ninth Circuit Court of Appeals affirmed the defendant's conviction, holding that individual employees of the federal government, acting within the course and scope of their employment, are subject to criminal prosecution for violations of the CWA. On June 7, 1993, a petition for a writ of certiorari was filed with the Supreme Court.

John Hoyt Curtis, a civilian, federal employee of the U.S. Navy, was the Fuels Division Director

for the Naval Air Station at Adak, Alaska during late 1988 and early 1989. On March 18, 1992, he was found guilty by a jury of unpermitted discharges of jet fuel that he repeatedly ordered to be pumped through a pipeline that he knew was leaking, thus causing hundreds of thousands of gallons of fuel to spill into Sweeper Cove, an inlet of the Bering Sea. On May 26, 1992, he was sentenced to ten months of incarceration. On appeal, the Court of Appeals held that Mr. Curtis as a federal employee is a "person" covered by the CWA, and that he is not entitled to federal sovereign immunity.

U.S. v. Gale E. Dean (E.D. Tenn., aff'd, 6th Cir., cert. denied): A conviction and sentence to 40 months imprisonment were, in effect, upheld on April 19, 1993, when a petition for a writ of certiorari was denied by the Supreme Court, finally concluding this case. On July 8, 1992, the Sixth Circuit Court of Appeals had affirmed Gale E. Dean's conviction, holding that knowledge of a permit requirement is not an element of the crime of knowingly treating, destroying, or disposing of hazardous waste without a permit, and that an employee of the owner or operator of a facility could be held criminally liable for storing and disposing of hazardous wastes without a permit, even though only owners and operators are required to obtain permits. In August 1991, he had been sentenced to 40 months imprisonment after being convicted of discharging chromic acid rinse water and wastewater sludges into an open lagoon in violation of RCRA.

U.S. v. David Dellinger, et al. (D. R.I.): A scrap hauler, who during rush hour let PCBs spray from his truck onto Interstate 95 near Providence, R.I., received the longest prison term yet awarded to a federal environmental defendant in New England. On September 15, 1993, David Dellinger was sentenced to 27 months of incarceration and ordered that he pay a percentage of his future salary as restitution toward $50,000 in clean-up costs incurred by the City of Cranston, one of the affected sites. On June 25, 1993, Dellinger pled guilty to one count of disposal of PCBs in violation of TSCA and one count of failing to notify the federal government of a release of a hazardous substance in violation of CERCLA.

On January 29, 1993, Giacomo Catucci and David Dellinger were indicted for violations of TSCA for the illegal disposal of PCBs in violation of federal law.

Catucci hired Dellinger to remove PCB-filled transformers from his mill in Providence. Dellinger let the oil spray on the highway, drained more PCBs onto and along a side road, stripped the copper wire, and abandoned the casings in the woods and at an isolated sandpit in Coventry, R.I. Catucci went to trial, and on October 22, 1993, he was convicted by a jury of two counts of violating TSCA and two counts of violating CERCLA. Sentencing is pending.

U.S. v. William "Dave" Denison and James Gary White (S.D. TX): A "shell game" of moving hazardous waste - just before a scheduled government inspection would find that the waste had been stored in violation of RCRA regulations - has ended in the sentencing of the two culpable individuals. On August 31, 1993, defendant William "Dave" Denison was sentenced to fifteen months incarceration and a $5,000 penalty as a result of his illegal storage of hazardous waste in violation of interim status requirements and the illegal transportation of hazardous waste without a manifest. On September 15, 1993, co-defendant James Gary White was sentenced to six months of home detention, two years of probation, and 200 hours of community service; no fine was imposed because of his poor financial status. On June 1, 1993, White and Denison pled guilty to one and to three RCRA violations, respectively.

U.S. v. Dexter Corporation (D. Conn.): Dexter Corporation, a Fortune 500 company and the oldest member of the New York Stock Exchange, pled guilty and entered into a large and innovative global settlement. In addition to payment of a $4 million fine for eight felony violations of CWA and RCRA, Dexter agreed to the payment of civil penalties totaling $9 million for the violations, and to conduct environmental audits at all of its divisional manufacturing facilities across the country. These and other actions resulted in the lifting of EPA's suspension and debarment action which precluded Dexter from obtaining government contracts.

Dexter operates facilities nationwide, and at its Windsor Locks, Connecticut, facility Dexter manufactures specialty paper products used in the production of tea bags, food processing, and disposable medical gowns, and operates a co-

generation facility. Dexter was charged with illegally disposing of carbon disulfide, listed as an acute hazardous waste, at its Canal Bank Road facility in Windsor Locks. Dexter received carbon disulfide in 55 gallon drums. After transferring the chemical from the drums to a storage tank, the drums were then turned over and the residual carbon disulfide was dumped onto the ground. The government also charged Dexter with discharging carbon disulfide into the Connecticut River through an overflow pipe which led from the storage tank to the river. (The settlement was signed on September 3, 1992, but was not reported in OE's 1992 annual report.)

U.S. v. Electrochemical Co., Inc., et al. (M.D. Pa.): Frank Leaman, an electroplater was sentenced to 15 months in prison for illegally disposing of hazardous waste, failing to report a release of a hazardous substance, making false statements, and falsifying documents. This minimum sentence was imposed only because of other disastrous losses his actions brought upon himself, his family, and his company. These include the loss of his company that is in bankruptcy, the loss of more than $100,000 invested by family members in the company, and the loss of his personal residence pledged as collateral for bank loans.

On January 15, 1993, Leaman, of York, Pa. and his company, Electrochemical Co., Inc., were sentenced. The company was engaged extensively in cadmium plating as a DOD subcontractor. The sentences were imposed for (1) failing to notify authorities about an accidental 2,000-gallon spill of spent acids in 1989 and for lying to the Pa. Department of Environmental Resources (DER) about the amount of the spill, (2) pumping the contents of a 750-gallon tank of caustic (pH of 13) parts cleaner into a "groundhog hole" on company property after the City refused to renew the company's pretreatment discharge permit, and (3) submitting false manufacturing and performance certifications to DOD regarding plated parts used in military vehicles.

The company was sentenced to pay a $250,000 fine for violating CWA pretreatment discharge standards in 1989 and 1990. The court suspended $225,000 of the fine if the company or its successor would enter into a written agreement with the DER for cleanup of contaminated areas of company property.

Two company employees were sentenced each to one year of probation, a fine of $1,500, and 100 hours of community service. Russell S. Walker, Jr., a company supervisor, was sentenced for failing to report the spill. Glenn L. Stover, Jr., was sentenced for removing copies of certifications sent to DOD and other documents to prevent them from being seized during execution of a search warrant. The investigation was conducted jointly by EPA, the FBI, DCIS and NIS, with the assistance of the City of York and the Pa. DER.

U.S. v. William B. Ellen (D. Md., aff'd 4th Cir., cert. denied): On October 5, 1992, a petition for a writ of certiorari was denied by the Supreme Court, finally concluding this case. On April 27, 1992, the Fourth Circuit Court of Appeals had affirmed the defendant's conviction, holding that the application to the defendant's prior conduct of the definition of "wetlands" from the 1989 federal wetlands manual did not violate the U.S. Constitution's due process or ex post facto prohibitions, and that under the guidelines of the U.S. Sentencing Commission it was proper to increase the sentence for committing an ongoing offense and for discharging without a permit.

On April 15, 1991, Ellen was sentenced to six months in prison, one year of probation, and 60 hours of community service relating to his conviction for unpermitted filling of 86 acres of wetlands on the Eastern Shore of Maryland. Ellen was the project manager for the property owner, Paul Tudor Jones, II, a top Wall Street financier, who previously had pleaded guilty, paid a substantial fine, and agreed to site restoration.

U.S. v. Environmental Waterway Management, Inc., et al. (S.D. Fla.): Illegal use of the pesticide Direx on aquatic areas, a pesticide not approved by EPA for use there because it is poisonous to aquatic invertebrate organisms (the foundation for the food chain) and also directly causes fish to suffocate, led Environmental Waterway Management, Inc., and its owners, Alan Chesler and Andrew Chesler to sentencing following their guilty pleas. The defendants knew that their use of the pesticide was illegal, and their sentence included the largest criminal fine ever imposed in the U.S. for the unlawful use of pesticides.

On February 17, 1993, the company (having previously pled guilty to five FIFRA and five

felony mail fraud counts) was fined $400,000 and sentenced to five years of probation. Alan Chesler and Andrew Chesler (each having pled guilty to five counts of FIFRA) were each fined $25,000 and sentenced to five years of supervised probation.

Despite the knowledge that application of Direx to waterways was illegal, the defendants regularly so used it because of its effectiveness in destroying certain types of vegetation. In addition to the FIFRA violations, the company used the U.S. mails to solicit and attempt to solicit customers with written contracts which falsely represented that it used only EPA approved products in removing and controlling unwanted aquatic vegetation and algae growth.

U.S. v. Victor Figueroa (D. CT.): On September 13, 1993, two days before trial was to begin, Victor Figueroa, a/k/a Victor Figueroa-Soto, pleaded guilty to disposing of hundreds of unlabeled bags of asbestos in a concealed storage room in a basement on Bartholomew Avenue in Hartford, Connecticut. During his change of plea, Figueroa acknowledged that in the Spring of 1991, he assisted others in removing asbestos from the upper floors of the Hartford building and placing it in a vacant basement storage room. The room was then sealed shut with cinder blocks and mortar and painted to match the surrounding basement walls. His activities resulted in asbestos contamination throughout the building. Ultimately, the building owner retained other asbestos abatement contractors to properly dispose of the asbestos in the basement and decontaminate the building. As part of the plea, the remaining counts against Figueroa and all of the counts against the company have been dismissed.

This case began when an EPA received a tip about a suspicious removal operation and the possible concealment of asbestos. That tip ultimately led the government to obtain a warrant to search the facility and break into the concealed storage room. On July 12, 1991, EPA executed the search warrant using a sledge hammer to break through the cinder block wall. EPA discovered unlabeled bags of asbestos, much of it dry, piled to the ceiling.

U.S. v. Randall Ford (W.D. Mo.): A laboratory employee has been sentenced for violating the CWA by falsifying aquatic toxicology tests. On July 1, 1993, Randall Ford was sentenced to three years of probation, 200 hours of community service, and to pay $15,000 in restitution. Ford was charged with falsifying laboratory data required by the CWA. He submitted reports indicating that he had performed aquatic toxicology tests, although the tests were not performed. His employer, Cargill, Inc., which had not purchased the necessary lab organisms to conduct the tests, suspected the falsification, conducted an internal investigation, reported the situation to EPA, and subsequently terminated Ford's employment.

U.S. v. George Frew and Salvatore Sortino (E.D. Pa.): The discharge of 14 to 20 tons of sewage sludge and related materials into the Delaware River resulted in the sentencing on February 26, 1993, of two individuals, George Frew (the supervisor of maintenance) and Salvatore Sortino (supervisor of operations) each to fifteen months of incarceration, a $1,200 fine, and one year of supervised release, following their conviction at a trial that ended on November 10, 1992. The sentences were deferred pending appeals.

The two managers at the Easton, Pa., wastewater treatment plant, were responsible for an operation in January 1991 that cleaned out a chlorine contact tank at the plant, using inadequate and illegal removal techniques and without sampling. During the cleaning, sludge and related materials were washed through an outfall pipe directly into the river. The incident lasted for six days, and was not reported during that time.

U.S. v. Frontier Chemical Waste Process, Inc.: On September 30, 1993, Frontier Chemical Waste Process, Inc. (FCWP) was sentenced on its plea of guilty to one count of violating RCRA by making a false statement on a hazardous waste manifest. In the plea agreement, Gerry Norton, president of FCWP, represented, among other conditions, that FCWP will no longer be owned, operated, or managed by the same persons and or entities that were operating it on November 17, 1986, when the crime was committed. FCWP was fined $100,000.00, and placed on five years probation. The investigation was conducted by EPA and the FBI.

U.S. v. Gaston Copper Recycling Corporation, et al. (D. S.C.): After shipping 3,000 tons of toxic

fertilizer overseas, several corporate executives and companies pled guilty to violations of RCRA or TSCA, and several have been sentenced. The "fertilizer" was made with baghouse dust, a hazardous waste removed from air pollution control equipment in the United States and toxic for lead and cadmium under RCRA regulations. Between 1,000 and 2,000 tons of this material was applied directly by hand to food crops in Bangladesh. Discovery of the incident resulted in international controversy involving foreign governments, environmental groups, the United States government and the Asian Development Bank. Although some charges are still pending, and any defendant must be presumed innocent until proven or pleading guilty, this case is reported now. The case is a matter of considerable public interest, and it is important to let the world know that a number of the perpetrators have been brought to justice.

On November 1, 1993, Gaston Copper Recycling Corporation (Gaston) and Southwire Company (Southwire) were sentenced. Gaston was ordered to pay $600,000, which the judge said may be used to treat or dispose of the portion of the fertilizer that is still in storage in Bangladesh, and to pay $200,000 to the South Carolina Department of Health and Environmental Control. Southwire was fined $190,000. Both companies were sentenced to two years of probation, ordered to perform environmental assessment studies on their facilities, and ordered to publish in newspapers a formal apology to the people of South Carolina. On December 22, 1992, Gaston and Southwire each pled guilty to eight counts of violating TSCA. Southwire executive Bruce E. Betterton also pled guilty on December 22, 1992, to a single TSCA violation. On November 1, 1993, Betterton was fined $10,000 and sentenced to two years of probation and 100 hours of community service. The three defendants' TSCA violations were for failing to report to EPA the distribution in commerce of a chemical substance or mixture while possessing information that it presents a substantial risk of injury to health or the environment.

On August 17, 1993, Robert D. Weaver pled guilty to two counts of violations of RCRA for illegal transportation without a manifest and illegal export of hazardous waste, and Arthur G. Heinel pled guilty to one count of illegal transportation of hazardous waste without a manifest in violation of RCRA. Their sentencing is pending.

Stoller Chemical Company (Stoller) of Jericho, S.C., was the manufacturer of micro-nutrients used to enhance fertilizer. Weaver was the General Manager of Stoller, and the person responsible for ordering materials for the plant. Heinel is the President and owner of Hy-Tex Marketing, a hazardous waste broker, located in Beaufort, S.C. In return for a $50,000 kick- back from Heimel, Weaver and Heimel caused baghouse dust (with a total lead content as high as thirty-one percent) to be transported without a hazardous waste manifest from Gaston, S.C., to Stoller's Jericho plant. Stoller then mixed this hazardous waste with other material, some of which was another hazardous waste, to produce 3,000 tons of contaminated micro-nutrient fertilizer which was then exported overseas. The export of the new mixture, which was also hazardous waste characteristically toxic for lead and cadmium, occurred without the required consent of the receiving country, Bangladesh. Stoller was indicted in 1992 and is now in bankruptcy.

Southwire is headquartered in Carrollton, Georgia and is the primary stockholder of Gaston, a company that operates a copper recycling plant in Gaston, S.C. Betterton is a corporate executive of Southwire and participated in the management of the baghouse dust generated at the Gaston plant. In September and October of 1991, Gaston generated and shipped baghouse dust to Stoller while having knowledge, including their own material safety data sheet, that the baghouse dust presented a health hazard because it contained high concentrations of lead and cadmium; the dust can be toxic by ingestion and inhalation.

This case involved significant federal, state and local cooperation. EPA was assisted by the South Carolina Department of Health and Environmental Control's Criminal Investigation Division, by the Charleston County, South Carolina, Sheriff's Department, and in Australia and Bangladesh by the U.S. Customs Service that obtained key samples and conducted liaison with foreign governments.

U.S. v. Herman Goldfaden, et al. (N.D. Tex., aff'd, 5th Cir.): In the first federal prosecution filed (in 1990) in the U.S. for enforcement of a city's EPA-approved pretreatment program to

implement the CWA, after the second of two appeals, the individual responsible was sentenced to 33 months of imprisonment. Both the individual and his company, which did not appeal, had pled guilty on October 5, 1990, and his company was sentenced to pay a fine of $1,000,000.

On March 17, 1993, the Fifth Circuit Court of Appeals affirmed the second sentence, 33 months of imprisonment, imposed on July 23, 1992, to Herman Goldfaden. The court held that a four-point offense level increase under the Sentencing Guidelines for disposal without a permit applied to a defendant convicted of unlawful industrial waste discharge, even if he could not have obtained a permit for his conduct due to his use of improper equipment, and that the vacating of defendant's initial sentence did not preclude (at the time of resentencing) offense-level enhancement for obstruction of justice based on perjured testimony given at the original sentencing hearing.

Goldfaden's recent, failed appeal followed his earlier appeal in this case, in which Goldfaden had successfully obtained a ruling by the Fifth Circuit on April 22, 1992, that vacated his first sentence (to three years imprisonment and a $75,000 fine, imposed July 16, 1991) and remanded the case for resentencing or withdrawal of his plea agreement.

Goldfaden pled guilty to one CWA felony for the 1989 unpermitted discharge of industrial wastewater into a private sewer in East Dallas, from which it flowed into a sewer. His former company, Control Disposal Co., Inc., which he controlled, was in the business of cleaning grease and sludge traps and sewer lines. The company pled guilty to the same CWA violation and also a RCRA violation for falsifying documents on a shipment of hazardous waste. The RCRA violation occurred in 1988, when Control Disposal workers hauled waste from the city of University Park. Although city officials told them that the waste was hazardous used paint thinner, mostly methyl chloride, the company misrepresented the waste on federal forms as being hydraulic fluid that can be disposed of more cheaply. The case was investigated in a cooperative effort of EPA, the Water Utilities and the Health and Human Services Departments of the City of Dallas, and the FBI.

In a closely related case, on February 11, 1993, Ronald L. Voda, Sr., owner of Voda Petroleum Company of White Oak, Texas, was sentenced to 60 days of incarceration, 120 days at a halfway house, 400 hours of community service, a $3,000.00 fine, and five years of probation. In 1987, Ronald Voda and his company entered into an agreement with Goldfaden. In return for a payment by Goldfaden of $.10 for each gallon of waste listed on the paperwork regardless of whether or not it came to the Voda Petroleum plant, Voda signed trip tickets and hazardous waste manifests falsely certifying that Voda Petroleum Company received waste. Much of the waste listed on these papers was dumped illegally into sewer systems in the Dallas area by Control Disposal Company.

On February 10, 1989, while executing a search warrant at Voda Petroleum, EPA agents observed a ditch cut through a levee surrounding a process area at the plant. Wastewater was being discharged from this ditch that exceeded limits set for oil and grease in Voda's NPDES permit. Voda's plea agreement with the government allowed him to plead to a CWA misdemeanor in return for his cooperation and testimony in all proceedings involving Control Disposal Company and Herman Goldfaden.

U.S. v. Samuel Gratz (E.D. Pa.): Illegal dumping of chemical wastes into a storm drain leading to the Delaware River, and illegal transport and storage in Philadelphia of extremely hazardous waste (phosgene and sodium cyanide), led to sentencing on January 26, 1993, for a pharmaceutical manufacturer. Samuel Gratz, the former President of Lannett Company, Inc., of Philadelphia, was sentenced to six months of home arrest and three years of probation. He was also ordered to pay a fine of about $210,000, consisting of $10,000 in cash and 10,000 shares of stock (trading at approximately $20 a share) in a company Gratz founded. The judge was more lenient than the Sentencing Guidelines prescribed, based on Gratz's age (he is in his 70's) and poor physical condition. At a trial ending on September 30, 1992, Gratz was found guilty of one count of illegal transportation of hazardous waste to an unpermitted facility, one count of illegal transportation of hazardous waste without a manifest, one count of unpermitted storage of hazardous waste, and one count of unpermitted discharging of pollutants into navigable waters of the United States.

The criminal investigation began after the City of Philadelphia's Fire Department was unable to get Gratz to dispose of the wastes, which to the Fire Department presented a safety hazard. His company also failed to comply with a state court cleanup order. The waste was stored illegally at the Lannett facility in Philadelphia from 1987 to 1991, except for the portion of the waste that Gratz had dumped down a storm drain from 1987 to 1989. Following a hostile corporate takeover in which, as a result of the investigation, Gratz was ousted from management, Lannett Company has disposed of the wastes properly and conducted a soil cleanup at the Philadelphia facility.

U.S. v. Hansen Container Company, et al. (D. Col.): The first sentences for opacity violations of the CAA were imposed against a drum reconditioner and its top officers. The business processed many drums by dumping their liquid hazardous waste onto the ground and then by firing the drums in an incinerator to burn off hazardous-waste residue and paint. The incinerator was operated illegally and caused plumes of black smoke and lead waste to be released into the environment.

The Hansen Container Company, located in Grand Junction, Colorado, reconditioned used 55-gallon drums from industrial and government sources. The company did not have a RCRA permit to treat, store or dispose of hazardous waste. The company's president, Christian E. Hansen, Jr., and its former executive administrative assistant, Michael Bilney, each were sentenced on October 21, 1992, to a one-year sentence composed of 30 days of incarceration, the balance to be served on probation, plus a $10,000 fine. Each had pled guilty to a misdemeanor violation of the CAA for emissions and smoke in excess of permissible limits. The company also pled guilty to violating RCRA by conducting illegal treatment, storage, and disposal activities, and it was fined $250,000.

U.S. v. Hartford Associates (D. Md.): A real estate partnership was sentenced to pay a substantial fine and to grant a conservation easement for violations in Maryland of the wetlands protection requirements of the CWA. Hartford Associates, a Berlin, New Jersey partnership controlled by Joseph Samost and engaged in property development, was sentenced on October 7, 1993, to pay a $100,000 fine and to grant a conservation easement on more than 100 acres of wetlands. The conservation easement will effectively restrict further development of a large portion of the property involved. The partnership pled guilty to one count of negligently discharging excavated fill material without a permit into four acres of wetlands on a large tract of land that the partnership owns near Elkton, Maryland.

U.S. v. Hi-Tek Polymers, Inc. (W.D. Ky.): The illegal discharge of chemical by-products into the Ohio River caused Hi-Tek Polymers, Inc. to plead guilty on November 20, 1992, to violating the Rivers and Harbors Act. In accordance with the plea agreement, Hi-Tek was sentenced to pay a fine of $125,000 and to conduct two EPA-sponsored public educational seminars.

Hi-Tek, located in Louisville, KY, is a wholly owned subsidiary of the French chemical firm Rhone-Poulenc and manufactures industrial coatings, resins, and synthetic chemical compounds. On May 18, 1989, Hi-Tek caused the illegal discharge of refuse material into the Ohio River during an untested manufacturing process that Hi-Tek was undertaking for a new product. The process caused chemical by-products, including N-Butanol and Xylene, to be discharged into the Louisville metropolitan sewer system.

U.S. v. Kingsport Shipping, Inc. (S.D. Tex): Sentencing has occurred in a CWA pollution case in which a vessel burned and five crew members suffered burns and other injuries. The fire occurred during the illegal pumping of hexane, styrene, xylene, toluene, and benzene from the ship into the Houston ship channel. In May 1990, the M/T SETA was housed at the New Park Shipyard. Crew members began pumping the chemicals into the water while a welder was also working on the ship's rudder. When the welder attempted to light his torch, sparks ignited the vapors from the chemicals.

On April 2, 1993, Kingsport Shipping, Inc., owner of the vessel, pled guilty to one count for the negligent discharge of a pollutant without a permit, and agreed to a fine of $85,000. This resolution was acceptable to the government because the two most culpable individuals have fled to their homeland in the former Yugoslavia.

U.S. v. Thomas J. Kowalski, et al. (D. Ohio): Sentences were imposed upon the creators of Pennsylvania's "Marcy Road" Superfund emergency removal site, and $80,000 was ordered paid as restitution to the Superfund. The problem was discovered when barrels of hazardous paint waste turned up along roadsides in Ohio and Pa. during 1991. On August 3, 1993, Thomas J. Kowalski, Harry J. Meininghaus, and MCM Warehouse, Inc., located in Ohio, were sentenced upon their guilty pleas relating to an illegal dumping of hazardous waste, and an illegal asbestos stripping operation at the Ohio warehouse, in violation of CAA and RCRA. Kowalski, manager of MCM, was sentenced to three years of probation. Meininghaus, an MCM foreman who actually disposed of the waste and previously had served a year in Ohio state prison in connection with the disposal in that state, was sentenced to 100 days of federal incarceration and one year of supervised release. MCM was sentenced to pay $80,000 to EPA as restitution and to probation for five years.

A joint EPA and Ohio EPA investigation identified those responsible for the roadside dumping, and the waste was traced to the MCM Warehouse, where agents discovered that an illegal asbestos stripping operation had also been conducted. Meininghaus and two contract workers were also convicted in state courts of Ohio and Pa.

U.S. v. Lake Doctors, Inc., et al. (M.D. Fl.): Another scheme involving illegal use of the herbicides Karmex and Direx in Florida lakes has resulted in heavy sentences for those culpable, which should have a significant deterrent effect on Florida aquatic weed control specialists. The misapplication of these herbicides can be very profitable for applicators and is believed to be widespread in Florida. These powerful herbicides are not registered for application into water, where they can cause considerable environmental harm.

On September 27, 1993, James L. Williams, owner of Lake Doctors, Inc., was sentenced to three months in a halfway house, followed by six months of home detention, and five years of probation, to pay a $20,000 fine, and to perform 750 hours of community service. His company was placed on five years of probation, fined $100,000, and ordered to perform 1,000 hours of community service. Both had pled guilty to use of a pesticide inconsistent with the label in violation of FIFRA, and with fraudulent use of the mails to misrepresent to customers that the application was environmentally sound, in violation of 18 U.S.C. 1341. Company Vice President Albert Semago was sentenced to 30 months of probation, 300 hours of community service, and a $5,000 fine. Ken Savell, manager of the company's Jacksonville office, was sentenced earlier to six months of probation, 50 hours of community service, and a $500 fine suspended upon successful completion of probation. Six company applicators are pending sentencing.

This case was investigated by EPA in conjunction with a multi-agency task force which included the Florida Department of Agriculture, the Florida Fresh Water Fish and Game Commission, and the Broward County Sheriff's Office.

U.S. v. Laska et al., (N.D. Ohio): On April 22, 1993, Michael Laska was sentenced to serve seven months in prison and seven months home detention, and pay a fine of $3,000 as a result of his illegal asbestos renovation project. Laska is the owner of a warehouse in Cleveland, Ohio. Laska hired neighbors to strip the asbestos insulation from the warehouse, but provided no water for their use or training. Laska's plea agreement allows him to remain free while he appeals a pretrial suppression ruling. He will begin his term of imprisonment if he loses his appeal. A co-defendant, Steven Howell, was sentenced to a term of probation.

This investigation was initiated when a confidential informant contacted EPA with information that Laska had hired a crew to strip insulation from his warehouse. When the workers asked whether there was asbestos in the building, Laska informed them that the asbestos wouldn't hurt them, and provided paper masks. No water was ever used during the operation, which lasted approximately six months. EPA, in conjunction with the FBI, began a surveillance and observed Laska dumping asbestos waste in a mall dumpster. EPA then executed a search warrant at the warehouse to obtain documents, samples and measurements. Laska was charged with CAA violations relating to the illegal stripping operation, and with a CERCLA charge for failing to report the release of asbestos in the dumpster. In pretrial motions, Laska challenged the constitutionality of the search warrant, arguing

that the warrant was based on evidence obtained through prior warrantless inspections conducted by the local air agency and EPA. The government won in the trial court, but permitted Laska to appeal the ruling as a part of his plea.

U.S. v. Gary Lewis (D. Mt.): For the illegal burial of thirty-eight drums filled with hazardous waste in a gravel pit in Vaughn, Montana, the president of a construction company was sentenced to five years of probation, including four months of electronically monitored home detention, and $500,000 in restitution to be paid over the course of the five-year probationary period. On March 26, 1993, Gary Lewis, President of Lewis Construction Co., dba Interstate Specialties, Inc., was sentenced upon his plea of guilty to a violation of RCRA. On January 25, 1993, he pled to one count of disposal of hazardous waste at an unpermitted facility.

U.S. v. David Liebman, et al. (D. Conn.): The discovery by hunters of approximately 3.5 tons of asbestos, illegally dumped in a state wildlife management area in Tolland, Connecticut, and in another wooded site nearby, led to the sentencing on July 7, 1993, of the four defendants who participated in the crimes.

David Liebman hired workers to remove asbestos from an old mill in Vernon, Connecticut, owned by his family, that was to be sold to a developer. The asbestos was torn down without any safety precautions and dumped in the woods. Liebman was sentenced to ten months of incarceration, one year of supervised release, and a $3,000 fine, upon his plea of guilty to a violation of CERCLA for not reporting the release. Louis Lavitt, real estate broker to the sale of the mill, was sentenced to five years of probation and a $4,000 fine upon his guilty pleas to a charge of conspiracy to violate the CAA and to a charge of disposal of asbestos in violation of the CAA. The two workers hired by Liebman were also sentenced. William Janiak was sentenced to six months of home detention, 250 hours of community service, and five years of probation, upon his guilty plea to a charge of conspiracy to violate CERCLA. Thomas Janiak was sentenced to five years of probation and 250 hours of community service upon his guilty plea to a charge of conspiracy to violate the CAA.

U.S. v. Long Services Corporation (D. Wa.): The dumping of 2,500-3,000 lbs. of asbestos down the toilets of a public high school led to the sentencing on June 18, 1993, of Long Services Corporation of Seattle, Washington. The company was ordered to pay a fine of $25,000, upon its guilty plea to two counts of violating the Clean Air Act by illegally disposing of asbestos. In July 1989, while Long Services Corporation was under contract to remove asbestos from the Castle Rock, Washington, High School, the company poured large quantities of asbestos and asbestos slurry down the toilets and into the sewer system leading to a publicity owned treatment works (POTW). Following discovery of the illegal disposal, the sewer system had to be cleaned of the asbestos contamination and the contaminated POTW sludge disposed of appropriately.

U.S. v. Louisville Edible Oil Products, Inc. (W.D. Ky.): The illegal removal of asbestos from two facilities undergoing renovation and the release of asbestos to the air led to sentencing of the defendants. Louisville Edible Oil Products, Inc. (LEOP) was sentenced to pay a $350,000 fine, with $50,000 conditioned upon LEOP spending $125,000 on clean up of the asbestos. On January 8, 1993, in addition to LEOP, the other defendants, Presidential, Inc., Raymond Carl Mirrillia, Jr. (a former Vice-President of LEOP), and A. Dean Huff (President of Presidential, Inc., and a former Vice-President of LEOP) were sentenced. The individuals each were sentenced to six months of in-home incarceration, to pay the cost of their electronic monitoring, to two years of probation, and a $2,000 fine. Presidential was sentenced to a $50,000 fine.

This case is significant because of the important, precedential decision handed down in 1991 after LEOP appealed the indictment to the U.S. 6th Circuit Court of Appeals. Because the local air pollution control agency had previously fined LEOP for the asbestos removal, LEOP argued that, because EPA and the local agency worked in concert, EPA's subsequent pursuit of criminal sanctions violated the U.S. Constitution's prohibition against double jeopardy. However, the appellate court ruled that EPA and the local entity represented separate sovereigns, so that EPA's pursuit of criminal sanctions did not constitute double jeopardy, thus leaving EPA free to pursue criminal enforcement despite prior local action. The U.S. Supreme Court declined to review the case. This decision is significant

because it allows EPA to backstop local agencies by seeking federal penalties if necessary.

U.S. v. Donald Manning, et al. (N.D. Cal.): The unpermitted dredging and disposal by a San Francisco boat yard of its dredged spoils into San Francisco Bay led to a two-year prison term for the individual most responsible. The company president knew that he needed a U.S. Army Corps of Engineers permit to dredge the channel to his boat yard in order to bid for U.S. Navy repair work. In addition to a two-year prison sentence, Manning was sentenced to pay a fine of $5,000. James was sentenced to a six-month prison term and a fine of $2,000. The company was sentenced to a $10,000 fine and to three years of probation. A civil consequence of the convictions has been that the boat yard has been placed on the list of facilities ineligible to receive U.S. government contracts.

U.S. v. Dennis Marchuk, et al. (E.D. Pa.): A lawyer-developer was sentenced to two years in prison and a $25,000 fine for violations of the CAA, CERCLA, and TSCA at a Superfund site contaminated with asbestos and PCBs. But the sentencing judge only gave half the permissible sentence enhancements because the site cleanup will involve substantial costs. The court observed that the site had asbestos problems at the time Marchuk acquired it, and that he had spent more than one million dollars removing asbestos from buildings.

Dennis Marchuk, a lawyer and real estate developer (president of Strathaven Realty, Inc.) from Crystal Lake, Illinois, was sentenced for illegally disposing of friable asbestos and improperly storing PCBs at the East 10th St. Superfund site in Marcus Hook, Pa. On July 23, 1993, the sentencing judge concluded that Marchuk was guilty of "ongoing, continuous, or repetitive" releases of hazardous substances. In 1986, Marchuk (or his company) had purchased the Marcus Hook Business and Commerce Center, a 40-acre former FMC manufacturing plant. During 1987 and 1988, Marchuk had contractors Michael Kelly and Robert Tann remove asbestos. Marchuk and his employees used heavy equipment to bury thousands of bags of asbestos on the site. PCB violations were committed when he had transformers drained and then stored the PCB liquid in unmarked drums in various buildings for a number of years. Marchuk also submitted false leases and other financial information to banks financing part of the redevelopment project.

Two of Marchuk's co-defendants were also sentenced. On October 8, 1993, Jeanne Alvarez, Vice-President of Marchuk's real estate company, was sentenced to 36 months of probation and 100 hours of community service upon her guilty plea to three felonies for one violation of CERCLA and two of bank fraud. Robert Tann, a co-owner with Michael Kelly of the demolition contractor that worked on the site, was sentenced to two years of probation and 150 hours of community service for failing to remove all asbestos before demolishing a building. Sentencing of Kelly is pending.

U.S. v. Metro Technology, et al. (N.D. Tex.): Prison sentences were imposed on the businessmen culpable for discharging hazardous wastewater into the public sewers of the City of Irving, Texas. In manufacturing electronic circuit boards, the defendants used acids and heavy metals such as cyanide, lead, copper and nickel. Employees used a temporary "cheater" or by-pass pipe to divert wastes directly to the city sewer instead of sending them to the city's pretreatment system. The scheme was designed to save the expense of operating a waste water treatment system and to evade the conditions imposed by the municipal ordinance prescribing CWA pretreatment requirements. Pursuant to a search warrant, CID surreptitiously monitored the discharge with the use of an automatic sampler. By timing the high concentrations of metals and acids being discharged without treatment, evidence also was obtained which indicated that the "cheater" pipe was removed quickly and the waste was properly treated whenever a city inspection was imminent.

In February 1993, each defendant had pled guilty to one or more CWA violations. On May 7, 1993, John Edward Klein, owner of Klein PC, Inc. a personal computer company, was sentenced to twenty months in federal prison and a year of probation. Klein's company was fined $15,000. Mark Edward Jones, a foremen at Metro Technology, Inc. and the brother of a third defendant, was sentenced a year in prison and a year of probation. On May 28, 1993, defendant Terry Wayne Jones was sentenced to two years of imprisonment, but not fined because of his poor financial status. His company, T.W. Jones & Associates, Inc., formerly Metro Technology, Inc.,

was fined $5,000 and sentenced to five years of probation. Both companies, Klein PC and T.W. Jones, which shared operating premises at the time of their violations, were ordered to publish advertisements in the Water Federation Journal, a trade publication, explaining the nature of their offenses and the punishment received.

U.S. v. Michelle Irene Joint Venture (W.D. Wa.): Plastics dumped at sea are deadly to marine animals that ingest them. On November 8, 1993, in the first criminal prosecution ever to enforce the provisions of an international treaty that prohibits the disposal of plastics at sea, the operators of a large "fish-factory" vessel were sentenced to pay a $150,000 fine over a five-year period, with $50,000 to be paid on the day of sentencing, and to a five-year term of probation. On April 13, 1993, the Michelle Irene Joint Venture, dba Golden Age Fisheries, entered its plea of guilty to a charge of knowing disposal of plastics into the sea in July 1989. At the time of the offense, the Michelle Irene Joint Venture was composed of three Washington-State corporations, namely, Westcod II, Inc., Simonson Enterprises V, Inc., and BTI IV, Inc. These business partners were held subject to the conditions of the five-year term of probation.

The dumping of plastics by American flag vessels was outlawed on December 31, 1988, with the implementation of Annex V of the International Convention for the Prevention of Pollution of Ships, known as the MARPOL Protocol, adopted in accordance with the Act to Prevent Pollution at Sea from Ships. Former crew members provided information to EPA that they had dumped plastics overboard under orders from management while the vessel was at sea beginning in December 1988. The vessel is a 253-foot fish-processor that uses large quantities of plastic bags, liners, straps, and containers. Although the vessel was equipped with a state-of-the-art incinerator capable of burning plastic, a fire shortly after it left port in December 1988 rendered the incinerator virtually inoperable during the time of the dumping at sea.

U.S. v. Montgomery Tank Lines, et al. (N.D. Ind.): Sentences were imposed on those culpable for failure to report the April 1987 release of over 30,000 gallons of hydrochloric acid in Gary, Indiana. The spill created a cloud of acid vapor that forced the evacuation of over 2,000 people, caused over 100 people to receive medical treatment for exposure to the fumes, and caused a nearby freeway to be closed. The spill occurred at a facility owned by a national truck carrier, headquartered in Florida. At the sentencing on March 18, 1993, the judge said that earlier notification would have speeded up the cleanup and helped prevent aggravating the situation. Gordon D. Babbitt, a former Vice President of Montgomery Tank Lines, Inc. (MTL), was sentenced to one year in jail (nine months suspended), a fine of $120,000, and two years of probation. He pleaded guilty to a CERCLA felony charge of failing to promptly report the spill. MTL also pleaded guilty to the CERCLA charge, and was sentenced to pay a fine of $150,000, to reimburse the government for cleanup costs, resolve citizen claims against MTL arising from the spill, and to pay a $4,000 fine to the Gary Indiana Sanitary District. Three other MTL employees pleaded guilty to CWA misdemeanor violations for allowing the acid to enter the sewer system, and were sentenced to fines of $2,500 each, and in one case to a one year term of probation.

The spill occurred at a tank storage facility owned by MTL, and used by the Gary Products Co. The president of Gary Products, William Keagle, who was indicted in 1990 for his failure to immediately report the spill, previously pleaded guilty and was sentenced to probation. The investigation continued and determined that the MTL defendants had tried to hide their knowledge of the spill and even their role in arranging for the acid to be shipped to the facility.

U.S. v. Myers (W.D. Mich.): On July 1, 1993, the U.S. District Court for the Western District of Michigan, sentenced William Myers for violating CERCLA's prohibition against knowingly transporting hazardous waste without an accompanying manifest. Myers was sentenced to one year in prison, and ordered to pay restitution in the amount of $50,000 to the EPA. The restitution was for costs EPA had incurred in disposing of drums of hazardous waste which Myers had paid to be shipped in a trailer from his property in Cassopolis, Michigan, to a parking lot in Ohio, and abandoned. Myers was also sentenced to one year of supervised release after his prison term, and to 416 hours of community service.

Myers is the owner and lessor of property in Cassopolis, Michigan. Myers was also a Trustee of the Town of Cassopolis. A lessee of his property operated a plastics manufacturing business at the site before going out of business and abandoning drums of chemicals, including hazardous wastes, at the property. Myers unsuccessfully attempted to have officials associated with the lessee remove the drums. Failing at that, Myers purchased a trailer and paid a person to load the drums onto the trailer, drive it to the parking lot of a facility in Ohio, at which a former manager of the plastics manufacturer was then employed, and abandon it. Myers did not inform the driver that the drums contained hazardous material, and did not prepare manifests to accompany the wastes. EPA's costs associated with disposing of the waste are approximately $180,000 to date.

U.S. v. Northwest Etch Technology, Inc., et al. (D. Wa.): Sentences were imposed on a photo chemical milling company in Tacoma, Washington and its two top officers, for dumping heavy-metal laden wastewater into a storm drain leading directly to Puget Sound. After the company had been denied an NPDES permit to discharge treated wastewater to the sanitary sewer system by the City of Tacoma, the company made false representations to the City that the company would utilize a new closed loop wastewater recycling system that would generate no wastewater so that it would not need a permit. Surveillance established that the company was in fact discharging its wastewater into its parking lot storm drain before daybreak using a portable PVC pipe apparatus. The investigation determined that approximately 1/2 million gallons of wastewater had been illegally discharged during at least one year. The company is a subcontractor producing precision metal parts for a major contractor with NASA.

On May 21, 1993, Samuel Edward Emery, Chief Chemist for Northwest Etch Technology, Inc., was sentenced to two months of home detention (monitored electronically), two years of probation, and to a fine of $1,000, following his plea on February 25, 1993, of guilty to one count of violating the CWA. On March 29, 1993, company President Carl Leroy Whinery was sentenced to four months of home detention, four years of probation, and a fine of $2,000, following his plea on February 25, 1993 of guilty to CWA violations. Whinery had also pleaded guilty on behalf of the corporation, which was sentenced to five years of probation and fined $25,000.

U.S. v. Orkin Exterminating Co. (W.D. Va.): For committing approximately 300 violations of state and federal pesticide regulations while on probation for prior offenses, and 200 more violations that occurred subsequent to the completion of probation, and by failing to report such violations, a national pest exterminating company was found to have violated the terms of its probation. In 1993, the U.S. government initiated a proceeding to enforce the terms of probation imposed after a 1988 conviction of Orkin for FIFRA violations that resulted in the death from pesticide poisoning of an elderly Virginia couple. On June 1, 1993, the court fined Orkin $35,000 for having violated the terms of its probation. This case sends the message that probation is not a meaningless sanction, and that the probationer will face additional penalties if environmental compliance is not vigorously maintained.

Orkin Exterminating Company was convicted and sentenced in 1988 for violating FIFRA during an application of the fungicide Vikane. The court in 1988 imposed the maximum fine allowed, $500,000, but suspended $150,000 of that amount, required Orkin to perform 2,000 hours of community service, and placed Orkin on two years of probation. Among the conditions of probation was a requirement to obey federal, state, and local laws and to notify the court of any violations, which Orkin thereafter failed to do.

U.S. v. Pacific Aqua Tech Ltd., E.D. Wa.): On September 15, 1992, Gerhard Herman Zimm, Sr., his daughter Brigette Zimm Punch, and Pacific Aqua Tech Limited were charged with conspiracy to violate CERCLA, conspiracy to violate the work practices and operating standards of the Clean Air Act, and with violations of CERCLA. Zimm and the corporation were charged with a knowing endangerment count under CAA. On May 4, 1993, all three defendants entered guilty pleas, as the result of negotiations with the Assistant U.S. Attorney. Brigette Zimm Punch entered a guilty plea to a pre-1990 misdemeanor violation of the Clean Air Act. Gerhard Herman Zimm and the corporation were placed on probation for four of the charges on the following conditions: they must fund a trust annuity having the face value of $1,000,000 twenty years from the date of the

sentencing, naming as beneficiaries the past employees of Pacific Aqua Tech Limited from the date of purchase or possession of the facility by Zimm, with the exception of Zimm, Punch, and anyone related to either of them. The trust is to pay the cost of medical and associated expenses of asbestosis or asbestos-related diseases commencing in 20 years and lasting for the life of the last beneficiary to die or 60 years from the date of sentencing, whichever is the lesser period of time. Zimm and the corporation are also required to adequately contain all asbestos in the corporation's facility and to pay for all Superfund costs in the emergency response action that was taken at the corporation's facility in October 1991.

U.S. v. Pacific NW Terminals, Inc., et al. (D. Wa.): The chief executive officer of a marine terminal company was sentenced to six months of home detention, one year of probation, and a $2,000 fine. After saying that the asbestos removal and disposal regulations was too costly and time consuming, he then directed his employees to remove asbestos from the pipes of his large bulk tank storage facility at the Port of Tacoma, to drop the asbestos to the ground and to abandon it. The asbestos was subsequently cleaned up by Port of Tacoma contractors under the direction of EPA's Superfund..

On March 19, 1993, Pacific NW Terminals, Inc., and Ellis (Ray) Kiser, the company's owner and chief executive officer, were sentenced. The company received a $10,000 fine and was ordered to pay approximately $17,000 in restitution to the Port of Tacoma. On January 8, 1993, Kiser and the company each had pled guilty to a one-count violation of the Clean Air Act. They admitted to the knowing disposal of at least 260 linear feet of dry friable asbestos in a concentration of approximately 75% in violation of the applicable work practices and operational standards, during the period April 1988 to June 1989.

U.S. v. Nobert Pohl (D. NM): In the first environmental criminal case in New Mexico resolved with a guilty plea, Nobert Pohl, the former owner of Service Circuits, Inc., a circuit board manufacturing facility located in Albuquerque, New Mexico, entered a guilty plea on Wednesday, September 22, 1993, to two counts of storage and disposal of hazardous waste without a permit in violation of RCRA, and one count of violating the City of Albuquerque pretreatment ordinance, promulgated pursuant to the CWA. Pohl was indicted on April 7, 1993, by a federal grand jury for these violations as well as the failure to submit quarterly reports to the City as required by the wastewater discharge permit.

Pohl generated hazardous waste at the metal plating facility in Albuquerque from 1985 to 1989. Operations involved the electrolytic plating methods used to introduce the metallic phase onto circuit boards. The process involved dipping boards into acidic solutions containing heavy metals. Solvents were used to clean and dry the boards and printing inks were used for labels. During this time, Pohl stored listed and characteristic hazardous wastes on site. Pohl also improperly discharged lead contaminated wastewater into the City of Albuquerque's sewer system. On several occasions, Pohl received information from the State of New Mexico and City of Albuquerque regarding the proper management of hazardous waste. In 1989, Pohl ceased operations and abandoned the facility. EPA and the State of New Mexico spent hundreds of thousands of dollars removing contaminated soils and 150 containers of hazardous waste from the site to permitted disposal facilities. Pohl's sentencing was scheduled for December 20, 1993.

U.S. v. Puregro Company (S.D. Ca.): A major agricultural pesticide applicator was sentenced to a $100,000 fine, and to pay $3,000 in restitution to the Imperial County Health Department and $16,500 to EPA's Superfund, after one of its former managers ordered the dumping of at least ten truckloads of contaminated soil in a dry arroyo leading to the New River near Calexico, Ca. The manager ordered that cardboard be taped over the company-name signs on the trucks, and he instructed the drivers to take circuitous routes to the dump site. Elevated levels of the pesticides dibromomethane, dichloropropane, and trichloropropane, as well as DDT and cadmium, were detected there. The company completed an EPA-supervised cleanup of the site in July 1992, during which over 100 truckloads of contaminated soil were removed from the site and disposed of properly in a hazardous waste landfill.

On January 14, 1993, Puregro Company, aka Brea Agricultural Services, of Heber, Ca., a subsidiary

of Unocal, pled guilty to one count of knowingly transporting a hazardous waste to an unpermitted facility and was immediately sentenced. The investigation into the former manager's conduct is continuing, and further charges are expected.

U.S. v. William P. Reilly and J. Patrick Dowd (D. Del.): The legal odyssey of persons responsible for the voyage of the Khian Sea reached a turning point on October 4, 1993, with the sentencing of two shipping executives to prison terms for ocean dumping and perjury regarding the events of the vessel's voyage. Although the defendants have filed appeals and the case has not yet been finally concluded as the first successful ocean dumping case, it is a case of national and international interest.

The voyage of the Khian Sea began in 1986 when approximately 15,000 tons of Philadelphia's municipal incinerator ash was shipped on the vessel to an intended disposal location in the Bahamas. However, the ship was refused permission to dispose of the ash there and in various other locations. After seeking to find a disposal location during 1987 without success, the ship returned to the lower Delaware Bay in 1988. From there the ship slipped away against the orders of the Coast Guard, dumped its cargo in the Atlantic and Indian Oceans, and arrived empty in Singapore in November 1988. By that time, the ship had been sold at least once to off-shore companies and its name had been changed.

William P. Reilly and J. Patrick Dowd were executives with or affiliated with several companies which acted, at various times, as the charterer, agent, and owner of the Khian Sea. Their trial in June 1993 featured testimony of three crewmen, including the captain, and a photograph taken by a crew member showing the ash being bulldozed off the side of the ship. Reilly was convicted of one count of ocean dumping, one count of lying to a federal judge,and one count of lying to a federal grand jury over the ash's disappearance. Reilly was sentenced to a total of 37 months of imprisonment, a $7,500 fine, and 36 months of supervised probation. Dowd, convicted on one count of lying to a federal grand jury concerning the disappearance of the ash, was sentenced to a total of five months of imprisonment, five months of home detention, a $20,000 fine, and 36 months of supervised probation.

U.S. v. Root (N.D. Ill): On September 3, 1993, James Carl Root, the Village Administrator of Plymouth, Ohio was sentenced to one year probation and 80 hours of community service for mishandling PCBs. Root had admitted that he stored three PCB transformers for more than a year after the transformers were placed in storage, and that he did not dispose of the transformers pursuant to law.

EPA's Special Agents, working with Ohio EPA, learned that in 1990, a number of PCB transformers had been disposed of illegally which were owned by the Village of Plymouth, Ohio. An investigation determined that at least three of the transformers had been sampled and determined to contain PCBs. Thereafter, the empty transformers were scrapped, but no one admitted knowledge as to who emptied the PCB oil. As a result of the investigation, Mr. Root, the head of the Village government, admitted his mishandling of the transformers, and pleaded guilty.

U.S. v. Stewart Roth (N.D. Ind.): A former wastewater treatment plant superintendent has been sentenced for filing four false monthly operating reports with the Indiana Department of Environmental Management. From December 1986 through October 1987, Superintendent Stewart Roth represented that the treatment plant of the Hammond Sanitary District at Hammond, Indiana, processed several million gallons of waste water, when in reality much of it was discharged to the Grand Calumet River without treatment.

On November 17, 1992, Roth was sentenced to three years of probation, five hundred hours of community service, and a $5,000 fine. On July 13, 1990, Roth had pled guilty to four counts of violating 18 U.S.C. § 1001.

U.S. v. Alfred Benjamin Saroni, III, et al. (E.D. Cal.): The illegal dumping of 25 truckloads of wastewater into storm drains, which empty into the Oakland Estuary and San Francisco Bay, led to the sentencing of the president of a trucking and food company to two years in prison for violating the CWA. On April 23, 1993, defendant Alfred Benjamin Saroni, III, was sentenced after he pleaded guilty to two counts of knowingly discharging industrial wastewater into storm drains in 1991. Saroni also was sentenced to a one-

year period of supervised release upon completion of his prison sentence. Defendant Saroni Sugar and Rice, Inc., pled guilty to one count of negligently discharging pollutants and was sentenced to a $25,000 fine. Separate from the plea agreement, the corporation will pay $50,000 in restitution to the Oakland Police Department and the Alameda County District Attorney's office for environmental law enforcement purposes. Sarman, Inc., which is now defunct, was sentenced to two years probation and no fine.

Saroni is the president of both Saroni Sugar and Rice, Inc., dba Saroni Total Food Ingredients, and of Sarman, Inc., dba A&L Trucking, of Oakland, California. A&L Trucking transported liquid food products in tank trucks to food manufacturers, and then, to accommodate its customers, A&L also removed and transported their wastewater that was too acidic to discharge into local sewer systems. Saroni dumped the waste illegally into the storm drain on the premises of Saroni Sugar and Rice, Inc.

U.S. v. Robert H. Schmidt and Lawrence B. Schmidt (D. Ill.): Caught after taking deceptive actions to escape detection, the two top officials of an electroplater received heavy sentences for serious violations of CWA pretreatment requirements. On September 10, 1993, Robert H. Schmidt, President and owner of Rock Island Plating Works of Rock Island, Illinois, who pled guilty to three environmental felonies, was sentenced to 30 months of incarceration, a fine of $50,000, and two years of probation. His son, Lawrence B. Schmidt, a supervisor at the firm, who also pled guilty to several violations, was sentenced to twenty-four months of incarceration, a fine of $25,000, and two years of probation.

Rock Island Plating is a job-shop electroplater, which discharges into the Rock Island city sewer system. A search warrant was executed at the facility in 1992, and covert monitoring was conducted, which revealed violations of numerous electroplating standards. Witness statements revealed that the Schmidts had routinely ordered inadequately treated plating wastes to be dumped into the sewer. They also directed that monitoring probes installed by the City be removed in order to disguise their discharges. Hazardous electroplating waste was also dumped in back of the facility. Furthermore, Robert Schmidt submitted a certification to the City that contained a forged engineer's certification that the pretreatment system was adequately designed and operated.

U.S. v. Floyd Spraggins, et al. (W.D. Ok.): For disposing of methylene-chloride based paint stripper into a lagoon in violation of RCRA, an aircraft refurbishing company, its president, and its general manager were sentenced on February 3, 1993. This followed their guilty pleas on December 3, 1992, each to the felony of unpermitted disposal of hazardous waste.

Floyd Leon Spraggins is the owner and President of Cimarron Aircraft Corporation, located at the City of El Reno Municipal Airpark in El Reno, Oklahoma. Kenneth Lynn Norris is the general manager of operations for Cimarron at the airpark. Spraggins and Norris directed that the company's hazardous waste, generated from stripping paint from aircraft, be disposed in a lagoon at the airpark. Spraggins was fined $5,000 and sentenced to two years of probation and to four hours per week of community service washing police vehicles. Norris was fined $2,500. The company was sentenced to pay a fine of $100,000, of which $50,000 was suspended in recognition of its compliance and remedial efforts, and if the company completes a term of probation without additional violations.

In re: John W. Steckling: On February 13, 1993, John W. Steckling, an attorney in Clarkston, Michigan, was suspended from the practice of law for 60 days by the Michigan Attorney Disciplinary Board. The suspension stemmed from Steckling's submittal of false analyses to EPA concerning an underground injection well. Steckling's partnership, J & J Investments, was convicted for the falsifications on August 27, 1990.

Steckling and his partnership owned and operated a laundromat. Waste laundry water is disposed of through a permitted underground injection well. J & J was required to send in periodic lab analyses of the wastewater. Steckling paid for the first required analysis, and submitted the report to EPA. Thereafter, Steckling failed to obtain any more analyses. Instead, from 1987 through 1989, Steckling directed his secretary to change the date and report number on the original analysis, and to submit the doctored report to EPA. J & J Investments was charged with providing false

statements under the Safe Drinking Water Act, and was assessed a fine. The U.S. Attorney then brought Steckling's actions to the attention of the Attorney Disciplinary Board.

U.S. v. Leroy Stern (W.D. La.): The false labeling of unregistered pesticides resulted in conviction and sentencing. Leroy Stern owns and operates Stern Chemtech, Inc., of Monroe, Louisiana, that manufactures, packages, sells, and distributes commercial cleaning supplies and various pesticide products. From December 1988 through April 1992, Stern manufactured and sold pesticides that were not registered with EPA. Stern purchased legally registered pesticide products from various companies and ordered the company chemist to copy formulas off the labels of these legal products. The chemist formulated the pesticides, which Stern packaged and sold under a false FIFRA subregistration number. Stern filed annual reports with EPA for the years 1989-92 that falsely stated that the company had not produced pesticide products when, in fact, the company had produced and sold large quantities of these products.

On December 8, 1992, Leroy Stern pleaded guilty to a FIFRA misdemeanor charge for the sales of unregistered pesticides, and Stern Chemtech pleaded guilty to one count of submitting false pesticide reports to EPA in violation of 18 U.S.C. §1001. On March 17, 1993, Stern Chemtech was fined $500,000; however, the court suspended approximately $455,000 based upon actual payment of $45,000 in fines and the costs of investigation and prosecution, and contingent upon the successful completion of probation and the payment of the costs of supervision. Leroy Stern was sentenced to five years of probation and was ordered to pay the costs of his supervision.

U.S. v. Michael Strandquist (D. Md., aff'd 4th Cir.); On May 13, 1993, the Fourth Circuit Court of Appeals affirmed the defendant's conviction and sentence in a water pollution case, upholding the decision of the trial court in all respects.

In November 1991, Michael Strandquist was convicted of violating the CWA by pumping raw sewage into a storm grate at the boat basin of Halle Marina, Inc., of which he was the general manager, in Chesapeake Beach, Maryland. In February 1992, he was sentenced to six months in prison, six months of home detention, and one year of probation. He appealed his conviction, asserting that the government did not present sufficient evidence proving that the discharge reached navigable waters of the United States, although he admitted that he pumped raw sewage into a storm grate, raw sewage was found emerging out of a pipe into navigable waters, and red dye, poured into the storm grate, flowed out of the same pipe into the waters. He appealed his sentence on four grounds, one of which was that the sentencing judge improperly increased his sentence without specific proof of environmental contamination.

The appellate court affirmed his conviction and sentencing in all respects. As to the points mentioned, the court ruled that the evidence presented and the reasonable inferences arising from it support both the conviction based on conclusion that sewage discharged by the defendant in fact reached navigable waters, and also the increased sentence based on the inevitable occurrence of environmental contamination as the sewage reached the waters.

U.S. v. Richard E. Strom (D. Wy.): The pesticide poisoning of bald eagles led to the sentencing of a rancher to two years of probation and a $10,000 fine on February 24, 1993. Dick Strom, operator of a sheep ranch near Laramie, Wyoming, unlawfully distributed and misused pesticides to kill coyotes and other predators. He illegally laced sheep-bait carcasses with thallium sulfate, sodium cyanide, and a chemical named "compound 1080," which resulted in the deaths of bald eagles. He unlawfully distributed pesticides by selling them to others while not being a registered dealer. On November 20, 1992, he pled guilty to five counts of violating FIFRA. This case is one of several that developed from an undercover investigation of the U.S. Fish and Wildlife Service, in cooperation with EPA.

U.S. v. Weaver Electric Company, et al. (D. Col.): Several individuals received heavy sentences for the illegal disposal of PCBs at several locations in Colorado, and a company was ordered to pay a fine of $200,000 and to spend at least $300,000 more for environmental remediation at two company facilities in Denver. On January 11, 1993, Michael Slusser, who was hired by Weaver to dispose of the PCBs, was sentenced to one year in prison and one year of probation. On December 21, 1992, Weaver Electric Company, which is engaged

in the business of restoring old transformers and other electrical equipment for resale, was sentenced as stated above. Clayton Regier, Weaver plant foreman, and Bud Rupe, another employee, each were sentenced to five months in prison, one year of probation (including five months of electronically monitored home detention), and to pay $5,000 in restitution to the Superfund for PCB clean ups. Sentencing is pending for another individual, and indictment is pending for three other individuals.

U.S. v. Michael Weitzenhoff and Thomas Mariani (D. Ha., aff'd 9th Cir.): On August 3, 1993, the Ninth Circuit Court of Appeals affirmed the defendants' convictions and sentences in a water pollution case, upholding the decision of the trial court in all respects.

On October 2, 1991, Michael Weitzenhoff and Thomas Mariani were convicted of illegally discharging millions of gallons of sewage sludge into the waters off Hawaii. Weitzenhoff was the former plant manager, and Mariani was the former assistant manager, of the municipal Hawaii Kai Wastewater Treatment Plant, which they operated under contract as employees of Metcalf and Eddy Pacific, Inc. On numerous occasions during 1988 and 1989, operating at night to avoid detection, they bypassed the treatment facilities to dispose of the sludge. On February 4, 1992, they were sentenced respectively to twenty-one and thirty-three months of incarceration. They appealed, but the appellate court affirmed the convictions and sentences in all respects. The court held that (1) criminal sanctions are to be imposed on individuals who knowingly engage in conduct that results in a permit violation, regardless of whether the polluter is cognizant of the requirements or even the existence of the permit, (2) the trial court's admission of expert testimony on contested issues of law in lieu of instructing the jury was manifestly erroneous; however, the error was harmless because, under a proper interpretation of the permit, the discharges admitted to by the defendants necessarily violated the permit, (3) the NPDES permit provision that the permittee may allow a bypass to occur if it was for essential maintenance to ensure efficient operation, was not unconstitutionally vague, and the permit's terms have an established meaning within the context of the EPA's regulatory scheme, (4) the prosecutor's repeated raising of the repugnant and harmful effects of the discharge was not unfair, in part because the defendants attempted to portray the discharges as a responsible tactic to forestalling environmental disaster, thus putting the safety of the public at issue, and (5) the judge's upward adjustment of the sentence of a defendant who perjured himself was warranted by the record and did not unconstitutionally interfere with the defendant's right to testify.

U.S. v. Clayton Williams (S.D. Tex.); An environmental consultant, who shipped hazardous waste without a manifest from Tennessee to storage in a mini-warehouse (an unpermitted facility) in Houston, Texas, on February 9, 1993, was found guilty by a jury of violating RCRA. He had been involved in a scheme to reduce PCBs in used oil to less than 2 ppm using a machine developed pursuant to an EPA permit. The machine traveled the Midwest treating used oil and accumulating hazardous waste in the process, which was then shipped home to Houston.

On April 30, 1993, Clayton Williams was sentenced to six months of home confinement and two years of probation. Although he will not pay a fine due to his poor financial condition and the state of his and his wife's health, he has appealed his sentence. His co-defendant, Dr. Harold Rockaway, who pled guilty, was in poor health and on May 3, 1993, died before sentence was imposed.

U.S. v. Gerald Wright (E.D. Ok., aff'd, 10th Cir.): In an important decision that upholds the authority of ongoing federal enforcement of the Safe Drinking Water Act, despite delegation of the program to a state health department, on March 15, 1993, the Tenth Circuit Court of Appeals affirmed the conviction of a public water system superintendent and manager. It held that the filing of false SDWA data with a state or county remains a matter within the jurisdiction of the EPA, that a grant to a state of primary SDWA enforcement authority is not a grant of exclusive authority, that EPA retains its authority to federally enforce the SDWA and its regulations, and that the defendant's lack of actual knowledge of the federal-state-county regulatory relationship is immaterial.

Gerald Wright is a former superintendent and manager of a public water supply system, the

Sequoyah County Utility Service Authority, that operates the water treatment plant at Lake Tenkiller, Oklahoma. In March 1992, Wright pled guilty to three counts of violating 18 U.S.C. 1001 by filing with a county health department monthly operational reports containing false turbidity data as to the contents of the drinking water. In April 1992, he was sentenced to twelve months of probation.

But he reserved the right to appeal his federal conviction for submitting false reports through the county health department to the Oklahoma State Department of Health, on the basis that he did not know that a federal agency had jurisdiction over the false reports that he submitted to the county. He also asserted that false statements submitted to the county department of health are not a matter within the jurisdiction of an agency or department of the United States if the SDWA program has been fully delegated by EPA to state and county officials. He contended that by delegating the program, as allowed by federal regulations, the federal government lost enforcement authority under the SDWA.

State Enforcement Actions

Alaska

State of Alaska v. Stewart Smith, (Anchorage District Court): Stewart Smith, a real estate broker and owner of an auto repair and towing shop, pleaded no contest to seven misdemeanor violations of Alaska oil pollution and hazardous waste laws. Facts brought out at the sentencing hearing were that in the spring of 1992, Smith directed an employee to illegally dump approximately 12 barrels of contaminated waste oil at two sites. Four barrels leaked at one site causing over $18,000 in cleanup and site remediation costs. Smith also pleaded no contest to the charge of illegal management of hazardous waste at his auto repair shop.

The case was significant for the several reasons. It was the first State environmental criminal case involving actual jail time for the defendant. It was the first time in the state that "Crimestoppers" was used to publicize the problem of illegal dumping and provide a means for the public to report suspected environmental crimes. It was the first time a business owner was convicted of environmental crimes for directing an employee to commit the actual dumping in a failed attempt to insulate himself from criminal liability. Finally, at the prosecutor's suggestion, the court imposed probation requirements involving both environmental education for the auto shop industry regarding the proper handling of waste oil and contaminants, and hands-on cleanup of the environment.

Colorado

State of Colorado v. CONOCO (Denver, CO): In coordinated multi-media State and EPA actions, Colorado Department of Health's NPDES and RCRA programs took enforcement actions against Conoco to clean up seeps to Sand Creek. The State ordered injunctive relief and collected an NPDES penalty of $200,000. In a related citizen's CWA suit, the Sierra Club settled with Conoco for $280,000 per year for five years for a Supplemental Environmental Project along Sand Creek. EPA supported these settlements as recovering Conoco's economic benefit ($200,000 cash penalty to CDH) and appropriate gravity in the SEP negotiated by the Sierra Club.

Coors Brewing Company (Golden, CO): A compliance order assessing a $1,050,000 fine was issued by the State of Colorado to Coors Brewing Company (CBC) on July 21, 1993, citing violations of the State SIP resulting from under-reported emissions of VOCs from the brewing and packaging of beer. VOCs are known precursors in the formation of ozone and the Coors brewery is located within the Denver ozone non-attainment area. The emission of VOCs from CBC is estimated to exceed 1,000 tons per year, making this a major source of VOC emissions and subject to non-attainment area new source review permitting requirements. This case is of national interest because the actual emissions from the facility are substantially higher than previously assumed by regulatory agencies and is likely to result in the fact that many large breweries across the country are major, rather than minor, sources of VOCs. This is very significant for such sources that are located in ozone non-attainment areas, as many older breweries are, as well as for PSD permitting in attainment areas. EPA is considering a national brewery enforcement initiative as a result.

Delaware

AA Waste Oil Service: On August 19, 1993, Paul Levers, owner, and Jay Morris, employee, of the AA Waste Oil Service were convicted of criminal charges (D. De.) for discharge of a pollutant into the waters of the U.S. without a permit. Each defendant was sentenced to one year in prison and one year probation for the violation. In addition, Levers will be required to perform 200 hours of community service, and Morris, 100 hours. This is a case of "midnight dumping" that occurred in broad daylight. Levers directed employee Jay Morris to discharge oily water from an AA Waste Oil Vehicle into a drain of a wash bay at the Harrington Car Wash. The discharge occurred when Morris pretended to wash the vehicle, but was actually discharging the oily waste water from heating oil tanks that had been collected by AA Waste Oil. AA customers paid up to $1.00 per gallon to have the water removed from their underground heating oil tanks. Levers directed the discharge of the water so that AA Waste Oil would not have to pay $0.50 per gallon to a certified company to dispose of the waste water properly. The oily water discharge was traced from the drain of the car wash to a storm water ditch from where it eventually empties into the Delaware Bay. Both State and EPA attorneys and enforcement agents worked together on the investigation and prosecution of the case.

Florida

Smurfit Industries, Inc. d/big Austill Packaging v. State Department of Environmental Regulation (Fla. 1st Dist. Ct. App.): This is a case involving postjudgment proceedings to enforce payment of stipulated penalties in a consent final judgment against Smurfit Industries, Inc., a Delaware corporation. The Austill Packaging Plant in Jacksonville is a subsidiary of Smurfit. Air Pollution Rules promulgated by the Florida and the City of Jacksonville required Smurfit to install and operate emission control equipment to reduce VOC emissions at the Austill plant in Jacksonville by no later than the end of 1982. Smurfit did not comply with the rules, and installed no pollution control equipment. In 1983, the FDER with the City of Jacksonville as co-plaintiff sued in circuit court for enforcement of the rules and for civil penalties. EPA filed its own administrative proceeding against Smurfit. The parties agreed to a settlement in the early part of 1985. EPA, though not a party to the state lawsuit, signed the Stipulation. Smurfit was required to show compliance with the laws and rules regulating air pollution by the end of 1985. Smurfit "sold" the Austill plant to Austill Packaging Company on October 1, 1985. In 1987, the FDER along with the City of Jacksonville filed a Motion for Penalties, alleging Smurfit had violated the consent final judgment by failing to pay the stipulated penalties. The circuit court rejected Smurfit's defenses, and enforced the stipulated penalties provision by awarding the face amount of the stipulated penalties. The circuit court entered its Order Enforcing Final Judgment and Adjudging Penalties on June 13, 1991.

Smurfit appealed the decision, challenging the trial court's interpretation of relevant provisions of the consent final judgment and the existence of competent substantial evidence to support the decision. A cross-appeal filed by the FDER and the City of Jacksonville challenged the trial court's interpretation of the penalties provision. The penalties provision called for doubling the amount of penalties in the event of non-payment. The appellate opinion filed June 15, 1993, affirmed the lower court decision. The "sale" of the plant did not relieve Smurfit of its obligation to demonstrate compliance and pay the stipulated penalties. The appellate court held there was competent substantial evidence to support the factual findings of the trial court and that the trial court's interpretation of the judgment was not unreasonable. Furthermore, the trial court had discretion to decide whether doubling of penalties was appropriate. Payment in full to the FDER has been made in the amount of $1,661,649.

Department of Environmental Regulation v. Sun Graphic, Inc. (Fla. 17th Cir. Ct.): A consent final judgment was filed September 24, 1993, concerning Sun Graphic's violations of the Florida Department of Environmental Regulation (FDER) rules regulating the emission of VOCs into the atmosphere. This was an action brought under the "Florida Air and Water Pollution Control Act", Chapter 403, Florida Statutes. In September of 1989, Sun Graphic applied to the FDER for permits for its lithographic blanket production facility in Pompano Beach, Florida. Through this action the FDER learned Sun Graphic had been operating the facility without air pollution operation permits from the date of its purchase in

1981. It also had constructed several new sources of air pollution without permits. Finally it had been exceeding the allowable standard for discharge of VOC to the atmosphere from its coating mixture since July 1, 1982. Operation of each source without a permit is a violation of the Florida Administrative Code. By failing to utilize reasonably available control technology, Sun Graphic failed to limit discharge of VOC into the atmosphere. By signing a stipulation of settlement, Sun Graphic agreed to pay Florida, $205,000, and add additional collection devises to capture fugitive emissions of VOC at its lithographic facility in Pompano Beach.

City of Vero Beach (Indian River County, FL): On June 17, 1993, a Consent Order between FDER and the City of Vero Beach (respondent), a municipality engaged in the generation end distribution of electric power, was filed allowing the respondent to implement an in-kind project in lieu of a cash payment in settlement of matters arising from violations of the Florida Air and Water Pollution Control Act. The respondent is the owner and operator of a fossil fuel generator-located in Vero Beach, Florida. The facility was visited by DER on April 30, 1992, and May 11, 1992. The recorder for the continuous opacity monitoring system had been removed. Subsequent reports submitted by the respondent failed to mention the downtime of the recorder. In settlement of these matters, Vero Beach chose the in-kind penalty option that consisted of a payment of $71,582.25 to be used in the construction of a wet lab for the Learning Center located in Indian River County. As a result of this project, future generations of citizens will become more environmentally conscious.

DER v. Martin Electronics, Inc. and Roy York, and Rogers Winter (Fla. 3rd Cir. Ct.): A stipulation and consent final judgment signed February 16, 1993, addressed alleged violations of state hazardous waste, industrial waste, and potable water regulations. Martin Electronics, Inc. (MEI) is a Delaware corporation authorized to do business in Florida. MEI is the owner of property located in Perry, Florida. MEI manufactures pyrotechnic devices such as fuses, grenades, and flares. This makes the facility a generator of hazardous waste. From December 1991 to December 1992, the Florida Department of Environmental Regulation (FDER) conducted several visits and inspections of the MEI facility. As a result of its investigation, the FDER alleged multiple violations of solid, industrial and hazardous waste management regulations. The alleged violations included, among others, failure to comply with the standards applicable to operators of hazardous waste treatment facilities; positive readings for microbiological contamination; and failure to properly train employees on handling hazardous waste. Violations were also alleged in connection with residues left from the burning of reactive hazardous waste. In settlement of these matters, the MEI agreed to pay $325,000.00 and install a new water plant.

Georgia

Inland Container Corporation: The Inland Container Corporation owns a large pulp and paper mill discharging treated effluent into the Coosa River in Northwest Georgia. As a result of an internal spill, the wastewater system failed resulting in significant NPDES permit violations and a fish kill. The Georgia Environmental Protection Division first issued an emergency order closing the mill. After one week of closure, the wastewater treatment system stabilized and the mill reopened. A final consent order was issued which contained a $600,000 settlement. The disposition of the settlement was $100,000 to the State of Georgia, $250,000 for water pollution source reduction prior to September, 1994, and $250,000 for water pollution source reduction prior to September, 1997. Strict controls were established for expenditure of the source reduction funds.

Packaging Specialties, Inc.: Packaging Specialties, Inc., operates a flexographic printing press facility in Northeast Georgia. The company is a large emitter of volatile organic compounds into the atmosphere. An inspection by the Georgia Environmental Protection Division revealed the company installed and was operating four presses without permits or without pollution control equipment. The State issued a consent order containing a $500,000 settlement to be paid to the State of Georgia. The Company was also ordered to install the necessary pollution control equipment and receive a permit.

Idaho

Safety-Kleen Corporation, Boise and Pocatello,

Idaho: Three consent orders were signed over a four-month period based on inspections performed from 1990 to 1992. A RCRA consent order was signed March 29, 1993, concerning Safety-Kleen's old Boise, Idaho, facility's operation of above-ground storage product and waste tanks without secondary containment. The order provides conditions outlining final clean closure activities at the facility in accordance with 40 CFR 265 standards, submittal and implementation of a Corrective Measures Plan to address cleanup at all of the solid waste management units and areas of concern identified in the RCRA Facility Assessment.

A consent order was signed on June 25, 1993, concerning the release of mineral spirits from an underground storage tank and inadequate implementation of the Contingency Plan at Safety- Kleen's Pocatello, Idaho, facility. The order provides for the removal and partial closure of product and waste underground storage tanks in accordance with Safety-Kleen's operating permit. A penalty of $7,000 was assessed and collected.

On July 30, 1993, a consent order was signed assessing a $3,900 penalty against Safety-Kleen's old Boise facility for five violations of the generator and land disposal restriction requirements. The order also provides for resolution of the violations.

Maryland

Kanasco: A multi-media complaint and order was issued seeking an administrative penalty of $25,000. The complaint alleged violations of air pollution, water pollution, and hazardous waste regulations. Kanasco appealed this order and the penalty to the State Office of Administrative Hearings. After a hearing held in April, 1993, the Administrative Law Judge imposed the full penalty sought by Maryland Department of the Environment (MDE).

Kanasco Ltd. is a pharmaceutical manufacturing firm which employed about 20 people during the period in which the violations occurred. Violations occurred at the company plant located in Anne Arundel County. Synthetic penicillins were manufactured at the site. In the water pollution area, the company failed to report the discharge of wastewater subject to the categorical pretreatment standards. These wastewater were transported to the Aberdeen WWTP on three occasions. Air pollution violations included failure to comply with terms of the permit-to-operate, i.e., the company failed to perform vapor detection surveys as required. The company also caused nuisance odors which traveled beyond their property lines on three occasions. In the hazardous waste area, the company failed to comply with the storage requirements for generators of hazardous waste, by not maintaining overfilling controls on a hazardous waste storage tank. The company also failed to minimize the release of hazardous waste constituents, i.e., wastewater contaminated with hazardous constituents was discharged to the Anne Arundel County sanitary sewer system on two occasions.

Eastern Stainless: MDE entered into a multi-media judicial consent judgment with Eastern Stainless Corporation of Baltimore, MD. This action resolved certain NPDES, hazardous waste and air pollution violations addressed in the civil complaint filed on November 27, 1991, and imposed numerous obligations on Eastern Stainless to achieve and maintain compliance with the State's environmental laws. The consent judgment requires Eastern Stainless to implement various corrective actions regarding NPDES, hazardous waste, air pollution, groundwater remediation, stormwater management, wastewater reduction, effluent toxicity, solid waste reduction and recycling issues. In addition, the Department assessed a civil penalty of $1,000,000, to which a maximum penalty credit of $702,000 was applied for various supplemental pollution prevention control measures. The company's total payable penalty was $325,450. The company agreed to expend a minimum of $1,247,000 for pollution prevention projects which include improvements to air pollution control equipment, asbestos removal, acid piping replacement, solvent reduction, process water reuse and sludge recycling. The judgment also provided for stipulated penalties in the event Eastern Stainless fails to comply with any effluent limitation or any reporting requirement of the judgment.

Alford Packaging, Inc.: In the first criminal action brought by Maryland for violations of air pollution regulations, Alford Packaging, Inc. was charged with various criminal violations. The

company pleaded guilty in court in August of 1993 to four counts of violation of the air pollution regulations of Maryland. In the guilty plea, the company agreed to pay a $100,000 penalty and to a probationary period of two years. An administrative case was also pursued for the violations and a penalty of $25,000 was agreed to by the company in September of 1993.

The company is a rotogravure printing company located in Baltimore City, which is in a severe ozone non-attainment area. Maryland regulations for the control of air pollution for this type of facility require a 65% reduction of VOC emissions from sources with VOC emissions exceeding 550 pounds daily. Alford's emissions exceed this 550 pound level, therefore, they are required to reduce emissions by 65%. Alford reduces VOC emissions by ducting fumes from their printing lines into two afterburners.

A copy of an internal company memo was anonymously received by MDE in the fall of 1992. The memo indicated that the company was aware of some problems with its air pollution control system that would cause violations of Maryland air pollution regulations. A subsequent inspection of the plant by MDE established that an insufficient amount of fumes from the printing lines were being ducted to the afterburners. This resulted in less than the required 65% reduction being achieved. Based on this inspection and data about the Company's emissions, a criminal case was pursued in the Circuit Court for Baltimore City. The violations were corrected in the spring of 1993, after the company became aware of the MDE investigation.

Montana

On July 7, 1992, a Montana Department of Agriculture (MDA) inspector observed a FIFRA §18 Lorsban application to wheat for Russian wheat aphid control. No observable drift was noted; however, the inspector soon became ill and took refuge in the landowner's house until the air cleared. The inspector proceeded to a hospital emergency room where she was treated with atropine. The incident was investigated by a second inspector and Lorsban was found on off-target vegetation indicating that drift has occurred. A January 4, 1993 consent order negotiated between the MDA and the applicator included a penalty of $200.

New Jersey

Standard Tank Cleaning Corporation: On June 10, 1993, the Superior Court of New Jersey concluded the penalty phase of the trial of Standard Tank Cleaning Corporation. The court had previously found Standard Tank liable for violating its New Jersey Pollutant Discharge Elimination System (NJPDES) permit and enjoined Standard Tank from discharging in further violation of its permit. The court ordered Standard Tank to pay a $3,960,000 penalty for 157 violations of the effluent limitations in its NJPDES permit and $41,825 for reporting violations during the period of May 1988 to August 1990. The court further found Jane Frank Kresch and Susan Frank personally liable for two of the above-noted violations and penalized them each $500,000 as responsible corporate officials. In addition, the court ordered Standard Tank, Jane Frank Kresch and Susan Frank collectively to pay a penalty of $266,000 for failing to pay a $175,000 administrative penalty assessed by the New Jersey Department of Environmental Protection and Energy (NJDEPE). The NJDEPE also revoked Standard Tank's NJPDES permit based upon these violations and Standard Tank has withdrawn its challenge to the revocation.

Witco Corporation: On February 24, 1993, the U.S. District Court for the District of New Jersey signed a Judicial Consent Order (JCO) between the NJDEPE, Witco Corporation, Perth Amboy and the NJ Public Interest Group (NJPRIG). The JCO settled a citizen suit brought by NJPIRG in which the NJDEPE intervened. Under the terms of the settlement, Witco paid a penalty of $10 million for surface water violations that occurred seven years and agreed to a construction schedule to come into compliance. The $10 million payment was divided, with $7.25 million to the NJDEPE's Clean Water Enforcement Fund for the enforcement and implementation of the Water Pollution Control Act, $2 million to the Environmental Endowment for New Jersey Inc. for environmental improvement projects, $650,000 to the City of Perth Amboy for water resource or pollution abatement projects, and $1,000,000 to the Rarltan Bay Medical Center, located in Perth Amboy, for emergency medical training.

Noble Oil Company, Inc.: Noble Oil Company, located in Tabernacle, N.J, illegally operated a hazardous waste storage and treatment facility. The facility recovered waste oil to be used as a fuel. Since waste oil is regulated as a hazardous waste, the facility operations are subject to NJDEPE's hazardous waste regulations. On January 7, 1993, the Superior Court found Noble liable for numerous hazardous waste violations, and ordered Noble to cease operations at its Tabernacle facility until it obtained all necessary permits, paid a penalty of $250,000 and remediated petroleum hydrocarbon contaminated soil throughout its site. The NJDEPE subsequently revoked Noble's interim authorization to operate a storage and treatment facility, and denied its application for a permit. The facility is currently in Chapter 11 bankruptcy.

Exxon Company, USA - Bay-wear Refinery, Linden, N.J.: On March 31, 1993, NJDEPE executed an ACO with Exxon providing Exxon time to obtain permit modifications for its CO boilers, Wet Gas Scrubber and Sulfur Recovery Units and comply with the N.J. Air Pollution Control Act. The ACO provides startup, shutdown and malfunction allowances for a specified percentage of annual operation time, with stipulated penalties for exceedances of these allowable emissions. Under the ACO, Exxon will conduct modeling to demonstrate non-adverse health effects from allowable particulate emissions, and conduct stack tests every 12 months to demonstrate compliance with allowable particulate emissions. Exxon also agreed to pay a penalty of million, and stipulated penalties for subsequent emission exceedances. Final compliance by Exxon is to be achieved by August 29, 1995.

Chemical Waste Management/SV Farming Mining Facility: As a result of continued clay mining operations, more than 25 acres of freshwater wetlands had been severely damaged in Quinton Township, Gloucester County, in violation of the N.J. Freshwater Wetlands Act. The NJDEPE initiated an enforcement action against Chemical Waste Management, a recent purchaser of the mining business. The NJDEPE, through a collaborative enforcement effort with the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, and with the cooperation of Chemical Waste Management, executed an ACO providing for the restoration of more than 25 acres of freshwater wetlands. Under the order, Chemical Waste Management initiated restoration, including extensive grading and filling and the re-establishment of former hydrological conditions and biological communities. The ACO also provides for the restoration of the previously destroyed swamp pink (Helonias Bullata), an endangered species, and that is also underway. In addition, the restoration of the swamp pink community will be monitored and tracked, contributing to the scientific knowledge base for this endangered species.

New York

Anitec Image Corp.: The Department of Environmental Conservation (the Department), working with the Departments of Law and Health, completed a significant enforcement action involving Anitec Image Corp., a division of International Paper.

Under one order, Anitec will perform a wide array of measures to clean up all underground contamination, reduce toxic chemical air emissions, conduct an environmental compliance audit, and develop accident prevention plans for its Binghamton plant. The company paid a civil penalty of $1,450,000 for past violations of the ECL.

According to the terms of the consent order, Anitec must:

- Hire an independent auditor to conduct a comprehensive environmental audit of the company's compliance with state and federal pollution control laws;

- Fund an on-site environmental monitor to verify compliance with environmental laws and the remedial measures required under the order;

- Carry out measures to identify and significantly reduce sources of air pollution at the plant;

- Develop and implement a Best Management Practices plan to correct past violations and ensure future compliance;

• Complete a comprehensive Environmental Improvement Program to reduce significantly the risk of releases of hazardous wastes or other contaminants to the environment;

• Pay a total of $100,000 to Broome County for the purchase of equipment or other resources needed to improve the county's emergency response capabilities;
• Pay $200,000 to the Health Department to offset costs of future health studies of company employees and nearby residents.

Under a second Order, Anitec is conducting an investigation of the nature and extent of all hazardous waste contamination at the site, and will develop a comprehensive remedial program to cleanup all hazardous waste contamination. This program has an estimated cost of $15 million.

Bristol-Myers Squibb Company: The Department and Bristol-Myers Squibb Company entered into a multimedia enforcement order and a Memorandum of Understanding which promote significant risk reduction and pollution prevention at its facility in the Town of Dewitt (Onondaga County).

The multimedia order provides that Bristol will:

• perform a site assessment consisting of a site characterization study and a groundwater monitoring program. The site assessment requires the complete characterization of site contamination as well as the implementation of appropriate remedial actions;

• implement an approvable air pollution control plan which will include point source testing, source inventory and permitting, air modeling, fugitive emission testing and control and an odor control program; and

• fund a compliance audit of its facility by an independent consultant approved by the Department.

The MOU, which is enforceable as an administrative order on consent, requires:

• an approvable community awareness program, to include a community advisory group;

• an approvable accident prevention planning program;

• an approvable emergency response program which will ensure that local emergency response teams are trained and equipped to respond to incidents at the facility; and
• implementation of a toxic chemical reduction plan which will achieve a 50% reduction of total toxic chemical releases at the facility by the year 2000.

Western New York Nuclear Service Center (West Valley): The Department signed a Federal and State Facility Compliance Agreement "FSFCA" and Addendure for the Western New York Nuclear Service Center ("West Valley"). A FSFCA is the final negotiated document, that, under EPA guidance, resolves RCRA compliance violations at a federal facility. Parties to the FSFCA include US DOE, NYSERDA and EPA Region II. The FSFCA obviates the need for literal compliance with RCRA requirements by setting forth alternative compliance standards. This is the third document the Department has negotiated for West Valley. A correction action order was finalized in January 1992, and work is underway. In February 1993, a memorandum of agreement that will provide up to $250,000 per year to defray DEC's oversight costs was finalized.

North Dakota

Estee Lauder: On November 2, 1990, Decom Resources Inc., transported seven pallets (13,000 lbs.) of off-specification Estee Lauder nail polish from Estee Lauder in Toronto, Canada, to Health Care Incinerators located in Fargo, North Dakota. The off-specification nail polish was a characteristic hazardous waste (D001). Health Care Incinerators (HCI) is not and has never been permitted to receive hazardous waste. EPA, through oversight, encouraged the State to pursue enforcement at the facility. North Dakota settled this major international waste action on March 24, 1993. A $20,000 penalty, of which $15,000 was stipulated, was agreed to.

Oregon

Fuel Processors, Inc., and Wilmer Briggs, (Multnomah County Circuit Court, Oregon): On December 29, 1992, Oregon DEQ assessed Fuel

Processors, Inc., a $548,244 civil penalty for 61 violations of Oregon's hazardous waste and used oil recycling laws, specifically operating a treatment, storage and disposal facility without a permit. Fuel Processors, an Oregon corporation, operates a used oil processing facility in Portland, Oregon. ODEQ discovered the violations during an inspection after receiving numerous complaints. Subsequently, the Multnomah County District Attorney filed a 70-count criminal complaint against Fuel Processors and its owner, Wilmer Briggs, for hazardous waste crimes. On August 5, 1993, the District Attorney's office and ODEQ reached a global settlement with Fuel Processors and Wilmer Briggs in which both the corporation and Briggs agreed to plead no contest to a single hazardous waste misdemeanor. In addition to the criminal charges, the corporation agreed to pay a civil penalty in the amount of $133,000 for the hazardous waste violations; comply with an approved Facility Management Plan; implement an Inventory and Sampling Plan; compile and maintain monthly reports; allow ODEQ access; and to contract and pay for an annual environmental audit. The plea and settlement were entered before the Multnomah County District Court, which will oversee compliance.

Industrial Oils, Inc., **Multnomah County Circuit Court, Oregon**: ODEQ took an enforcement action against another facility owned by Wilmer Briggs. On July 12, 1993, ODEQ issued four Notices of Violation, Department Orders and Assessments of Civil Penalty to Industrial Oils, Inc, for numerous environmental violations at Industrial Oils' used oil processing facility located in Klamath Falls, Oregon. The violations were discovered during a December 8, 1992, joint DEQ\EPA multi-media inspection in which ODEQ discovered violations of the laws governing air pollution, water pollution, hazardous waste management, used oil management, releases of oil or hazardous materials, and on-site sewage disposal. ODEQ assessed civil penalties totaling $171,575. On August 5, 1993, ODEQ and Industrial Oils signed a Consent Order in which Industrial Oils agreed to pay a $63,000 penalty (which the court can reduce to $35,000 at its discretion) and spend a minimum of $108,575 toward cleanup at the facility. Industrial Oils also agreed to comply with strict compliance terms outlined in the order.

Weyerhaeuser Company **(North Bend, Ore.)**: On April 9, 1993, ODEQ entered into a Stipulation and Final Order with Weyerhaeuser Company (Weyco), a Washington corporation, in which Weyco agreed to pay a penalty of $247,738, including $71,738 for economic benefit, for violating the Air Contaminant Discharge Permit issued for operation of its containerboard plant located in North Bend, Oregon. The violations were discovered when Weyco performed a source test and determined that the facility was exceeding the plant site emissions limits for particulate emissions and sulfur dioxide. Weyco agreed to take steps to comply with emissions limitations, limit its production to 1992 levels, install a scrubber, and achieve best available control technology. The Order contains additional civil penalties if Weyco fails to comply with the compliance schedule.

Pennsylvania

City of Reading, PA: This case was resolved with a Consent Decree being filed with the Commonwealth Court. The Reading Sewage Treatment Plant has had mercury seal trickling filters at the plant for years. These filters have leaked over the past fifteen years resulting in an estimated total amount of mercury released at 5 tons. This case has been a major concern of DER due to the transformation of mercury to methyl-mercury and its toxic effects. The plant sits on the Schuylkill River which is a source of drinking water for several cities and towns downstream, including the City of Philadelphia.

This case resulted in four major accomplishments. First, the consent decree requires the City of Reading to have the Academy of Natural Sciences perform a study of the Schuylkill River to determine if river fish have been contaminated by methyl-mercury. Second, the fate of the five tons of released mercury must be determined. Third, the mercury seal filters are required to be replaced with mechanical seal filters. Fourth, DER's policy on the use of mercury seal filters has been changed to prohibit the use of these filters in any Pennsylvania sewage treatment plant.

Industrial Solvents and Chemical Company: In what is considered a model settlement for negotiated PRPs performed cleanups, DER successfully negotiated a Consent Order and Agreement, effective August 11, 1993, with approximately 70 of the over 900 responsible parties to carry out extensive waste

characterization at the Industrial Solvents and Chemical Company (ISCC) site. The ISCC site is a closed solvent recycling facility which was abandoned by its owner in 1990. It is presently the number one site on the Pennsylvania Priority List for Remedial Response. The site has approximately 189 above-ground storage tanks containing various amounts of hazardous materials in liquid, sludge and solid form. In addition, there are approximately 4,266 full or partially full drums, and approximately 2,400 empty drums left on-site. Off-site residential wells used for drinking water have been contaminated. The site poses a substantial risk to public health and the environment.

Pennzoil: The DER issued Pennzoil Products Company an order to plug its abandoned oil/gas wells (approximately 2,000) in one year. Pennzoil appealed the administrative order to the Pennsylvania Environmental Hearing Board. The case was resolved with the entry of a consent adjudication before the Environmental Hearing Board. Pursuant to the consent adjudication, Pennzoil agreed to plug the wells within six years and to reclaim the well sites. As a guarantee of its obligations, Pennzoil posted an enhanced bond of $75,000 contingent upon compliance with the requirements of the consent adjudication. (The statute limits bond liability to $24,000 and guarantees only plugging obligations). Another innovative provision of the consent adjudication was Pennzoil's agreement to pay a stipulated penalty of $8,000 per well for any wells that are not plugged according to schedule.

Wheeling-Pittsburgh Steel Co.: The EPA, The Pennsylvania Department of Environmental Resources and the Natural Resources Defense Council had originally filed a complaint in federal court against Wheeling-Pittsburgh Steel Corporation for five years worth of NPDES permit violations and spill events at the Allenport Plant on the Monongahela River. Wheeling-Pittsburgh promised the Department that it could settle with the agency if the Department would do so outside the Federal suit. The Department withdrew from the Federal suit and Wheeling-Pittsburgh failed to settle. The Department filed a separate complaint before the Pennsylvania Environmental Hearing Board for $2.2 million. Wheeling-Pittsburgh has agreed to settle for $625,000, to pay stipulated penalties at the rates in the federal settlement which will only terminate when the federal settlement does, and to include the DER in all of the correspondence surrounding the Federal decree remediation and improvement programs.

USX: On June 24, 1993, the USX Corporation entered a consent decree addressing violations at USX's Mon Valley Works with the U.S., the Commonwealth of Pennsylvania, Allegeheny County, and the citizens group, Group Against Smog and Pollution (GASP), as a limited intervenor. The decree requires USX to pay a penalty of $1,800,000 divided equally among the three governments. Additionally, USX agreed to reduce its emissions at the Clairton Coke Works and Edgar Thomson Works basic oxygen process shop below applicable limits. Moreover, the decree resolved the status of numerous coke and steel processing units by declaring them shutdown. The processing units were located at USX's Clairton Plant, National Works, Duquesne Works, Homestead Works, and the Saxonburg Sinter Plant.

US AIR et al.: The Pennsylvania Department of Environmental Resources issued two Administrative Orders - one to all of the passenger carriers and the landowner, Allegheny County, and one to all of the cargo carriers, the United States Air Force, the Pennsylvania National Guard and the landowner, Allegheny County to cease the unpermitted discharge of spent deicing fluids from the airport. The two military organizations voluntarily complied and all others appealed from the Orders. The Department, the carriers, and Allegheny county have a settlement whereby the carriers agreed to pay a civil penalty of approximately $60,000, to construct remote deicing pads with collection systems (some are already complete and in use) so that spent fluids may be hauled and treated, and agreed to try alternative materials on the runways, ramps, and taxiways as anti-skid materials. Several exceptions are carved out of the document for compliance with FAA regulations for safety and emergencies. According to the County and the carriers, this is the first airport in the country to take such measures.

South Carolina

Laidlaw Environmental Services of South Carolina: An Administrative Consent Order was signed September 14, 1993, concerning

Laidlaw Environmental Services alleged failure to: properly handle, store, and dispose of hazardous wastes; properly operate and maintain a hazardous waste landfill; properly operate an industrial waste landfill; adequately control for fugitive particulate matter emissions from the site; and fully comply with previously issued orders. Laidlaw was cited in violation of the State's Hazardous Waste Management Regulations, the Industrial Solid Waste Disposal Regulations, and the Air Pollution Control Regulations. Laidlaw agreed to the following: to institute procedures to ensure compliance with all regulations; to submit a plan for state approval to address management of specific and unique wastes handled at the facility; and to pay a penalty in the amount of $1.825 million

Tennessee

Witherspoon Recycling Site, **(Knoxville, Tenn):** On October 7, 1993, the Tennessee Department of Environment & Conservation, Division of Superfund filed a Chancery Order, requesting injunctive relief, in the 12th Judicial District of Davidson County, Tennessee. Respondents named in the order were David A. Witherspoon, Jr. and Jane C. Witherspoon, both individuals, and David Witherspoon, Inc. the corporate entity under which the facility and operation existed, the individual respondents having been owners and operators of the facility since 1974.

The site is located within the Knoxville City limits. Residential areas are located adjacent to the site in all directions. There are six churches and two schools within one mile of the site. Goose Creek, which flows through and off the site property, also flows through Mary Vestal Park, a municipal community playground.

The facility and site, a salvage company in operation since the 1940's, is contaminated by radioactive U-234, heavy metals (lead, mercury), mixed wastes and organic compounds such as polychlorinated biphenyls (PCB). During the years of operation the facility was not licensed or permitted to store, treat or dispose of hazardous waste.

In 1966, the facility came under the State permitting authority of the Division of Radiological Health. Between 1966 and 1985, numerous violations were cited leading to the issuance of a Commissioner Order in 1985. In May of 1990, following non-compliance, a Final Order and an Assessment of Penalty was filed in Chancery Court by the Division of Radiological Health.

In March, 1991, the site was found to "pose or may reasonably be anticipate to pose a danger to public, safety, and environment" and was promulgated to the List of Inactive Hazardous Substance Sites of Tennessee, placing the site under the authority of the Division of Superfund. On April 4, 1991, the State issued an order requiring the site be secured (fenced) and the owners to submit and implement an investigation plan and remedial action plan for the site. By April, 1992, Witherspoon, Inc. declared that it was unable to clean up the site. Since that time, over one million dollars has been spent by the State and the Department of Energy in an effort to assess and remediate the environmental damage. During the time this effort was underway, the respondents allowed additional hazardous wastes to be released in the environment. As recently as August, 1993, the Witherspoon respondents have been responsible for the disposal of contaminated materials on site.

The results of the October 1993 injunctive action was precedent setting in that this was the first judicial action in which Tennessee has taken legal possession of property. In the case of the Witherspoon Site, this action was taken in order to eliminate continuing disposal of contaminated materials and to maintain control of the site while efforts to investigate and remediate the site are underway. The resulting temporary restraining order, prevents the Witherspoon respondents from accessing the property.

Utah

State of Utah v. Geneva Steel Corporation: In the largest out-of- court settlement for violations of the Utah Water Pollution Control Act and the Utah Pollutant Discharge Elimination System Permit for its mill at Orem, Geneva Steel Corporation paid over $750,000 in stipulated penalties between December 1989, and September 1993. These stipulated penalties, for discharging excessive ammonia concentrations, were included in two settlement agreements, signed May 31, 1990, and December 11, 1991. By the end of FY

1993, the facility had finally achieved compliance with its permit limits.

Virginia

Star Enterprises: Administrative Penalty Settlement and Consent Special Order was issued to Star Enterprises, et al, on April 30, 1993, in response to an oil discharge from storage tanks at the Fairfax Terminal. The Order includes an administrative penalty of $2,750,000 and requirements to provide pollution prevention measures at the Fairfax Terminal site. Approximately, 172,000 gallons of petroleum product was discharged from the tank farm over a period of years and resulted in an extensive oil plume, which significantly impacted nearby neighborhoods.

Commonwealth Laboratory: Commonwealth Laboratory is a privately-owned laboratory located in Richmond, VA that tests water, air, and soil samples as required by the CWA, CAA, RCRA, and SARA. Prior to a grand jury hearing for 50 potential indictments for falsification, the Corporation pled guilty as part of a plea bargain agreement to a violation of the Virginia Consumer Protection Act and paid $100,000 to the City of Richmond. The Corporation was alleged to have falsified data by altering test results, reporting tests not performed, falsifying records for data preservation, holding time, and equipment calibration. Subsequently, in a civil action, the Commonwealth Laboratory paid $50,000 to the U.S. Government for allegedly false submittals.

Lawrence J. Levine: Lawrence J. Levine, who was the former manager of Commonwealth Laboratory located in Richmond, VA, pled guilty to a Virginia Consumer Protection violation. Mr. Levine was indicted on 48 counts of submitting false statements to the Virginia Water Control Board and the Virginia Department of Waste Management and pled guilty to three misdemeanors in a plea bargain. The defendant was sentenced to three years in jail and fined $7,500; all but one day in jail was suspended with five years' probation.

Washington

Washington Water Power Company, Spokane, Washington, v Ecology, Pollution Control Hearing Board (PCHB 93-36): In August 1992, Ecology was called to investigate an oil sheen visible on the Spokane River in the downtown Spokane, Washington area. The investigation revealed Washington Water Power Company as the source of the oil. The oil sheen was caused when a diesel hose broke during a fueling operation. Subsequent investigation revealed that Washington Water Power failed to report the spill to authorities as required by state law. An effort was made to contain and clean up the spill. In settlement of the case, Washington Water Power paid $2,000 to Ecology and agreed to spend an additional $15,000 for innovative projects.

Klein Bicycle, Inc., Chehalis, Washington, v. Ecology, (PCHB No. 93-174): In August 1993, Klein Bicycle, Inc., a bicycle manufacturer, was penalized $242,000 under state dangerous waste and water quality laws for illegally discharging wastewater and hazardous waste to the ground. The company was also cited for 15 hazardous waste violations. The violations were observed during two inspections conducted in April and May 1992. The inspections revealed Klein had failed to voluntarily comply with state requirements despite technical assistance from Ecology and repeated efforts by the agency to gain compliance. The resulting penalty and order were appealed but later settled. Included in the settlement agreement is Klein's promise to pay $50,000 toward programs or projects that benefit water quality locally of statewide. A $50,000 credit for innovative actions is also allowed for hazardous waste management improvements. Klein agreed to pay Ecology $40,000. Ecology suspended $50,000 of the original penalty contingent upon Klein's compliance with state hazardous waste and water quality laws during the next three years.

Wyoming

State of Wyoming v. Holly Sugar Corp. (Torrington, WY): Holly Sugar exceeded its NPDES permit limitations for BOD and temperature for a period of six months and nineteen months respectively. As a result, the Wyoming Department of Environmental Quality filed action in court to seek civil penalties and injunctive relief for these violations. On July 14, 1992, Holly Sugar Corp. paid $70,000 in civil penalties and has agreed to an additional $50,000 in stipulated penalties should it have a "significant violation" (40% over its permit

limitation) between then and March 1, 1994. The Company was able to comply with its permit limits during the 1993 campaign. This action, along with the Western Sugar case, is a major step for Wyoming in aggressively addressing noncompliance and seeking penalties for NPDES permit violations.

State of Wyoming v. Western Sugar, (Lovell, WY): Western Sugar exceeded the BOD limitations established in its NPDES permit for a period of six months. As a result, the Wyoming Department of Environmental Quality (WYDEQ) filed action in court to seek civil penalties and injunctive relief for these violations. On June 29, 1992, Western Sugar paid $35,000 in civil penalties and agreed to an additional $100,000 in stipulated penalties should it have a "significant violation" (40% over its permit limitation) before March 1, 1994.

In the Underground Injection Control program, on August 18, 1993, the Wyoming Oil and Gas Conservation Commission issued a final administrative order reflecting an agreement reached with DNR Oil and Gas, Inc. of Denver, Colorado. The order required DNR to pay an administrative penalty of $10,000 for numerous violations including the unauthorized disposal ("injection") of produced water from DNR's oil field operations into three Class II injection wells. These wells are located in the Brush Creek Field in Converse County, Wyoming.

IV. Federal Facilities Enforcement and Federal Activities

Office of Federal Facilities Enforcement

EPA's Federal Facility Enforcement and Compliance Program, managed by the Office of Federal Facilities Enforcement (OFFE), promotes protection of human health and the environment by expeditiously cleaning up and ensuring compliance at federal hazardous and radioactive waste sites. OFFE is establishing a framework that ensures the federal government is accountable to the public for its environmental record. In recognition of the public's vital interests, OFFE will work to further engage the public with the federal sector in the decision making process for management and cleanup of environmental contamination at federal facilities.

In 1993, the Office of Federal Facilities Enforcement (OFFE) continued to ensure federal government compliance with all environmental laws. The federal government manages a vast array of industrial activities at its 27,000 installations. These activities present unique management problems from the standpoint of compliance with federal environmental statutes. Although federal facilities are only a small percentage of the regulated community, many federal installations are larger and more complex than private facilities and often present a greater number of sources of pollution in all media. The federal government is investing significant resources in addressing environmental cleanup and compliance issues at federal facilities.

Superfund Cleanup

At the start of EPA's federal facilities enforcement program, EPA directed its resources largely to the completion of negotiations for CERCLA § 120 interagency agreements. These agreements made up the cornerstone of the enforcement program addressing the 123 final and 20 proposed federal facilities listed on the National Priorities List (NPL). Each agreement contained specific schedules for the study and cleanup of hazardous substances at these facilities.

During FY 1993, six additional federal facility CERCLA interagency agreements (IAGs) were executed. Of the federal facilities listed on the NPL at the end of FY 1993, 110 are now covered by agreements. With the majority of these agreements completed, EPA now concentrates most of its efforts on the their implementation. The number of accomplishments reported by the regions reflects that work has proceeded into the implementation phase. For example, the Regions reported 50 RODs signed in FY 1993. In addition, they have reported 43 remedial design starts, 30 remedial design completions, 23 remedial action starts and 15 remedial action completions.

EPA anticipates that with more work moving through the study and cleanup phase, more issues will arise leading to disputes between EPA and federal agencies. In FY 1993, two major disputes arose under IAGs at George and Mather Air Force Bases that were decided by the Administrator. The disputes presented difficult issues regarding cleanup standards based on California's non-degradation policy. The Administrator's decision resolving these disputes stressed that EPA and the Air Force were to apply the state's policy, and the interpretation of the policy.

Three cases were settled in FY 1993 involving violations of the terms of IAGs at Loring Air Force Base in Maine, Fernald in Ohio, and the West Virginia Ordnance Works Site. The settlement of these cases included over $500,000 in penalties and, in one case, as supplemental environmental project worth $2 million.

In February, OFFE issued an interim report by the Federal Facilities Environmental Restoration Dialogue Committee. The committee is a chartered federal advisory committee and includes forty

representatives of federal agencies, tribal and state governments and associations, and local and national environmental, community, and labor organizations. EPA established the committee in 1992 to develop consensus policy recommendations aimed at improving the federal facilities environmental restoration decision process to ensure that clean-up decisions reflect the priorities and concerns of all stakeholders. The interim report contained committee recommendations concerning: improving the dissemination of federal facility restoration information; improving stakeholder involvement in key restoration decisions with special emphasis on the use of site-specific advisory boards; and improving consultation on federal facility restoration funding decisions and setting priorities in the event of funding shortfalls.

Federal Facility Compliance Act

The Federal Facility Compliance Act (FFCA), amending RCRA, became effective in FY 1993. The law greatly enhances state and EPA enforcement authorities against federal facilities. For example, states and EPA can now assess and collect penalties for violations of RCRA requirements. In addition, EPA now has authority to issue administrative orders against federal facilities for enforcement of RCRA.

During FY 1993, EPA took several significant steps in implementing the FFCA and exercising its new grants of authority. For example, EPA issued hearing procedures for adjudication and appeals to the Administrator for EPA-issued orders against federal agencies. In May, Region IX issued the first RCRA § 3008 complaint and compliance order with penalties to a federal facility following passage of the FFCA. The complaint sought $257,580 in penalties for 27 violations at the U.S. Navy's El Centro, California Naval Air Facility. In June, Region VI negotiated and issued the first RCRA § 7003 order for cleanup response ever issued against a federal agency. The order, involving Reese Air Force Base, near Lubbock, Texas, also included the first RCRA settlement with stipulated penalties since passage of the FFCA.

In FY 1993, EPA took 12 RCRA §3008(a) enforcement actions using the new authority granted by the FFCA. Two cases have been resolved, and the remainder are either being negotiated or invoking the hearing process.

Under the RCRA illegal operator enforcement initiative, EPA charged several federal facilities with a combined total penalty of over $2 million for RCRA violations. Two Department of Defense bases located near San Antonio, Texas, were charged with posing a threat to the city's only source of drinking water. The initiative was an effort to stop operation of hazardous waste activities without required RCRA permits.

Base Closure and Reuse

Pursuant to Congressional mandate, numerous military bases are undergoing realignment or complete closure with the potential for severe economic impacts on the affected local communities. The timely reutilization of these installations is essential if the economic consequences to the community of losing military and civilian jobs is to be minimized. EPA is currently involved at over seventy of these installations.

A plan to mitigate economic dislocation and speed the economic recovery of communities near military bases scheduled for realignment or closure was announced by the Clinton Administration on July 2, 1993. Rapid redevelopment and job creation are top goals of the new initiative. A primary element of the President's plan is a Fast Track Cleanup Program at bases with a high probability of early reuse by the host communities. EPA, DOD, and the states are charged with creating a working

partnership to implement the Fast Track Cleanup Program with the objectives of "quickly identifying clean parcels for early reuse, selecting appropriate leasing parcels where cleanup is underway, and hastening cleanup."

In order for EPA to implement the President's Fast Track Cleanup Program, OFFE developed the Model Accelerated Cleanup Program (MAC) and guidance to execute the MAC. The MAC establishes environmental teams to provide EPA's technical expertise to streamline and accelerate the cleanup of closing and realigning bases. The MAC will be led by a senior project manager who will be empowered to make decisions locally and will rely on EPA expertise, breaking from traditional reliance on contractors for technical assistance. Although the MAC process will result in a more efficient process, EPA's work will be more intense. This intensity, however, will be offset in time savings and ultimately more efficient use of EPA and DOD resources.

Under a very tight time frame, OFFE worked with DOD to develop a BRAC Cleanup Plan (BCP) Guidebook that provides guidance to the BRAC Cleanup Teams (EPA, DOD, state members) for conducting a "bottom up review" of the installation's cleanup program and preparing a comprehensive cleanup plan that is sensitive to the reuse needs of the community and the need for accelerated cleanup. The Base Closure Team also designed a three day BRAC Cleanup Team training course that focuses on teamwork and provides detailed instruction on the conduct of the "bottom up" review and preparation of a BCP.

OFFE produced two conferences on "Military Base Closure: Accelerating Environmental Restoration," in Boston, MA and Austin, TX. The focus of the conferences was to develop methods for accelerating the cleanup process at closing military installations in order to facilitate the reuse of those installations. The conference report prepared by the team received wide distribution and serves as guidance on accelerating cleanup.

Pollution Prevention

On August 3, 1993, President Clinton signed Executive Order 12856, "Federal Compliance with Right-To-Know Laws and Pollution Prevention Requirements." The Executive Order was signed to challenge the Federal government to become a leader in pollution prevention and to be a good neighbor by providing local and State authorities with information concerning the federal government's use of toxic and hazardous chemicals and extremely hazardous substances. OFFE staff assisted the White House in drafting the Executive Order.

The three main elements of the Executive Order are: 1) incorporation of Pollution Prevention into day-to-day operations to "Ensure that all Federal agencies conduct their facility management and acquisition activities so that... the quantity of toxic chemicals entering any waste stream...is reduced as expeditiously as possible through sources reduction ..."; 2) compliance with the Emergency Planning and Community Right-to-know Act (EPCRA) and the Pollution Prevention Act (PPA) to "Require Federal agencies to report in a public manner toxic chemicals entering any waste stream from their facilities ... and to improve local emergency planning, response and accident notification ..."; and 3) federal government support for clean technologies to"Help encourage markets for clean technologies and safe alternatives.."

There are approximately 40 separate requirements in the executive order and almost half of these have a specific deadline set forth in the order. OFFE co-chaired an EPA work group drafting interpretive guidance on implementation of Executive Order 12856, including compliance and inspections for EPCRA and the Toxic Release Inventory. Over 2,000 federal facilities will be subject to full compliance with EPCRA, PPA and other Executive Order requirements such as the development of facility-specific pollution prevention plans by December 1995.

Multimedia Initiative

Federal facilities are a highly visible sector of the regulated community. Their compliance rates in all media have traditionally been lower than those of the private sector. Based on the need to address the environmental problems in the federal sector, EPA endorsed the Federal Facilities Multi-Media Enforcement Initiative for FY 1993/1994.

The goal of the initiative is to improve federal agency compliance and reduce environmental risks from federal facilities through increased use of multi-media inspections; efficient utilization of all available enforcement authorities; and enhanced use of innovative pollution prevention (P2) approaches to solving compliance problems.

Many federal agencies currently use a multi-media approach in their internal auditing and compliance evaluations. Multi-media enforcement provides an opportunity for a comprehensive evaluation of a facility by identifying threats to the environment where pollutants cross through various media. Also, multi-media activities provide for an in-depth opportunity for identifying pollution prevention projects that can be implemented as supplemental or beneficial environmental projects at the facility or throughout similar government branches, agencies, departments, and even the private sector. The emphasis is on projects which take pollution prevention approaches to resolving identified violations.

Federal agencies will benefit from this initiative by clearly defining their environmental compliance status and the risks the facility poses to human health and the environment. It will provide greater efficiencies for installations by eliminating the resource burden of numerous single-media inspections and will serve as an excellent training ground through enhanced EPA technical assistance to federal agency environmental staffs. It will increase the level of environmental awareness of installation employees at all levels, and will help improve federal facilities compliance by providing a comprehensive view of compliance problems and creative opportunities to protect human health and the environment.

In FY 1993, EPA and the states conducted 34 multi-media inspections of federal facilities, exceeding by 33% the minimum number of required inspections under the initiative. EPA and the states project a similar level of effort of multi-media investigations at federal facilities in FY 1994.

Education and Outreach

EPA continued to host the EPA/Federal Agency Environmental Roundtable, where representatives of approximately 50 federal agencies meet monthly to exchange information. At the Roundtable, EPA media experts discuss existing or proposed regulatory approaches affecting compliance by the other federal agencies. The Roundtable also provides a forum for an exchange of technological information between agencies.

In January 1993, to address the specific environmental compliance needs and concerns of civilian federal agencies, which have smaller and generally more nascent environmental programs than the Departments of Energy and Defense, EPA organized the Civilian Federal Agency Task Force. The task force is addressing problems consistently cited by these civilian agencies, including: inadequate training programs; deficient information resources; outdated compliance tracking and recordkeeping system; shortage of trained professionals with sufficient knowledge and expertise in environmental management and compliance; insufficient assistance from EPA on specific agency issues having a national impact; and inadequate communication and coordination and communication among EPA headquarters, EPA regions and other federal agencies. The task force has made recommendations to address these problem areas and will work, during FY 1994, to implement these recommendations.

Office of Federal Activities

The Office of Federal Activities (OFA) is responsible for ensuring federal compliance with the National Environmental Policy Act (NEPA), ensuring that federal agencies conduct their activities in an environmentally sound manner by reviewing environmental impact statements (EISs) under the Environmental Review Program (ERP), and, in regard to Indian lands, developing environmental control capacity through implementation of the Indian multi-media grants program.

The following summarizes key accomplishments by EPA's Office of Federal Activities (OFA) during FY 1993. It is organized according to five major activities for which OFA is the National Program Manager. These include:

Environmental Review Program. OFA reviews environmental impacts of proposed major federal actions as required by the National Environmental Policy Act (NEPA) and §309 of the Clean Air Act. OFA aids in pollution prevention by anticipating environmental problems with federal agency programs.

EPA Compliance with Cross-Cutting Statutes. OFA ensures that EPA's actions comply with the intent of NEPA and other non-EPA administered environmental laws such as the Endangered Species Act and the National Historic Preservation Act.

National Filing System. OFA is the designated agent for the Environmental Impact Statement (EIS) filing requirements of NEPA. OFA ensures proper documentation and public review. Additionally, OFA is the manager for EPA Memoranda of Understanding (MOU), serving as reviewer and recorder on 77 active MOUs.

International Program Activities. OFA provides technical assistance for the Agency's international activities. Assistance includes Environmental Impact Assessment (EIA) expertise; environmental infrastructure development for developing countries; and coordination with the Department of State, Agency for International Development, and relevant agencies.

Indian Program. OFA acts as the national program manager for the Multi-Media/Grants Assistance Program for Tribes (P.L. 102-497); and for providing oversight and guidance of EPA's efforts to extend the national system of environmental protection to Indian lands.

Environmental Review Program

Over the past year OFA has experienced significant progress and precedent setting actions. A partial listing includes:

Report on NEPA at EPA. OFA chaired a workgroup which examined EPA programs and the National Environmental Policy Act. For the first time in more than two decades, a comprehensive study was made of EPA activities in respect to the key criteria of NEPA -- environmental analysis, consideration of alternatives, and public participation. OFA also considered how the program offices comply with other environmental requirements, such as the Endangered Species Act. The Administrator committed the Agency to this review following Senate hearings on the EPA cabinet bill.

Mid-West Floods. OFA assumed a leadership role in Midwest flood recovery. Serving as EPA's representative to the White House Task Force on levee repair and long-term recovery, OFA promoted a comprehensive approach to floodplain management practices in the region. The principle established by OFA was to learn from past practices to prevent future disasters through long-term floodplain

management. Because of OFA's efforts, the White House is pursuing a strategic assessment of federal activities in floodplains.

Everglades. OFA represented EPA at the final negotiations and signing of the multi-agency agreement on restoration of the Everglades. OFA continue to coordinate with Region IV, the Office of Wetlands, Oceans and Watersheds, and other EPA offices to secure a team of experts to participate in the technical and scientific studies of this complex ecosystem necessary to arrive at a solution for environmentally sustainable development in the region.

USGS - BuRec Coordination. As part of its interagency coordination and issue resolution function, OFA continued as Co- Chairs of the US Geological Survey (USGS) and the Bureau of Reclamation Committees to exchange information on key issues of joint interest. The meetings of the EPA/USGS Coordinating Committee held this year were successful in coordinating many programs and research efforts. The Bureau of Reclamation/EPA Interagency Coordinating Committee focused on the new directions of the Bureau's water resource management programs with particular emphasis on the Central California project, The Animus LaPlata project in S. W. Colorado, and the San Francisco Bay Delta Water project.

Forest Conference. In April 1993, President Clinton convened the Forest Conference which was designed to break the impasse that had developed over use and protection of the Northwest forest resources. From the beginning, OFA has been an active member of the President's Forest Team with particular input in ecosystem protection and watershed management. OFA staff have been involved in both the review and preparation of the Draft Forest Conference Supplemental EIS.

Environmental Justice. OFA provided its expertise on the National Environmental Policy Act (NEPA) and its potential to further environmental justice awareness by assisting with the development of an Executive Order on Environmental Justice. Independent of that effort, OFA pursued with the Council on Environmental Quality, a pilot study evaluating the thoroughness of analysis of environmental justice issues and socioeconomic impacts under NEPA.

Pollution Prevention. OFA developed and issued final guidance to EPA, which was coordinated with all federal agencies, on how pollution prevention can be incorporated into the National Environmental Policy Act (NEPA) and the Clean Air Act § 309 environmental review processes. The guidance provides specific examples of pollution prevention and mitigation measures that distinguish between source reduction and treatment technologies.

Noise Issues. This year began with the completion of an aircraft noise study by the Federal Interagency Committee on Noise. The Report by the committee (OFA was the EPA representative) was part of the resolution of an Federal Aviation Administration project at the Toledo Express Airport. One of the recommendations of this report was to establish a standing Federal interagency committee to coordinate aircraft noise issues. The Federal Interagency Committee on Aircraft Noise has been established and OFA will represent EPA on this committee. OFA's review of DOD and FAA airport EISs is the driving point for their involvement in this issue.

Clean Air Act Conformity Rulemakings. Under the amended Clean Air Act (CAA) EPA was instructed to develop rules for the conformance for federal actions to the CAA. The rules were divided into transportation-related rules and general conformity rules for federal actions which were not FHWA or FTA related. OFA played two critical roles: The first was to craft rules which were not dependent upon NEPA but were complementary to NEPA. The second was to provide continuous feedback on how the rules, throughout their many iterations, might affect the other agencies.

Federal Highways Administration Issues. In the past year, OFA has continued to work with the DOT designated EPA liaison, to resolve several controversial highway projects. The Appalachian Corridor H project, a proposed 120 mile highway through West Virginia, which would foster economic development for the state was a case in-point. The tiered corridor level approach used by FHWA required an EPA stance to select the environmentally preferable alternative and encourage FHWA to utilize the tiered corridor approach in future projects. The Route 86 project in Riverside County, California required considerable Headquarters attention in order to bridge the pressure to build a 20 year old project with the need for current environmental analysis.

Federal Energy Regulatory Commission. In an effort to help the Federal Regulatory Commission (FERC) improve the environmental soundness of hydropower licensing and relicensing decisions, OFA coordinated with federal resource agencies to formulate a unified series of recommendations geared to process improvement. Once a consistent view was expressed by federal agencies with an interest in hydropower, FERC became convinced of the need for change. OFA continues to provide advice and assistance in the course of FERC's current relicensing improvement efforts.

Outer Continental Shelf Activities. OFA has provided for coordination between EPA's Regions IV and VI and the regional and headquarters components of the Minerals Management Service (MMS) in the preparation of two Supplemental Environmental Impact Statements (SEIS) to address new source general permit issuance for Outer Continental Shelf oil and gas activities. OFA helped the regions and MMS to overcome jurisdictional and technical disputes to ensure the timely issuance of the documents. EPA could not issue general National Pollutant Discharge Elimination System (NPDES) permits for effluent discharges from oil and gas operations in the western, central and eastern Gulf of Mexico until the required NEPA reviews were completed.

NEPA Compliance

Endangered Species Activities. As a part of their role to ensure compliance with cross-cutting environmental laws, OFA has been coordinating endangered species issues within the Agency. At the heart of their activities, OFA has been a lead for the Endangered Species Coordinating Committee that was established to describe current activities and obligations, set priorities, establish appropriate training, support and liaison functions with the Fish and Wildlife Service and National Marine Fisheries Service.

Environmental Assessment Guidance & Training. OFA developed guidance materials on environmental assessment to assist both preparers and reviewers of environmental impact assessments. This included a "Sourcebook" on the EA process and a related computer program developed by EPA Region V that was designed for self instruction. OFA also began revision of technical guidelines for environmental assessment on proposed fossil fueled steam electric generating stations and coal gasification/petroleum refineries. Work was carried out on EISs for industrial facilities in Texas and Louisiana, power plants in Maine and Florida, off-shore oil and gas NPDES permitting in Regions IV and VI.

Historic Preservation. OFA, with the lead on ensuring compliance with the National Historic Preservation Act, has been consulting with the Advisory Council on Historic Preservation in implementing the 1992 Amendments affecting Agency programs delegated to states. Heretofore, these programs were not subject to the Act's provisions. OFA has established an agency-wide workgroup to evaluate the implications for these requirements on states. OFA has also developed training for headquarters and regional staff in the requirements of the law with the cooperation of the Council.

National Filing Systems

Environmental Review: - In FY 1993, 469 environmental impact statements (EISs) were filed with OFA under OFA's delegation from CEQ (286 draft and 183 final). During FY 1993, EPA commented on 259 draft EISs and 171 final EISs. Of these, 44 draft EISs were rated EO (environmental objections) with the remaining either EC (environmental concerns) or LO (lack of objections).

International Program Activities

NAFTA Report. OFA was actively involved in support to the Administrator and the U.S. Trade Representative (USTR) on environmental issues concerning NAFTA. OFA took the EPA lead in preparation of an environmental report which Ambassador Kantor committed to prepare for the November 1 submittal of NAFTA to Congress.

Environmental Assessment Training. OFA has responded to requests to brief a number of foreign visitors on the environmental assessment process. Formal training on the environmental assessment process was provided to Mexico, Turkey, Bulgaria, and World Bank and U.S. Exim Bank staff. Other EA technical assistance included participation on a technical taskforce to Russia.

Indian Program

Development of Tribal General Assistance Grant Regulation. The Indian Environmental General Assistance Program Act of 1992, enacted October 24, 1992, directed EPA to "establish an Indian General Assistance Program that provides grants to eligible Indian tribal governments or intertribal consortia to cover the costs of planning, developing and establishing environmental protection programs on Indian lands" within one year of enactment.

As part of the regulation development process, public information meetings were conducted to solicit informal comment from tribes and other interested parties. With this tribal input further policy and implementation issues were resolved. OMB concurred in the rule and it was published in the Federal Register on December 2, 1993. The General Assistance Program replaces the Multi-Media Assistance Program (summarized below).

Treatment as a State Regulations. OFA was requested to lead the effort to revise the Agency's "treatment as state" (TAS) procedures by which Indian tribes become eligible for grants and program authorization. An interagency workgroup chaired by OFA has written regulations which simplify the procedure and make it less burdensome and offensive to tribes.

Indian Program Administration. OFA began the Multi-Media Assistance Program in FY 1990 with $151,000 for two pilot projects. During FY 1991, $1.7M of Agency funds were provided to 29 grants to 47 tribes. In FY 1992, 60 new and continuation grants were funded from $5.2M appropriated by Congress including Congressional add-ons for two projects: $1.5m to the 26 Washington tribes for the Washington State Tribal Initiative, and $500K to the Inter-Tribal Council of Arizona (ITCA). During FY 1993, 100 new and continuation grants were funded from $7.5M appropriated including $3.5M to the two Congressionally-mandated projects ($2.5M for the Washington tribes; $1.0M for the ITCA). For FY 1994, $8.5 million is available for award to tribal governments and inter-tribal governments and consortia. To date, nearly half the tribes and a quarter of the Alaska Native Villages are receiving capacity building activities. Additionally, OFA held interagency Indian workgroup meetings between EPA and nine Federal agencies. OFA has actively assisted most of the 500+ tribes and Alaskan Native villages who are preparing to bring environmental management to their lands.

V. Building and Maintaining a Strong National Enforcement Program

Program Development

National Enforcement Training Institute (NETI)

During FY 1993 NETI made major strides in its continuing effort to develop and offer a comprehensive, integrated approach to enforcement training for federal, state and local environmental enforcement personnel, as mandated by the Pollution Prosecution Act of 1990 (Public Law 101-592). NETI's success for the year is reflected in the impressive training statistics: course offerings increased fourfold over the previous year as NETI offered 200 course sessions, and attendance at NETI-sponsored courses increased by over 120 percent, with 8,375 professionals being trained in FY 1993. Of this number, 4,509 (54%) were state and local employees, and 3866 (46%) were federal employees.

NETI provided training in all ten EPA Regional Offices and Headquarters during the year. NETI courses were also taught in 20 States: Arizona, California, Florida (3 courses), Georgia, Indiana (2 courses), Kentucky, Louisiana, Michigan, Mississippi, Nevada, New Jersey, New Mexico, North Carolina, Rhode Island, South Carolina, Tennessee (2 courses), Texas, Vermont (2 courses), Virginia, and Wisconsin.

During FY 1993, NETI significantly expanded its training opportunities that were made available to the international environmental community. NETI offered courses in Malaysia, Mexico, Thailand, Turkey, and Ukraine.

These significant increases were made possible by the cooperative partnerships and alliances that NETI has established and fostered within the environmental enforcement community. Training presented under the auspices of NETI in FY 1993 was carried out by the EPA Headquarters and regions, the National Enforcement Investigations Center (NEIC), the criminal program at the Federal Law Enforcement Training Center (FLETC), the EPA program offices, the Northeast Environmental Enforcement Project (NEEP), the Midwest Environmental Enforcement Association (MEEA), the Southern Environmental Enforcement Network (SEEN) and the Western States Project (WSP).

In FY 1993 NETI firmly established its organizational structure and network. This network includes the NETI Council--a body of 39 high level representatives from within EPA, the U.S. Department of Justice (DOJ), state and local governments and academia. It also encompasses seven subcommittees of the Council and six independent, standing committees on curriculum development.

During the year, NETI launched an extensive effort to revise its prototype two-week Basic Environmental Enforcement Course and produce an operational version. The second session of the prototype was presented in FY 1993 in Washington, D.C., where the focus was upon Region IV. Half of the 36 trainees were from Region IV, EPA Headquarters and DOJ, with the remaining half being from the State and local environmental enforcement agencies in the Region IV area.

Following that second presentation, NETI began an effort to condense the Basic Environmental Enforcement Course into a one-week time frame featuring both classroom instruction and clinical exercise, which would be suitable for delivery by NETI training providers. This effort began in June 1993 with a meeting of a subcommittee of the NETI Curriculum Committee. This subcommittee is composed of State and Federal expert training professionals, who will be involved throughout the development of the Course. It is anticipated that this Course, which will be offered beginning in June 1994, will become the "basic training" for all new environmental enforcement professionals in the United States.

NETI also revised its BEN and ABEL training in FY 1993 to reflect the changes made within the BEN model's discount rate assumptions, as well as to incorporate a series of improvements to make the training more effective. NETI delivered 14 sessions of the BEN and ABEL Course, training a total of 331 enforcement personnel in EPA Headquarters, 9 Regional Offices, the States of Indiana and Florida, and the Northeast Environmental Enforcement Project. In addition, NETI delivered the Cashout and Superfund ABEL Course, which is essentially the Superfund version of the BEN and ABEL Course, to 120 enforcement personnel at four locations.

The Integrated Data for Enforcement Analysis (IDEA) is a showcase tool in the arsenal of environmental enforcers. IDEA is an interactive, high-speed data retrieval and integration capability to retrieve data for performing multi-media analyses of regulated facilities for inspection targeting, case screening, case development, litigation support, and settlement negotiations. Fourteen sessions of the IDEA Training Course were offered nationally in FY 1993 to an audience of 235 environmental professionals.

As a follow-on to NETI's international training provided to Mexican environmental inspectors last year, in FY 1993 NETI trained an additional 180 Mexican inspectors in Mexico City and Guadalajara. The five-day Training Course for Mexican Inspectors was especially designed to meet the needs of the Mexican audience at each specific location. The inspectors benefited from site visits to manufacturing facilities within Mexico. Classroom instruction included in-depth presentations on Mexico's environmental laws and regulations, health and safety techniques for field activities, and the fundamentals of compliance inspections. In addition, detailed reviews of selected industrial processes (e.g., electroplating, printed circuit board manufacturing, furniture finishing, and injection molding) were included in the classroom discussion, which served to reinforce the information that the trainees gleaned from the site visits.

The Principles of Environmental Enforcement Course was presented to a total audience of 107 environmental officials in Kuala Lumpur, Malaysia; Laem Chabang, Thailand; Ankara, Turkey; and Kiev, Ukraine. This intensive, three-day training presented fundamental principles for designing and implementing environmental enforcement programs. Developed in 1991 by EPA, with participation from the Netherlands, Poland, and other countries, this Course is designed for delivery in a wide variety of cultural settings.

NETI made significant progress in reaching out to its domestic and international audiences during FY 1993, as well as in making meaningful progress to refine the Institute's internal planning and management functions. Among other things, the Institute developed a vision for NETI's long-term goals by producing the NETI Strategic Plan. NETI also made important strides in becoming a nationally recognized leader in the use of emerging, innovative technologies as vehicles for reaching larger audiences.

The NETI Strategic Plan constitutes a comprehensive, detailed blueprint or design that will guide NETI's planning functions in the forthcoming three fiscal years. The Strategic Plan will serve as the basis for the development of yearly Operating Plans that will translate the Strategic Plan's imperatives into attainable actions for each applicable year.

NETI aggressively moved forward in FY 1993 into the electronic age of distance education. Distance education utilizes emerging technologies for reaching larger, more widely dispersed audiences. Interactive videos, CD-ROM, and closed-circuit, satellite television transmission are examples of these emerging technologies. During FY 1993, NETI was able to reach simultaneously an audience of 1,000 trainees in 50 States with the Administrative Hearings and Trials Course, by using closed-circuit, satellite transmission with only one instructor for a single day. Also offered via satellite transmission, the Environmental Law for Local Law Enforcement Officers Course reached an audience of 2,000.

NETI developed and implemented a Clearinghouse in FY 1993 for keeping constituent groups informed about NETI-sponsored training. The user-friendly NETI Clearinghouse is accessible nationally through a non-toll telephone number: 1-800 EPA-NETI. It is a major means for disseminating information about the availability of environmental enforcement training. In particular, State, local, and tribal environmental enforcers, who may not have ready access to computer networks, are only a telephone call away from up-to-the-minute information about NETI.

Finally, NETI took major steps during the year to design and complete the new NETI Headquarters Training Center, which is scheduled for its official opening during the summer of 1994. The Center will be a model state-of-the-art training facility located in midtown Washington, D.C. (For further information contact NETI)

Intergovernmental/International Enforcement Activities

Environmental Side Agreement to the North American Free Trade Agreement (NAFTA)

OE helped develop the North American Agreement on Environmental Cooperation (also known as the NAFTA environmental side agreement), which was signed by President Clinton and the heads of state of Mexico and Canada on September 14, 1993. The final language contains several strong enforcement provisions, including a mandatory annual report of enforcement activity by each country, a duty to effectively enforce domestic environmental laws, and a system for resolving allegations of lax enforcement by any of the three countries. (For further information contact the OE-International Enforcement Program)

North American Free Trade Agreement Legislative Support

OE contributed substantially to the Administrator's efforts to respond to Congressional concerns about environmental impacts of the North American Free Trade Agreement. OE activities included commenting on testimony for several Congressional hearings, responding to Congressional inquiries, and participating in EPA's review of the NAFTA legislation and accompanying legislative materials. OE also participated in a review of Mexico's environmental laws, and drafted the portion of the resulting report pertaining to Mexico's environmental inspection and enforcement program. (For further information contact the OE-International Enforcement Program)

Antarctica Legislation

OE worked to promote enforcement provisions in the Administration bill to implement the environmental protocol to the Antarctic Treaty. This effort involved drafting of legislative language, review of Congressional testimony and numerous meetings of the interagency group writing the bill. Issues addressed included judicial review of permits, standing, waiver of sovereign immunity, and citizen enforcement suits, including scope of the violations covered. The bill was completed on November 15, 1993. (For further information contact the OE-International Enforcement Program)

U.S./Mexico Cooperative Enforcement Strategy Work Group

EPA's Deputy Assistant Administrator for Enforcement served as U.S. co-chairperson of the U.S./Mexico Cooperative Enforcement Strategy Work Group. OE worked to develop cooperative

enforcement activities with Mexico's environmental agency, SEDESOL, while SEDESOL put into place a new enforcement program which resulted in more than 16,000 inspections nationwide. OE's National Enforcement Training Institute provided training in Multimedia Inspection techniques to 380 SEDESOL inspectors. EPA and SEDESOL increased cooperation in the investigation of specific cases, particularly involving illegal hazardous waste movements. OE supported efforts to expand cooperation with Customs and State environmental agencies to detect illegal hazardous waste shipments, and developed a bilingual video to train U.S. and Mexican Customs officials in detecting and responding to illegal waste shipments. OE assisted efforts to develop a binational database to track transboundary hazardous waste shipments, and the filing of the first four administrative enforcement cases in June, 1993 which were developed using the database. OE worked with Regional and Mexican counterparts to prepare a Progress Report on Work Group activities, and to develop a list of Work Group priorities for the coming year. (For further information contact the OE-International Enforcement Program)

Enhancing Cooperative Enforcement Activity with Canada

OE met with officials of Environment Canada and the Ontario Ministry of the Environment and Energy to discuss ways to augment cooperative enforcement activity between the two countries. The participants exchanged information on enforcement statistics and methods of setting priorities. Future activity is likely to be bilateral, especially for case-specific matters, and also trilateral, with Mexico, under the auspices of the new North American Commission on Environmental Cooperation. (For further information contact the OE-International Enforcement Program)

Technical Assistance to Russia, Eastern Europe, and Indonesia

OE participated in missions to Poland and Russia, and assisted in a Polish mission to the United States, which included components related to improving enforcement of environmental laws. These missions are multi-year efforts. Similar projects are likely in other emerging democracies in the region, especially Slovakia. OE also met with visiting officials from Indonesia to provide technical assistance on environmental enforcement issues. (For further information contact the OE-International Enforcement Program)

Customs Cooperation

OE led efforts to increase cooperation between EPA and the U.S. Customs Service in monitoring compliance and enforcing environmental laws pertaining to import and export. OE's work stimulated dialogue on possible development of computer interfaces with Customs to improve the efficiency of interagency cooperation in compliance monitoring and enforcement. (For further information contact the OE-International Enforcement Program)

Transboundary Movement of Hazardous Waste

OE participated in a number of EPA initiatives regarding the transboundary movement of waste, including drafting of a regulation to implement the OECD Decision on Transboundary Movement of Wastes Destined for Recovery, and efforts to support Congressional consideration of legislation to implement the Basel Convention on Transboundary Movement of Hazardous Wastes and Their Disposal. (For further information contact the OE-International Enforcement Program)

National Reports on FY 1992 EPA and State Performance

Timely and Appropriate Enforcement Response

The Timely and Appropriate Enforcement Response concept seeks to establish predictable enforcement responses by both EPA and the States, with each media program defining target timeframes for the timely escalation of enforcement responses. Tracking of timeframes commences on the date the violation is detected through to the date when formal enforcement action is initiated. The programs have also defined what constitutes an appropriate formal enforcement response based on the nature of the violation, including defining when the imposition of penalties or other sanctions is appropriate. Each year, OE compiles an end-of-year report which summarizes the performance by each of the media programs. (For further information contact OCAPO)

National Penalty Report

Each year, EPA produces a comprehensive analysis of the financial penalties EPA obtained from violators of environmental laws. The report contains an Agency-wide overview for each program and compares current year performance with historical trends. (For further information contact OCAPO)

Summary of State-by-State Enforcement Activity for EPA and the States

Each year, EPA assembles an end-of-year report which summarizes quantitative indicators of EPA and State enforcement activities on a state-by-state basis. The FY 1993 report is scheduled for publication in May 1994. (For further information contact OCAPO)

Enforcement Four-Year Strategic Plan

As part of EPA's Agency-wide strategic planning process, the Office of Enforcement developed a comprehensive enforcement plan with both media-specific and cross-media components. The Enforcement Four-Year Strategic Plan outlines the capabilities which will be needed to enhance enforcement efforts for the future. Several of these efforts are now being implemented on a pilot basis, while others will be fully developed over the next several years. The Strategic Plan is a sound guide for the Agency's future enforcement efforts. (For further information contact OCAPO)

Enforcement in the 1990's

The decade of the 1990's represents a new era in environmental enforcement as the Federal, State and local governments and citizen's groups better combine their resources to vigorously enforce the nation's environmental laws. The strategic planning reflected in the Enforcement Four-Year Strategic Plan set themes and directions for the Agency's enforcement program. In FY 1991, the Office of Enforcement, other EPA personnel in Headquarters and the Regions, and, in some instances, non-EPA personnel, produced reports, collected in the Enforcement in the 1990's Project, which complement the earlier Strategic Plan. These final reports provide recommendations for action in six discrete areas: measures of success, the State/Federal relationship, environmental rulemaking, innovative enforcement techniques, compliance incentives, and the role of local governments.

The 1990's Project reports establish an agenda that points in new directions and identify numerous action steps for EPA staff at Headquarters, the Regions, the States, the local governments, and citizens. EPA has begun to implement many of these, and more will be undertaken in the near future. The Enforcement in the 1990's Project provided valuable, practical ideas whose implementation will strengthen significantly the Agency's enforcement program. (For further information contact OCAPO)

General Enforcement Policy Compendium

An essential tool in multi-media enforcement, the General Enforcement Policy Compendium, which contains 90 documents issued throughout EPA's history, was the subject of a comprehensive review to determine whether specific policies require updating and revision. The review was conducted by a Workgroup comprised of representatives from all offices of the Office of Enforcement and several Regional Counsel offices. The workgroup has prepared a new master index for the Compendium which groups policies by subject matter area and provides a summary of each policy, and has developed recommendations for the performance of editorial work which will ensure that the Compendium is up-to-date and is more useful as a reference, and for improvements in distribution, electronic access and training which will promote its availability and use. (For further information contact OCAPO)

Clean Air Act

Clean Air Act - Stationary Source Compliance Division

Administrative Penalty Program

The administrative penalty order (APO) authority for the air program was established in the 1990 CAAA. In FY 1993, the second year of APO authority implementation, regional enforcement staff continued to aggressively use the administrative penalty authority to bring enforcement actions for violations of State Implementation Plans (SIP's), New Source Performance Standards (NSPS), and National Emission Standards for Hazardous Air Pollutants (NESHAP), as well as for violations of the Stratospheric Ozone Protection requirements of the CAA. Settlement of these cases during FY 1993 yielded almost two million dollars in penalties. Additionally, Supplemental Enforcement Projects (SEP's) are a part of eight settlements which require the respondents to spend over one million dollars on pollution reduction projects. (For further information contact SSCD)

Stratospheric Ozone Protection Compliance Program

Three new CFC regulations became effective in FY 1993 that implemented §§ 608, 610, and 611 of the 1990 CAAA. These regulations will enhance the enforcement of the stratospheric ozone provisions of the Act.

The § 608 regulations, effective in June of 1993, prohibit the release of ozone depleting refrigerants when servicing air conditioning and refrigeration equipment. The Stationary Source Compliance Division (SSCD) prepared training manuals to train Regional inspectors. The § 610 regulations, effective in February of 1993, prohibit the sale of certain nonessential products that contain or are manufactured with ozone depleting substances. SSCD prepared a compliance guidance for these regulations and one case has been filed against a violator. The § 611 regulations, effective in May of 1993, require warning labels on products containing ozone depleting substances. (For further information contact SSCD)

Wood Heater Program

The wood heater program requires certification of wood heaters manufactured and sold in the U.S. in order to reduce the emissions of particulate matter. In Fiscal Year 1993, SSCD granted 49 wood heater certifications and 20 recertifications. Recertifications are required every five years. Other enforcement activities included 75 inspections of wood heater retailers and manufacturing facilities

(using five senior environmental employees) and granting 75 design change requests. (For further information contact SSCD)

Missouri Voluntary Compliance Pilot Program

The Stationary Source Compliance Division and Air Enforcement Division (AED) assisted Region VII develop the Missouri Voluntary Compliance Pilot Program (MVCPP) for the New Source Performance Standards (NSPS) subpart OOO, nonmetallic mineral processing plants. The MVCPP was established to handle a large number of sources in Missouri that were discovered to be in probable violation of the subpart OOO requirements for notification and testing. Under the MVCPP, for a limited period of time, EPA Region VII provided a window of opportunity for the Missouri nonmetallic mineral processing industry to disclose information on present and past compliance and noncompliance. In return, for voluntarily providing information, sources will receive reduced penalties. Due to the large number of potential violators, and the nature of the violations, the program will address the majority of cases through the administrative process, rather than through judicial actions. The vast majority of the violations addressed by the MVCPP were more than 12 months old and EPA obtained the concurrence of the Attorney General to waive the time limit on the administrative penalty authority. (For further information contact SSCD)

Technical Agenda

In FY 1993, SSCD conducted a series of studies and projects under its Technical Agenda. These projects were designed to provide technical assistance to EPA personnel throughout the agency. In FY 1993, projects were conducted to assist in the control of Volatile Organic Compounds (VOC) emissions, air toxics emissions, and pollution prevention.

VOC Projects -- Three VOC projects were released. They are: 1. "Summary Matrix of Air Regulations From Other Pollution Media;" 2. "Development of Engineering and Cost Information and Data Pertaining to the Use of Permanent Total Enclosure;" and 3. "Inspection Manual for Enforcement of Proposed NESHAP for SOCMI." One additional study, "Correlation of Reference Method 24 Test Results and Manufacturers Formulation Data," was initiated and will be continued as a cooperative project among SSCD, regional, state, and industrial partners.

Air Toxics Projects -- The three air toxics projects completed are: 1. "Revisions to Inspection Manual for Benzene NESHAP for Coke By-Product Recovery Plants, Subpart L;" 2. "Inspection Manual for Benzene NESHAP for Waste Operations, Subpart FF;" and 3. "Development of Dry Cleaning Data Base."

Pollution Prevention Projects -- The five pollution prevention projects completed are: 1."Agricultural-Based Ink Usage;" 2. "Basic Pollution Prevention for Engineers and Scientists;" 3. "Organic Chemical P2 Opportunities;" 4. "Pollution Prevention Case Study Data Base;" and 5. "Satellite-Based Pollution Prevention training for Air Regulatory Programs." (For further information contact SSCD)

Acid Rain Program

Unlike other traditional enforcement programs, the Acid Rain Program is designed as a market driven program that creates economic incentives for its participants to comply. Initially, utilities receive emissions allowances from EPA that represent their allowable levels of sulfur dioxide emissions. These allowances can be bought and sold among the utilities. The SSCD in cooperation with the Acid Rain Division, Air Enforcement Division, and the Regions, developed a draft enforcement

guidance document for the acid rainexcess emissions, CEMS, and permit rules. This guidance document will be used by EPA and the States to address violations and bring violators into compliance. (For further information contact SSCD)

NSPS Subpart J - Oil Refinery Industry - Initiative

SSCD coordinated a two year national initiative to implement the NSPS Subpart J (oil refinery industry) requirements to install, certify, and operate continuous emission monitoring systems (CEMS). The initiative offered a unique opportunity to emphasize and implement the CEMS program and document the program's benefits in reducing emissions produced from the oil refinery industry.

The Subpart J initiative consisted of two phases and ended in FY 1993. The initiative resulted in an 80 percent compliance rate, 48 enforcement actions (including 37 APOs) with over three million dollars in penalties pled, a number of civil judicial cases (some still under preparation) with multi-million dollar penalties, and numerous State enforcement actions with penalties of over $310,000. This initiative has led to the identification of additional violations in other air programs and other media, as well as to multi-media enforcement actions. (For further information contact SSCD)

Rule Effectiveness

Rule effectiveness is a method for determining how effective an environmental regulation is in reducing source pollution. Rule effectiveness studies are intended to identify and quantify implementation problems which effect attainment of the National Ambient Air Quality Standards. The SSCD believes that these studies can greatly assist the states to achieve the 15 percent reasonable further progress (RFP) requirements.

In FY 1993, SSCD issued the revised Rule Effectiveness Protocol Guidance and completed the Rule Effectiveness Study Index. At the regional and state level, 12 rule effectiveness studies were completed during the year. These were mainly studies of rules regulating volatile organic compounds (VOC). These studies focused on such issues as: miscellaneous metal parts coatings; stage I and stage II gas recovery; transfer of organic compounds into mobile transport tanks; operations, motor vehicle and mobile equipment coating operations; steam generators; and process heaters. (For further information contact SSCD)

Lead Enforcement

The Lead National Ambient Air Quality Standards (NAAQS) Attainment Strategy is part of the Agency-wide Lead (Pb) Strategy to reduce human exposure to lead. In support of the strategy, the SSCD implemented a technical guidance document entitled "Compliance Inspection and Assistance Document: Primary and Secondary Lead Smelters and Lead Acid Battery Plants." This technical guidance is designed to provide guidance to regional and state regulators on minimizing fugitive and point emissions from lead sources. Several regions use the technical guidance document to address some of the lead NAAQS compliance deficiencies. (For further information contact SSCD)

National Case Initiative -- Louisiana-Pacific Corporation

In FY 1993, EPA concluded a major multi-Regional and multi-State case initiative against Louisiana-Pacific. This case was nationally managed and developed in cooperation with eight EPA regional offices. The case was developed because Louisiana-Pacific routinely failed to comply with prevention of significant deterioration (PSD) and operating permits requirements.

The settlement resulted in Louisiana-Pacific agreeing to pay a civil penalty of $11.1 million, the highest penalty collected under the CAA; install state-of-the-art pollution control equipment in a total of fourteen facilities; employ an environmental manager at each facility; employ a corporate environmental manager; and conduct a comprehensive audit of its management structure and of all the practices and procedures at all of its wood panel building products facilities.

This initiative was instrumental in establishing several national precedents. They are: 1) multi-regional and multi-state approach to locate noncompliance; 2) Consideration of existing technology applied in other industries as Best Available Control Technology; and 3) State-of-the art technology for this industry with limited supplemental energy requirements. Moreover, this National initiative proved to be an outstanding example of coordinated effort among DOJ, EPA Headquarters and regional offices and the respective state agencies. (For further information contact SSCD)

Compliance Tracking

The air compliance tracking systems, used by federal, state, and local agencies, continued to be revised and enhanced in FY 1993. AIRS Facility Subsystem (AFS) is an integral component of the air compliance tracking system and is now used routinely for reporting to the Integrated Data for Enforcement Analysis (IDEA) system and to the Strategic Tracking and Accountability System (STARS). In FY 1993, AFS became the system for tracking significant violators by the regions. Additionally, AFS data is available to assist states using the Inspection Targeting Model (ITM) in planning yearly inspection priorities.

The National Asbestos Registry System (NARS), used to track asbestos demolition and reconstruction violators, is an information system that continues to fulfill two major functions: program reporting and evaluation, and inspection targeting and evaluation. The most important improvements to NARS, in FY 1993, are on-line availability through the COMPLI Bulletin Board and a major upgrade of the local tracking system that serves NARS. (For further information contact SSCD)

COMPLI Bulletin Board System

In FY 1993, SSCD initiated the Compliance Information Bulletin Board System (COMPLI - BBS). COMPLI is part of the OAQPS Technology Transfer Network Bulletin Board System (TTN BBS) and is available free to any interested party.

There are three major areas of the COMPLI BBS. They are: 1. Databases including the National Asbestos Register System which lists all asbestos contractors and their compliance history, and a woodstove database which lists all certified woodstoves and their manufacturers; 2. Determinations which includes EPA rulings on regulation applicability for stationary sources of air pollution; and 3. Files which contains documents and reports on training and other technical areas. (For further information contact SSCD)

Compliance Monitoring Strategy

The Compliance Monitoring Strategy (CMS) provides a flexible and systematic approach for determining state inspection commitments. The strategy recommends the development of a comprehensive inspection plan that identifies all sources committed to be inspected by the State agency during its fiscal year.

The SSCD provided continued support of the Inspection Targeting System (ITS) during FY 1993. This model (formerly called the Inspection Targeting Model) is used to assist states in developing their

comprehensive inspection plans. It takes into consideration quantitative factors, qualitative factors, emissions, and past compliance history when ranking sources for inspection. In addition, states input their available inspection resources in ITS in order to finalize the list of sources to be targeted for inspections.

During FY 1993, new features were added to this system and the Inspection Targeting System version III was released. Major new features include: The ability to download key identification, emissions, and compliance data from AFS; to upload inspection data to AFS; and to enter inspection commitment flags into AFS. Additionally, a number of new State agencies were trained in the use of the system and used it to establish their inspection commitments.

The CMS is in the process of being revised to accommodate the requirements of the 1990 CAAA. A greater universe of sources will be covered by the strategy due to the decreased size cut-offs for major sources. In addition, titles V and VII require sources to keep and submit self-monitoring reports. The revised CMS will describe how the review of these self-monitoring reports shall be included in an overall inspection plan developed by a state. (For further information contact SSCD)

Rule Development

Enhanced Monitoring (40 CFR Part 64) -- The Enhanced Monitoring (EM) program proposal was signed by the EPA Administrator on September 30, 1993. This action is intended to satisfy the statutory requirement found in § 114(a)(3) of the Clean Air Act that the Administrator promulgate rules to provide guidance and to implement enhanced monitoring and compliance certifications for major stationary sources. The EPA intends to require each source subject to Part 64 to submit an annual compliance certification and monitoring reports each quarter detailing any deviations from applicable requirements in the source's permit. The EM program requires continuous compliance with underlying regulations and establishes a direct link between monitoring data and enforceability.

Citizen Notice Rule (40 CFR Part 54) -- The Citizen Suit Notice Rule, proposed on February 10, 1993, sets forth the manner in which notice of citizen suits is to be provided as required by § 304 of the 1990 CAAA. The proposed rule replaces the existing CAA citizen suit regulation at 40 CFR Part 54. This rule clarifies the notice requirements for the various types of citizen suits. Moreover, it brings the CAA citizen suit notice practice into conformity with the notice practice under other, more recent environmental statutes. The regulatory changes made pursuant to the 1990 CAAA include provisions governing citizen suits against EPA for actions that are alleged to be unreasonably delayed. (For further information contact SSCD)

Inspection Training and Delivery Demonstrations

Training is an important component of the air compliance program. The following are the highlights of the FY 1993 training accomplishments:

The EPA-funded Air Pollution Compliance Training Demonstration Center at Rutgers University completed its second year in FY 1993. This is a three-year demonstration project for 15 State and local agencies and EPA Regions I, II, and III that features a 24 week per year inspector training curriculum, offsite training in Region I, and industry training. The quarterly training is organized into three levels: basic and safety; inspection and monitoring; and program specific courses. To date, more than 2,000 students have been trained.

Compliance Program Development Projects are multi-year cooperative agreements among OAR/SSCD, the regional offices, and state and local agencies. The program was established to

develop, demonstrate, and deliver quality training to the EPA regional offices, state and local agencies, and the major providers, i.e., APTI and CARB. Two week training projects have been completed in California, Ohio, and Michigan.

The EPA-sponsored National Air Compliance Delivery Project (CARB 1) utilized the expertise of California Air Resources Board (CARB) staff and retired personnel to conduct on-site compliance training with basic course videos. Fourteen state and local agencies in EPA Regions VIII, IX, and X completed training for more than 2800 students. (For further information contact SSCD)

Paperwork Reduction Act Compliance

SSCD obtained OMB reapproval for more than 20 information collection requests in FY 1993. Additionally, SSCD, in conjunction with EPA's Office of General Counsel, the Office of Enforcement, and the Office of Policy, Planning, and Evaluation, published a display table listing information collection request approval numbers in the Code of Federal Regulations. As a result of these efforts, SSCD information collection requests meet the requirements for information collections under the Paperwork Reduction Act. (For further information contact SSCD)

Clean Air Act - Mobile Sources

Cross Border Sales Policy

With New York's adoption of California's motor vehicle emission standards and requirements, the Manufacturers Operations Division (MOD) revised its policy governing the sale of vehicles manufactured to meet California standards in bordering states that must comply with Federal motor vehicle emission standards. This policy is a major achievement in EPA's attempt to create cooperative policies with the states to maximize overall emissions reductions while minimizing any adverse affects on the U.S. motor vehicle sales market. (For further information contact MOD)

Nonroad Engine Regulations

To ensure enforceability, MOD participated in the promulgation of proposed emission regulations governing nonroad large compression-ignition engines (the NPRM was published on May 17, 1993). MOD is also participating heavily in developing phase 1 regulations for non-road small spark-ignited engines. The phase 1 regulations are expected to be promulgated sometime in FY 1994. (For further information contact MOD)

Penalty Policy

In FY 1993, MOD promulgated a revised penalty policy pursuant to §§ 203, 205, and 208 of the Clean Air Act. These sections of the Act require manufacturers and/or importers of new motor vehicles and new motor vehicle engines to comply with all federal emission standards and requirements. The new policy incorporates the 1990 Clean Air Act Amendments which adjusted maximum penalty amounts available for violations and added new administrative hearing procedures for pursuing penalties. (For further information contact MOD)

Volatility Enforcement Program

The volatility regulations, which were promulgated on March 22, 1989, require that gasoline sold, offered for sale, dispensed, supplied, offered for supply, transported or introduced

into commerce, during volatility control periods, not exceed the applicable Reid vapor pressure ("RVP") standard. Since 1990, the volatility control period has been from May 1, through September 15. The purpose of the regulations is to reduce evaporative hydrocarbon emissions which contribute to ozone pollution levels.

During the 1992 volatility control season, the volatility standards were made more stringent. Two hundred forty-one NOVs were issued for violations detected that season. As a result of these NOVs, subsequent settlement activities and a strong enforcement presence in the field during the 1993 control period, FOSD saw a significant reduction in volatility violations in FY 1993. Despite inspecting approximately the same number of parties in FY 1993 as in FY 1992, as of November 9, 1993, only 17 NOVs had been issued for volatility violations detected during the 1993 volatility control season, and approximately 50 more NOVs were expected to be issued. It appears that the compliance rate of regulated parties was over 98% for the 1993 season. This reduction in violations indicates that the volatility enforcement program has been a great success. (For further information contact the Field Operations and Support Division (FOSD))

Diesel Desulfurization

During FY 1993, FOSD prepared for the implementation and enforcement of the new diesel sulfur regulations which became effective on October 1, 1993. The purpose of the regulations is to substantially reduce the sulfur content in diesel fuel which contributes to the harmful particulate emissions from diesel motor vehicles.

As part of EPA's public outreach efforts, FOSD received approximately 2,000 telephone and written inquiries concerning EPA's interpretation and intended enforcement of the regulations. These efforts culminated in the issuance of a thirty-three page Question and Answer document on August 5, 1993. FOSD managers, attorneys and inspectors spoke at twelve industry meetings in order to disseminate information regarding the regulations. During this same time, FOSD was developing its enforcement plan, which included procurement of field test equipment, training of EPA and contractor personnel, formulation of an enforcement strategy, and development of a civil penalty policy.

In the first weeks after implementation of the rule on October 1, FOSD received over a thousand additional inquiries regarding further interpretation of the regulations. FOSD responded to several crises, including supply outages, significant price increases and most recently, alleged fuel/engine materials incompatibility problems.

FOSD is participating in an IRS task force, providing input to the IRS in order to prevent any conflicts between EPA's diesel sulfur regulations and the soon to be promulgated IRS highway tax collection regulations. FOSD continues to work with the industry, other federal and state agencies, and the public to ensure smooth implementation of an aggressive nationwide enforcement program. (For further information contact FOSD)

Reformulated Fuels and Anti-Dumping

The reformulated gasoline and anti-dumping program rule is scheduled to be published during December 1993. The rule will provide for the program to commence on January 1, 1995. The reformulated gasoline regulations will result in the reduction of VOC, and toxic emissions by 15% in 1995, with even greater reductions beginning in 2000. These regulations apply to the nine worst ozone nonattainment areas in the country, while all other ozone nonattainment areas will allowed

to "opt in" to the program. The anti-dumping regulations will ensure that the quality of gasoline in the remainder of the country does not degrade from its 1990 levels.

EPA continues to work on program issues including: the role of ethanol in reformulated gasoline; whether EPA will publish test tolerances for fuel parameters; treatment of foreign refiners in establishing baselines; and the use of markers or dyes to distinguish conventional gasoline from reformulated gasoline. (For further information contact FOSD)

Detergent Additized Gasoline

In FY 1993, EPA drafted and submitted to OMB its proposed detergent regulations and Federal Register preamble. The regulations were drafted pursuant to the mandate of the Clean Air Act Amendments of 1990 which require that, by 1995, all gasoline contain detergent additives to prevent the formation of engine and fuel system deposits. These deposits have been shown to cause increases in hydrocarbon emissions which are major contributors to urban smog. The detergent Notice of Proposed Rulemaking was expected to be signed by the Administrator and published in the Federal Register by the end of 1993. The Final Rule was expected to be promulgated by the end of 1994. (For further information contact FOSD)

Clean Water Act

Litigation Consideration Guidance for CWA Penalty Policy

Guidance was developed in FY 1993, setting forth general procedures, rules of thumb and lists on how litigation considerations may be used in establishing or revising bottom-line settlement penalties in CWA cases. The guidance was issued on October 10, 1993 and will facilitate Agency closure on acceptable settlement positions in connection with NPDES cases. (For further information contact OE-Water)

Supplemental Guidance on CWA §309(g)(6)

In March 1993, supplemental guidance on EPA policy interpreting § 309(g)(6) was issued. The guidance specifies the circumstances under which federal civil action is limited by prior state or federal administrative action. (For further information contact OE-Water)

CWA §504 Emergency Action Guidance

Guidance concerning CWA § 504 was issued in July 1993. The guidance provides instructions and encouragement on the use of the emergency powers provision of the Clean Water Act in appropriate circumstances. Clarity on this issue should facilitate Agency decisions regarding use of CWA emergency provisions.

Water Enforcement Bulletin

A new issue of the highly acclaimed Water Enforcement Bulletin was released in February 1993. Twenty-four administrative and judicial water decisions were summarized and the Bulletin was distributed to the Regions, States and interested members of the citizen suit community. (For further information contact OE-Water)

CWA Citizen Suits

The Office of Enforcement continues to review all water enforcement cases filed by citizens. In FY 1993, the Office of Enforcement reviewed approximately 190 60-day notice letters filed informing the Agency and the violator that citizens were going to file suit. The Office of Enforcement also reviewed approximately 50 consent decrees from citizens bringing suits for violations of the Clean Water Act, Safe Drinking Water Act, or Ocean Dumping Act. The Office of Enforcement review of citizen suit settlements is conducted to determine whether the penalties, supplemental environmental projects and injunctive relief achieve Agency goals, promote compliance, follow regulatory requirements, and avoid problematic judicial precedents. Where a citizen suit settlement is considered deficient in any of these respects, and the parties fail to negotiate a better result, EPA and the Department of Justice may file comments or objections with the court or an amicus brief, setting forth the position of the United States. (For further information contact OE-Water)

Sewage Sludge Record Keeping and Reporting Guidance

The Office of Wastewater Enforcement and Compliance completed and distributed the first in a three document series of the Part 503 Domestic Sewage Sludge guidance which explains the record keeping and reporting requirement for Sewage Sludge generations/processors. Additional Guidance for Land Application and Surface Disposal will be completed by the end of December 1993. (For further information contact the Office of Wastewater Enforcement and Compliance (OWEC))

Inspection Training

Four inspector training videos were completed and distributed to EPA regions and states covering the topics of NPDES records review, wastewater sampling, flow measurement with a Parshall Flume, and Sludge Sampling. In August a two part televideo conference which addressed inspection training and training resources was linked to EPA/State participants in all ten regions. The first draft of the update to the NPDES Compliance Inspection Manual was completed. Twenty contract inspections were conducted involving on-the-job training of EPA/state inspectors. (For further information contact OWEC)

Sludge Compliance Monitoring and Enforcement Strategy

The Enforcement Division completed a national Strategy for compliance monitoring and enforcement of the sludge regulations promulgated on February 19, 1993. The Strategy sets national priorities for the universe of facilities in the following areas: inspections, reporting, data tracking, and compliance evaluation. The Strategy also establishes minimum target enforcement levels for various violations of the regulations. The Strategy balances the need for an effective presence on the part of the EPA with the resource constraints facing the program. (For further information contact OWEC)

Feedlots

OWEC produced and published a background report covering: 1) the magnitude of the pollution caused by animal waste, 2) permitting, 3) verification of compliance, and 4) education and outreach. OWEC also developed a guidance manual which interprets and clarifies NPDES regulations for operations concentrated animal feeding

Finally, OWEC developed a strategy for improving control of pollution from animal waste. The strategy incorporates permitting, enforcement, and education and outreach activities; can be easily integrated into other EPA initiatives and strategies; and requires few resources. Expectations are to begin implementation of the strategy during FY 1994, and finalize the guidance in January 1994. (For further information contact OWEC)

Safe Drinking Water Act

PWS

PWS Penalty Policy

The Public Water Supply Penalty Policy was issued for interim use on May 3, 1993. The policy contains detailed guidance on litigation considerations and how such considerations may reduce the Agency's bottom line settlement demands. The policy will facilitate regional decisions on acceptable settlement positions in connection with PWS drinking water cases. (For further information contact OE-Water)

Guidance on Enforceability of Filtration Determinations

Final guidance on the enforceability of filtration determinations was issued November 30, 1992. This guidance resolved a number of issues that had stood in the way of effective enforcement of this drinking water rule. (For further information contact OE-Water)

UIC

Second Round Class V Initiative

There was a second round UIC enforcement initiative against eleven national oil companies for unauthorized injection in Class V (shallow) wells. The relief sought included proper plugging of the wells as well as payment of significant penalties. (For further information contact OE-Water)

Oil Pollution Act

EPA/Coast Guard Oil Pollution Act Enforcement MOU

A memorandum of understanding (MOU) by EPA, the Coast Guard and the Department of Justice, concerning enforcement of the Oil Pollution Act, was signed in March 1993 and published in the Federal Register in April 1993. The MOU clarifies the roles of each of the Federal parties with respect to Oil Pollution Act enforcement. (For further information contact OE-Water)

SPCC/Spill (Oil Pollution Act) Administrative Penalty Policy

The Oil Pollution Act Administrative Penalty Policy was issued for interim use on September 13, 1993. The policy contains detailed guidance on litigation considerations that may affect the settlement position of EPA in particular cases. The policy facilitates Agency closure on acceptable settlement positions in connection with the Oil Pollution Act cases. (For further information contact OE-Water)

Resource Conservation and Recovery Act

1993 Hazardous Waste Combustion Initiative

The RCRA enforcement program announced a National Enforcement Initiative focusing on violators of the hazardous waste combustion laws. The Regions issued 28 administrative complaints against violators of the boiler and industrial furnace regulations, and two administrative complaints involving violations of the hazardous waste incinerator requirements. In addition, the State of Illinois announced an action seeking a $3 million penalty from one incinerator operator. Penalties assessed in federal administrative complaints exceeded $19.8 million. (For further information contact the Office of Waste Programs Enforcement /RCRA Enforcement Division (OWPE/RED))

Illegal Operators Initiative

Continuing the emphasis on RCRA waste handlers attempting to avoid the regulatory system, the RCRA enforcement program announced a two-phase initiative against RCRA non-notifiers. The Initiative included Regional and State enforcement actions against hazardous waste generators, transporters, treatment, storage and disposal facilities that had failed to notify EPA or State authorities of hazardous waste activities. The Illegal Operators Initiative included 4 civil judicial complaints; 26 federal administrative complaints; 12 federal criminal actions. Total penalties assessed in cases for the initiative exceeded $10 million. (For further information contact OWPE/RED)

Off-site Rule

The "Procedures for Planning and Implementing Off-site Response Actions" were promulgated on September 22, 1993. This rule was written by OWPE and it codifies the current "Off-site Policy". The rule establishes criteria that must be met for waste from a Superfund clean-up to be sent off-site for treatment or disposal. The rule is effective October 22, 1993. (For further information contact OWPE/RED)

Conclusion of DuPont/Chambers Works Waste Minimization Project

OWPE and Region II concluded the two year waste minimization project conducted at the DuPont Chambers Work facility in Deepwater, New Jersey. This project was mandated as part of a $1.85 million dollar settlement for violations of the Land Disposal Restrictions and began in May 1991. Pollution prevention assessments were performed on fifteen chemical processes to accomplish three primary goals:

- to identify methods for the actual reduction or prevention of pollution for specific chemprocesses at Chambers Works,
- to generate useful technical information about methodologies and technologies for reducing pollution which may help assist companies implementing pollution prevention programs, and
- to evaluate and identify potentially useful refinements to the EPA and DuPont methodologies for analyzing and reducing pollution and/or waste generating activities.

The project involved about 150 people at the site who devoted more than 12,000 person-hours to the project. For the fifteen processes investigated, the potential exists to reduce the hazardous wastes by 48% and to save $14.9 million each year. DuPont submitted the final report on May 22, 1993 and it has been published by ORD for public distribution. (For further information contact OWPE/RED)

Advanced RCRA Inspector Institute

OWPE has developed an advanced RCRA Inspector Institute to train state and regional inspection personnel. The RCRA Enforcement Division (RED) presented the Advanced RCRA Inspector Institute in San Francisco in June 1993 and in Boston in December 1993. (For further information contact OWPE/RED)

Penalty Policy

OWPE/RED and OE-RCRA held the RCRA Civil Penalty Policy Workshop and Roundtable. RCRA Program personnel and the Regional Counsel staff from all ten Regions attended this Workshop. Part of the Workshop was devoted to discussing "Train the Trainer" materials which had been prepared for the Regions. With these materials, the Regions can conduct their own RCRA Civil Penalty Policy training for Regional personnel and the States.

Final penalties assessed in FY 1993 remained high, surpassing final penalties assessed in FY 1991 and FY 1992. Total penalties assessed in §3008 final Consent Orders equaled $8,556,000. The average penalty assessed was $79,000. (For further information contact OWPE/RED)

Alternative Dispute Resolution

OWPE/RED and OE/Superfund conducted training in all regions on the use of Alternative Dispute Resolution (ADR) in enforcement negotiations. The training included an exercise on the differences between arbitration and mediation as well as a mediation of a Superfund and RCRA corrective action dispute.

OWPE/RED provided assistance to Region VI to support the use of mediation in an access dispute. This represents one of the first uses of ADR in the RCRA program. (For further information contact OWPE/RED)

Boiler and Industrial Furnace Inspection Workshop

OWPE developed and conducted a one-and-a-half day workshop in six Regions on how to conduct inspections at boiler and industrial furnace (BIF) facilities that burn hazardous waste. The workshop was attended by approximately 264 state and regional RCRA inspectors and compliance personnel. (For further information contact OWPE/RED)

Superfund

Supplemental Guidance on Federal Superfund Liens

On July 30, 1993, EPA released national guidance for providing owners of contaminated property with notice and an opportunity to meet with EPA before a Superfund lien is perfected on their property. Under the guidance, EPA will notify property owners by registered mail prior to perfecting a lien on their property. Property owners will have the opportunity to either make written submissions to the Agency (for example, make available documents indicating that they are not the owner) or meet with EPA staff before a neutral EPA official. Under the guidance, the neutral official will hear the property owner's presentation, and then, based on a record of relevant documents, decide whether or not EPA has a reasonable basis to perfect the lien.

The guidance provides property owners an opportunity to give EPA information that might change the Agency's proposed determination to perfect a Superfund lien. EPA's issuance of this guidance is one of the first examples of its larger effort to make administrative improvements to Superfund. (For further information contact OE-Superfund)

De Micromis Guidance

On July 30, 1993, The Office of Enforcement and the Office of Waste Programs Enforcement issued a memorandum entitled "Guidance on CERCLA Settlements With De Micromis Waste Contributors." The purpose of the memorandum is to provide guidance on using CERCLA's settlement authorities to resolve the CERCLA liability of parties who have contributed even less hazardous substances to a site than the traditional de minimis settlors the Agency pursues. The memorandum describes the types of situations in which a Region may find that it is in the Agency's interest to exercise enforcement discretion by offering de micromis settlements and explains how to use EPA's existing settlement authority in an expeditious manner to resolve the liability of these de micromis parties and to grant them the fullest contribution protection available under the statute.

The Agency plans to issue a supplemental memorandum that will include a model CERCLA § 122(g) administrative agreement, a model CERCLA § 122(g) consent decree, a model § 122(g) Federal Register notice, a questionnaire, a certification, and examples of notification letters to send to potential de micromis settlors. (For further information contact OE-Superfund)

Alternative Dispute Resolution

FY 1993 was a watershed year for efforts toward meeting the Agency's stated policy of utilizing alternative dispute resolution (ADR) mechanisms in all Agency enforcement actions where a more prompt and fair resolution of a dispute could potentially result ("Final Guidance on Use of Alternative Dispute Resolution Techniques in Enforcement Actions") and to implement the Administrative Dispute Resolution Act and the Executive Order on Civil Justice Reform. Significant strides were made in every aspect of our ADR program including case use of ADR, case support systems, training and internal ADR services, and outreach to the regulated community.

ADR mechanisms, primarily mediation and convening services, were initiated in eighteen enforcement actions during FY 1993, almost double the number for FY 1992. Regional support for the use of ADR grew substantially, with all but one region using ADR to assist settlement efforts. FY 1993 also heralded an increased awareness of ADR as a tool for increasing the efficiency of future disputes with mediation included in the dispute resolution provisions of eight judicial and administrative settlement documents.

Region I took the lead during 1993 in developing the consideration and appropriate use of ADR as standard procedure for civil actions. Region I initiated an expansive ADR program with regional training and the use of ADR in cost recovery and RD/RA actions. The region also initiated an innovative use of mediation to facilitate public deliberations regarding the implementation of Agency Superfund remedial decisions.

The scope of ADR use was expanded during FY 1993, with the first significant uses of ADR to assist disputes beyond Superfund cost recovery and RD/RA cases. Mediation was used for the first time to resolve a Clean Water Act NPDES violation action and to facilitate public deliberations regarding the issuance of an NPDES permit. In the Superfund program, ADR was used for the first time to facilitate the settlement of a large removal action and to assist negotiations

involving federal" PRPs. Progress was also made toward developing the use of ADR in RCRA enforcement actions through a pilot program initiated during FY 1993.

Another area of expansion for the ADR program during FY 1993 was the use of ADR to facilitate the resolution of PRP allocation disputes. Two major initiatives to provide ADR support to PRP allocation efforts were included in the Deputy Administrator's Superfund Administrative Improvements Project. Regional offices have begun a major effort to identify appropriate sites and offer ADR assistance to PRPs.

Training in the effective use of mediation and other ADR techniques was provided to all regional offices and Headquarters during FY 1993. 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, concentrates on the inherent difficulties in Agency negotiations and how use of ADR can facilitate prompt resolution of such disputes. In addition, training support was provided to several state environmental agencies including presentation of the ADR Users Training for staff of the Vermont Department of Natural Resources. An executive ADR training was also designed and developed during 1993 for presentation to senior Agency and DOJ enforcement staff next year.

Several efforts were also completed during FY 1993 to expand the institutionalization of ADR into the Agency's enforcement program. Under the auspices of the ADR Liaison, a national network of ADR contacts and ADR experienced staff in each region was organized. The network holds monthly conferences calls to exchange information and serves as consultants to Agency staff on the effective use of ADR. In response to regional requests, a cost benefit analysis of the use of mediation in support of Superfund actions was undertaken based on results of a Region V pilot project. The study indicates that substantial savings in terms of regional staff resources is obtained through the use of ADR, with savings of 30%-50% per case documented. In addition, work was begun on an ADR Users Manual to provide a desk reference in the effective use of ADR.

Substantial progress was also made during FY 1993 in educating the regulated community of the Superfund ADR program and the potential for use of ADR techniques to reduce PRP and government transaction costs. The ADR Liaison, several regional ADR Contacts, and EPA management made presentations and provided training programs on effective ADR use for numerous professional and PRP organizations and several federal agencies. In addition, a workshop exploring opportunities to use ADR to increase the effectiveness and fairness of the Superfund program was scheduled for November 1993. (For further information contact OE-Superfund)

CERCLA Reauthorization

During FY 1993, EPA prepared for the debate over reauthorization of CERCLA. The Agency considered reauthorization proposals spanning a great variety of issues. Among the most prominent of these issues was the statute's liability scheme.

The Office of Enforcement played a leading role in the conception and articulation of a variety of potential liability scheme related legislative changes to CERCLA, all intended to improve the fairness of the liability scheme and reduce the transaction costs associated with it. Areas of focus included the liability of small contributors of hazardous substances, contributors of Municipal Solid Waste, and prospective purchasers of contaminated property, as well as the allocation of cleanup cost shares and the finality of settlements, among other areas. (For further information contact OE-Superfund)

Final Off-Site Rule Published in Federal Register

The Final Off-Site Rule was published in the Federal Register on September 22, 1993 (58 Fed. Req- 49200). The rule will become effective October 22, 1993. The Off-Site Rule supersedes the directive entitled "Revised Procedures for Implementing Off-Site Response Actions" (Porter, Nov. 13, 1987), (OSWF. R Directive -9834.11, Nov. 13, 1987.) The Off-Site Rule implements CERCLA Section 121(d)(3) requirements to insure that CERCLA wastes are transferred only to environmentally-sound facilities, and that they do not add to environmental problems. The rule applies to any action, either removal or remedial, taken pursuant to CERCLA authorities (or with Fund money) that involves the off-site transfer of any hazardous substance, pollutant or contaminant. (For further information contact OE-Superfund)

Foster More Settlements with Small Volume Waste Contributors

In July 1993, EPA released the "Streamlined Approach for Settlements with De Minimis Waste Contributors." The guidance establishes the minimum level of information required before EPA can make a de minimis finding. The guidance states that it is no longer necessary to prepare a waste-in list or volumetric ranking before considering a party's eligibility for a de minimis settlement.

In July 1993, EPA released the "Guidance on CERCLA Settlements with De Micromis Waste Contributors." The guidance establishes the use of CERCLA settlement authorities to resolve the CERCLA liability of parties who have contributed even less hazardous substances to a site than the de minimis parties the Agency traditionally pursues.

In October 1993, EPA released "The First 125 De Minimis Settlements: Statistics from EPA's De Minimis Database." This report profiles the 125 settlements to date, providing insight into average volumetric contributions, payment amounts, etc.

A communication strategy was also issued for assisting de minimis and "de micromis" parties. (For further information contact OWPE-Superfund Enforcement)

Mixed Funding Activities

In September 1993, EPA released the "Mixed Funding Evaluation Report: The Potential Costs of Orphan Shares." This report analyzes the implications to the Trust Fund if EPA routinely paid for the orphan share of cleanup costs to implement the remedial design/remedial action (RD/RA). (For further information contact OWPE-Superfund Enforcement)

SPCC/Spill OPA Draft Administrative Penalty Policy

The Oil Pollution Act Administrative Penalty Policy was issued in draft form on September 13, 1993. The proposed policy contains detailed draft guidance on litigation considerations that may affect the settlement position of EPA in particular cases. The proposed policy will facilitate Agency closure on acceptable settlement positions in connection with OPA cases.

EPA issued an "enforcement authorities and elements of violations/evidentiary requirements under the Clean Water Act §311." This will be used to train and assist Agency personnel in the development of OPA enforcement cases. (For further information contact OWPE-Superfund Enforcement)

Toxic Substances Control Act

TSCA Sections 5 & 8 Initiatives Focus on Data and Data Quality

In FY 1993, EPA launched and ended the year with two TSCA new chemical and reporting initiatives designed to heighten awareness of the need to file quality data on time. On December 17, 1992, EPA announced a TSCA sections 5 & 8 initiative seeking more than $9 million in administrative civil penalties from 22 companies. EPA Headquarters and nine regional offices filed the cases, with eight companies self-disclosing violations and the remaining fourteen companies inspected by EPA. Many of the cases are still pending.

On September 30, 1993, EPA closed the fiscal year by announcing another TSCA sections 5 & 8 initiative, this time seeking nearly $25 million in administrative civil penalties from 23 companies. EPA Headquarters and eight regional offices filed the cases, with thirteen companies self-disclosing violations and the remaining ten companies inspected by EPA. (For further information contact OE-TLD)

National TSCA IUR Initiative

During the week ending July 23, 1993, administrative civil penalty complaints were filed by EPA Headquarters and four regional offices (Regions II, III, V, and VI) against 27 U.S. chemical manufacturers which failed to report in a timely and accurate manner, data required by the Inventory Update Rule (IUR) regulations, promulgated pursuant to § 8(a) of TSCA. Approximately $3.1 million in penalties were proposed in these complaints. The complaints issued were the result of violations detected during Agency record audit reviews and regional inspections.

The IUR is a regulatory reporting requirement in which facilities report the quantity and site of manufacture or importation of chemicals on the Agency's TSCA Inventory List. The IUR provides information essential to regulatory and non-regulatory activities, including hazard and risk screening, chemical assessment, risk management, pollution prevention, regulatory priority setting and the regulatory development process. (For further information contact OE-TLD)

Case Development Training, and Manual

During FY 1993, Case Development Training was conducted in Kansas City, Missouri and San Francisco California. The course covered topics such as: evidence collection, evidence evaluation, the civil administrative process, and other types of enforcement actions. Approximately 59 state and federal case officers, attorneys and inspectors attended. Each attendee received a manual covering pertinent TSCA, FIFRA and EPCRA law as well as a TSCA case study in connection with a mock settlement conference. (For further information contact the Office of Compliance Monitoring (OCM))

OPPT Inspection Training Strategy

In March 1993, OCM and Region IV jointly released the first national OPPTS inspector training strategy. The strategy was developed over a six month period by a group of 24 regional, state, and HQ representatives, it addresses pesticides, asbestos, PCBs, core TSCA and EPCRA § 313 inspector training needs. The strategy, which is now being implemented, details the content of each training course, timeframes and delivery mechanisms for a three year period. (For further information contact OCM)

Federal Insecticide, Fungicide, and Rodenticide Act

FIFRA § 19

The FIFRA § 19(f)(2) final policy was published on August 18, 1993. This policy provides an Interim Process for state enforcement programs to be approved as required by the statute in order to prevent loss of state authority to certify applicators and primary use enforcement responsibility.

The FIFRA § 19 Procedural Rule (Phase 1) proposed rule was published on May 5, 1993. This rule addresses the following requirements related to suspended and canceled pesticides: Mandatory Recalls, Voluntary Recalls, Indemnification, Storage Plans and Acceptance for Disposal. (For further information contact OCM)

Exports

The final Pesticide Export Policy Statement/Rule was published February 18, 1993. This policy revised the 1980 pesticide export policy; changes in the policy incorporated many recommendations from GAO's report on pesticide exports and those recommended by the EPA's review of its policy at a time of growing public concern over residues in imported foods. An Interpretive Workgroup on the Pesticide Policy was established to answer questions regarding the interpretation of the new Export Policy. (For further information contact OCM)

Emergency Planning and Community Right to Know Act (EPCRA) § 313

Worker Protection Inspection Guidance, Pocket Guide and Inspector Training Course

During FY 1993, EPA developed the pesticides worker protection inspection guidance, pocket guide for inspectors, and the draft worker protection inspector training course, which will be delivered in FY 1994. All of these products will be tools used nationally to help ensure compliance with the revised worker protection standards. (For further information contact OCM)

Interim Final EPCRA Section 313 Inspection Guidance

At the beginning of FY 1993 EPA released the Interim Final EPCRA § 313 Inspection Guidance which addressed conducting nonreporter and data quality inspections. The Guidance addressed the EPCRA § 313 compliance priorities. (For further information contact OCM)

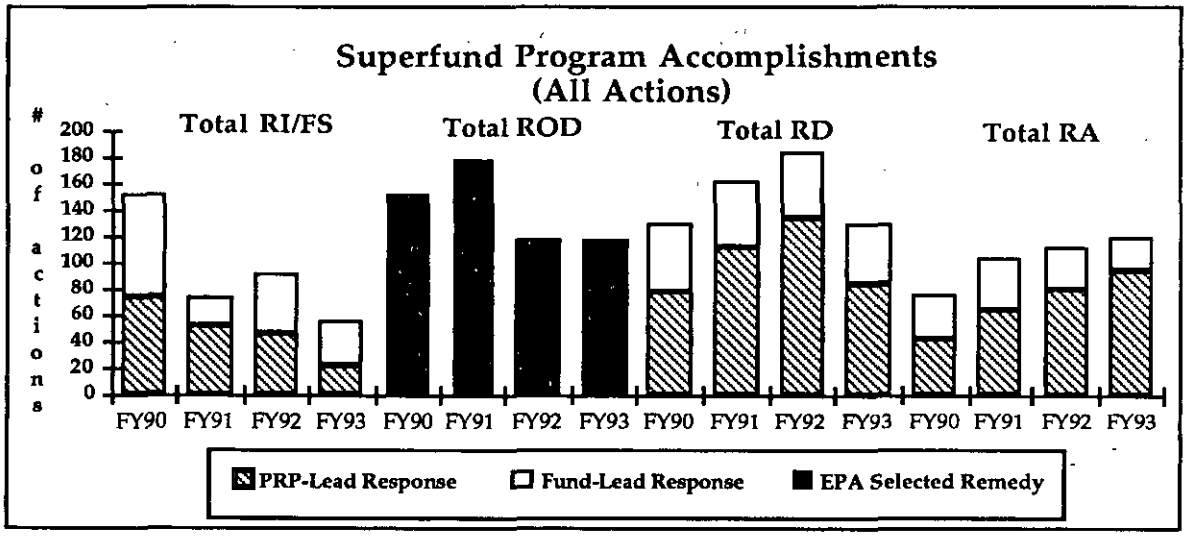
VI. Media Specific Enforcement Performance and Regional Accomplishments

A. Media Specific Enforcement Performance

Superfund Enforcement

FY 1993 was a respectable year for the Superfund Enforcement Program. The program reached a total of 200 settlements (NPL & Non-NPL) with estimated values greater than $950 million with potential responsible parties (PRPs). Of this total amount, approximately $810 million was for § 106 or § 106/107 remedial design/action (RD/RA) settlements. The estimated RD/RA settlement values were broken down into three categories. The first category was composed of 36 §106 or § 106/107 consent decrees for RD/RA referred by the Agency to the Department of Justice (DOJ), for PRP remedial work estimated at $366.3 million. The second category was made up of 42 unilateral administrative orders (UAOs) issued under § 106(a) authority, and for which PRPs notified the Agency of their intent to comply. The estimated value of RD/RA work to be performed under these UAOs was put at $420.6 million. The final category of remedial settlement consisted of eight administrative orders on consent (AOCs) for remedial design only, reached through the SACM initiative. The estimated value of design work under these AOCs was estimated to value over $24 million.

In FY 1993 the Agency issued a total of 126 unilateral administrative orders (UAOs), versus 107 in FY 1992, and 108 AOCs (versus 128 in FY 1992) were signed with PRPs. Of a total of 126 UAOs issued, 50 were for RD/RA (42 in compliance), with the balance for other response work at NPL and Non-NPL sites. Under § 107 and § 106/107 settlements, the Agency referred 41 cases (36 referrals in FY 1992) to DOJ seeking and achieving $155 million for past costs incurred by the program (compared to $137.4 million referred in FY 1992). Since the inception of the Superfund Program in 1980, PRPs have committed to response actions estimated at over $8 billion, and the program has achieved settlements for over $1 billion in past costs. The percentages of PRP lead at NPL sites in FY 1993 for remedial design and remedial action responses were 65% for RD and 79% for RA respectively (Federal Facilities excluded). In FY 1992, the percentage of PRP leads at NPL sites was 73% for remedial designs, and 72% for remedial actions.



Clean Air Act - Stationary Sources

Significant Violators/Timely and Appropriate Guidance

The Significant Violators program is central to the air enforcement and compliance program because it establishes a structure to identify and correct the most important noncompliance situations.

FY 1993 was the first full year of implementation of the revised Significant Violators/Timely and Appropriate (SV/T&A) Guidance, which revised the definition of a significant violator, thus expanding the universe of potential violators. Consequently, significant violator activity has greatly increased. By the end of FY 1993, there was a 150 percent increase in the number of significant violators identified over FY 1992; the number of significant violators that were addressed (i.e., by issuing Civil Referral, Administrative Penalty Order, Consent Decree, etc.) increased by 80 percent; and the universe of significant violators at the end of FY 1993 doubled. The increase in the number of significant violators is an indication of the successful implementation of the SV/T&A Guidance. (For further information contact SSCD)

Significant Violators Data

The census of significant violators (SV's) at the end of FY 1993 is 805, which is double the census at the end of FY 1992. In FY 1993, 1590 SV's were added and 1520 SV's were addressed, which are increases of 150 percent and 80 percent respectively over FY 1992. Regarding the timeliness of enforcement response to identification of significant violators, issue, 63 percent of SV's were addressed within the 150 day time frame set by the SV/Timely and Appropriate Guidance, which is an improvement from the previous year.

Enforcement Activities

During FY 1993, the regional offices referred 72 civil enforcement cases to the Department of Justice, which is slightly lower than in the previous year, and filed 140 administrative penalty orders (APOs). Moreover, approximately 61 final settlements of APOs were filed in FY 1993.

Stratospheric Ozone Protection Compliance Activities

Over 2000 inspections under the title VI CFC regulations were conducted in FY 1993. Thirty-four percent of all the APOs in FY 1993 were issued for CFC violations.

Clean Air Act - Mobile Sources

Manufacturers Operations Division

The Manufacturers Operations Division (MOD) in the Office of Mobile Sources (OMS) enforces the provisions of Title II of the Clean Air Act related to the manufacture and importation of new motor vehicles and motor vehicle engines. Specifically, MOD ensures that new motor vehicle manufacturers and importers comply with all Federal emission standards and requirements. MOD enforcement and compliance is conducted by the program office at headquarters. The Division conducts investigations, inspections, and testing of new and in-use motor vehicles and motor vehicle engines.

Motor Vehicle Emissions Recalls

MOD's recall testing program continued to implement Federal emission requirements efficiently and effectively in FY 1993. Since the beginning of the recall program, a total of 46 million vehicles have been recalled. Thirty-four million of those vehicles were recalled as a direct result of EPA investigations.

In FY 1993, the motor vehicle emission recall program continued to play an important role in MOD's efforts. During FY 1993, MOD investigations resulted in eight influenced recalls involving three manufacturers and a total of 370,00 recalled vehicles. In addition, 94,000 vehicles were recalled voluntarily by manufacturers without specific EPA action.

In addition, MOD continued motor vehicle testing in a high altitude area (Denver, Colorado). This high altitude program conducted in coordination with the Colorado Department of Health (CDH), was initiated to ensure vehicles operated in high altitude areas comply with Federal emission standards. Under MOD's direction, CDH tested seven engine families representing over one million vehicles. MOD expects this testing to result in two influenced recalls. One of these recalls involves 1989 4.0 liter Jeeps which are part of a larger investigation involving defective Chrysler oxygen sensors. This investigation will result in more than 700,000 and being recalled.

Selective Enforcement Auditing\Banking and Trading Emission Credits

MOD's Selective Enforcement Auditing (SEA) program continued to be a successful and highly leveraged program. The program consists of production-line emission testing of new light-duty motor vehicles and heavy-duty motor vehicle engines. The less than 170 individual tests ordered by MOD induced over 22,000 additional voluntary emission tests conducted by manufacturers.

MOD routinely audits the program that allows manufacturers to average, bank and trade (A,B&T) particulate matter and oxides of nitrogen emission credits for heavy-duty engines. The program authorizes manufacturers who reduce emissions below regulatory requirements for a particular engine to raise emissions from another engine in the current model year or offset these reductions against emissions in a later model year or to trade credits for these reductions to other manufacturers of similar engines.

In FY 1993, MOD audited four manufacturers representing approximately fifty percent of manufacturers using the A,B&T program. Pursuant to these audits, MOD met with manufacturer representatives to clarify certain program requirements and reviewed A,B&T records. MOD also initiated a rulemaking to clarify certain accounting requirements in the A,B&T program.

MOD's heavy-duty SEA audits focused on engines that manufacturers selected to participate in the A,B&T program. SEA audits targeted engines which had family emission limits (FELs) either below the Federal standards or close to the engines certification level. In FY 1993, SEA conducted ten heavy-duty engine audits and seven light-duty engine audits. As a result of an SEA, one manufacturer raised its FEL for an engine family to avoid an audit failure. Another manufacturer suspended production for one engine family rather than submit to an audit.

Manufacturers Investigations

In addition to the recall and SEA efforts, MOD continued to ensure that motor vehicle and motor vehicle engine manufacturers are in compliance with Title II of the Clean Air Act. MOD investigations focused on manufacturers that introduced vehicles into commerce without obtaining an EPA certificate

of conformity demonstrating compliance with Federal emission requirements. FY 1993 efforts yielded several full-scale investigations resulting in substantial settlement payments to EPA. In addition to these enforcement actions, MOD is continuing eight manufacturer investigations.

Nonconformance Penalties

MOD also enforces the nonconformance penalty (NCP) program. Pursuant to § 206(g) of the Act, the NCP program was established to facilitate the implementation of technology-forcing emission standards. Specifically, NCPs allow a manufacturer of engines or vehicles that do not meet applicable emission standards, but are below a designated upper limit, to be issued a certificate of conformity upon payment of a monetary penalty. In FY 1993, General Motors paid a NCP for one engine family totaling $3,123.

Imports Program

In FY 1993, MOD continued its implementation and enforcement of the Imports program under Title II of the Clean Air Act. This program, permits independent commercial importers (ICIs) that possess an appropriate certificate of conformity from EPA to import vehicles that do not comply with Federal emission standards and requirements (nonconforming motor vehicles). The program also permits designated Canadian importers (DCIs) to import Canadian motor vehicles determined by EPA to be identical in all material respects to certified U.S. version vehicles. The ICI or DCI is solely responsible for meeting all Federal emission standards and requirements for all nonconforming motor vehicles it imports.

To determine compliance with the Imports program in FY 1993, MOD conducted in-office document audits of all operating ICIs and all shipping company CCPs. In addition, MOD conducted two on-site ICI inspections, one on-site DCI inspection, and one port-of-call inspection. Pursuant to these audits, MOD discovered numerous imports regulation violations. In addition, to pursuing enforcement actions for these violations, MOD is continuing to investigate two other cases involving imports regulations violations.

MOD also continued to approve and monitor catalyst control programs (CCP). These programs are managed by other federal agencies, manufacturers, and shipping companies, to ensure the presence and proper functioning of emission control equipment on U.S. version vehicles driven overseas that are being returned to the U.S..

Field Operations and Support Division

The Field Operations and Support Division ("FOSD") in the Office of Mobile Sources ("OMS") enforces provisions of the Clean Air Act relating to the composition and use of motor vehicle fuels and tampering with vehicle emission control devices. FOSD also develops enforcement policy for OMS in these areas. FOSD's enforcement program includes: field investigations, augmented by state and local efforts and by contractor inspections; issuance of Notices of Violations ("NOVs"); negotiation of settlements; preparation for trials, either by referral to the United States Department of Justice or by the filing of an administrative complaint; and litigation if necessary. This enforcement program has been extremely successful in achieving environmental compliance over the years.

FOSD's aggressive enforcement program led to major enforcement achievements during FY 1993. Included among these achievements was a significant reduction in volatility violations in

FY 1993 as compared to FY 1992, and a continued increase in compliance with EPA's policy on installation of aftermarket catalytic converters. FOSD also worked hard to prepare for the implementation and enforcement of the new diesel sulfur regulation which became effective on October 1, 1993, and continued working on development of enforcement provisions for the reformulated gasoline/anti-dumping regulations and detergent regulation.

In FY 1993, FOSD and its contractors conducted a total of 12,878 inspections of vehicle repair shops, vehicle fleet owners, auto parts stores and parties in the fuel distribution system. As a result of these inspections and information gathered from other sources, FOSD issued 311 NOVs representing proposed penalties of $4,297,560. The largest number of NOVs were issued for fuel violations with 221 NOVs issued and total proposed penalties of $3,666,010. Of these, 210 NOVs were issued for violations of EPA's volatility regulations with total proposed penalties of $2,313,010, two were issued for violation of the Clean Air Act's substantially similar requirement with total proposed penalties of $1,308,000, and nine were issued for other fuel violations with total proposed penalties of $45,000. A total of 90 NOVs were issued for violations of the Clean Air Act's tampering prohibition with penalties totaling $631,550. Of these, 51 NOVs were issued for violations of FOSD's aftermarket catalytic converter policy with total proposed penalties of $287,850 and 39 NOVs were issued for other forms of tampering with total proposed penalties of $343,700.

FOSD settled 220 cases in FY 1993 with cash civil penalties totaling $2,257,585. Additional payments totaling $93,000 went to alternative payment projects. The largest civil penalty was generated from the settlement of one outstanding lead phasedown case with a penalty of $571,000. In addition, consent decrees were entered in five FOSD cases during FY 1993 with penalties totaling $831,596.

During FY 1993, there was a significant decrease in violations with respect to the installation of aftermarket catalytic converters, as compared to FY 1992. In FY 1992, EPA issued 73 NOVs for violations of FOSD's aftermarket catalytic converter enforcement policy ("AMCC Policy"). In FY 1993, only 51 NOVs were issued for violations of the AMCC Policy. FOSD attributes this increase in compliance to its aggressive enforcement program, which includes investigation of repair shops to determine compliance, the review of aftermarket catalytic converter warranty cards, the issuance of NOVs, and education of both the public and the regulated community.

EPA tampering survey data from past years indicates that the need for catalytic converter replacement is as high as 4% of the national fleet. Because of this substantial need for catalytic converters, the demand for new aftermarket catalytic converters has steadily increased in recent years.

Clean Water Act Enforcement - NPDES

Timely and Appropriate Enforcement and the NPDES Exceptions Report

The NPDES enforcement program has defined Significant Noncompliance (SNC to include violations of effluent limits, reporting requirements, and/or violations of formal enforcement actions. The NPDES program does not track SNC against a "fixed base" of SNC that is established at the beginning of the year, rather, the program tracks SNCs on a quarterly basis. During FY 1992, 90% of all NPDES SNCs were resolved in a "timely and appropriate " manner.

Those facilities that have been in SNC for two or more quarters without returning to compliance or being addressed by a formal enforcement action are identified on an "exceptions list". During FY 1993 287 facilities were reported on the SNC exceptions list including 40 facilities that were unaddressed from the previous year and 247 facilities that appeared on the list for the first time during the year. Of the 287 facilities on the exceptions list, 144 returned to compliance by the end of the year, 87 were subject to formal enforcement action, and 56 facilities remained to be addressed during the upcoming year. The number of facilities unaddressed in FY 1993 increased by 10. However, the number of facilities appearing as SNC decreased by 16% (2,362 to 1,978). This resulted in a decrease in T&A from 90% in FY 1992 to 87% in FY 1993.

During FY 1993, the regional offices filed 256 administrative penalty orders (APOs). Moreover, 178 final settlements of APOs were filed in FY 1993.

Toxic Substances Control Act Enforcement (TSCA)

Over 125 companies have registered for the TSCA §8(e) Compliance Audit Program, which offers participating companies the opportunity to voluntarily submit late heath and safety reports from chemicals. Stipulated penalties averaging $5,000 per late report will be collected. The stipulated penalties are much less that the statutory maximums that could have been imposed. This program has been well received by the regulated community an has raised the profile of this important data reporting requirement. The CAP has generated a large volume of useful health and safety data. To date, more than 10.000 late reports have been received by the Agency.

B. Regional Office Accomplishments

Region I - Boston

(Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont)

During FY 1993, Region I maintained an active enforcement program and continued to refine its management of the enforcement process. In the past year, the Region built on its previous efforts to incorporate a multi-media focus into the enforcement program, advanced an important dialogue with New England state enforcement officials to better coordinate enforcement efforts, and heightened its attention to resolving cases promptly and through innovative mechanisms.

Region I's Enforcement Workgroup, which includes representatives of all the Region's media enforcement programs and the Office of Regional Counsel, continued to play a lead role in developing and overseeing multi-media enforcement. As in recent years, the Workgroup held a roundtable discussion early in the year at which each of the programs discussed their inspection and enforcement plans for the year. During this discussion, opportunities for coordinated and consolidated inspections were identified and the possibilities for participation in the various regional and national initiatives were surfaced. The workgroup also took up numerous other important multi-media issues including refinement of the Region's multi-media inspection checklist, data collection efforts and inspection and enforcement targeting.

The clearest example of the Region's commitment to a multi-media approach is in the federal facilities area. In FY 1993, Region I conducted six multi-media inspections at federal facilities in connection with the February, 1993 national Federal Facilities Multi-media Enforcement/Compliance Initiative and in furtherance of the Region's federal facilities multi-media inspection program, begun in 1990. The inspections were conducted by EPA and state inspectors, and resulted in several notices of

non-compliance (federal or state) and one RCRA administrative enforcement penalty action under the Federal Facility Compliance Act of 1992. Since 1990, the Region has conducted fifteen federal facility multi-media inspections.

Also to advance a multi-media approach (and with the endorsement of the Region's leadership and the Enforcement Workgroup), training was conducted in the spring of 1993 for all of the Region's field inspectors on a number of important topics. All inspectors attended a course devoted exclusively to the subject of multi-media inspections at which experts from each of the enforcement programs discussed the major requirements of their programs so that inspectors would be better able to identify problems in areas beyond their individual programs. A separate course was held for all the inspectors which discussed ways in which they could promote pollution prevention during their inspections. Finally, a course was held for inspectors and others in the Region which covered the litigation process and was intended to help them understand how the process works and how they would fit in it.

FY 1993 was the first full year of operation of the New England State/EPA Environmental Enforcement Committee. This committee, which was organized and sponsored by Region I, includes high level representatives from the enforcement offices of all the state environmental agencies and from the environmental divisions of the state attorneys general offices in Region I. The Committee meets approximately once every four months and addresses topics of mutual interest such as the coordination of enforcement efforts, participation in national initiatives, administrative penalty programs and training needs.

The Region also worked on a number of fronts to ensure the prompt and successful resolution of its enforcement cases and to explore the use of innovative settlement tools. A particular emphasis was placed on the resolution of the older judicial and administrative cases in the Region. Guidance was developed setting out various tools which could be used by regional staff to move negotiations to a prompt and successful outcome or, alternatively, to put them on a track towards litigation.

During FY 1993, Region I also worked on several fronts to promote the use of alternative dispute resolution (ADR) to settle cases and to enhance community involvement in controversial environmental decisions. These efforts have taken the form of educating regional management and staff about ADR techniques and their possible applications; educating the private bar about EPA's receptivity to ADR; representing EPA on an American Arbitration Association task force on environmental mediation; actively participating in a national workgroup on ADR to share information and ideas with other regions; and continuing to nominate cases for ADR in a broadening range of circumstances. The success of these efforts has been evident in increased general inquiries by both EPA case lawyers and members of the private bar about the appropriateness of mediating specific cases, as well as by the success of the region's convening efforts in 4 complex superfund cases (Savage Well, Nyanza, Iron Horse Park and Pine Street), each with a distinct set of challenges. Building on this experience, the Region is currently working with local, state, and congressional representatives to set up a process, with the assistance of a neutral facilitator, to address community concerns about the New Bedford Harbor superfund remedy.

Region II - New York

(New Jersey, New York, Puerto Rico, Virgin Islands)

Region II enjoyed a very strong year in virtually all categories of traditional measurement. For example, the Region's regulatory (non-Superfund) enforcement programs generated over $8.5 million in penalties, their second highest annual total. This figure included almost $1.6 million in stipulated penalty collections for violations of earlier judicial consent decrees, a demonstration of the Region's long-standing commitment to insuring compliance with settlement instruments.

Region II's Superfund enforcement program was again very successful, with enforcement case resolutions yielding nearly $340 million in value of work to be performed, cost recovery agreements, and penalties assessed. This is the Region's second highest year in terms of both the value of work secured from responsible parties ($253.8 million) and penalties assessed ($1.7 million); the $83.3 million in past costs which were recovered is three times higher than Region's best previous year.

In the non-CERCLA arena, judicial penalty assessments resulting from settled and adjudicated cases totaled over $5.2 million in FY 1993, the Region's second highest ever. Penalties proposed in FY 1993 administrative complaints totaled $11.1 million; proposed administrative penalties in four separate programs exceeded $1 million (EPCRA, RCRA, TSCA and CWA). Administrative penalty assessments (in settlements and adjudicated decisions) totaled nearly $3.2 million. Total judicial and administrative penalty assessments were thus about $8.6 million. The value of injunctive relief secured through Region II non-CERCLA judicial settlements entered in FY 1993 exceeded $12 million. Supplemental Enforcement Projects (SEPs) were included in more than ten settlements, under the EPCRA, TSCA, RCRA and CWA programs. The total dollar value of these SEPs was about $1 million.

In FY 1993, Region II had one of its highest annual outputs in the number of referrals to the U.S. Department of Justice for litigation activities. The Region generated some 60 such civil referrals, including consent decree enforcement referrals, collection actions, bankruptcy referrals, and pre-referral negotiation (PRN) packages. Of these, 29 were in the Superfund arena.

During FY 1993, Region II continued to closely monitor the status of compliance among judicial defendants and administrative Respondents with the terms of settlements and orders. Of the 60 referrals initiated, six were consent decree enforcement referrals and seven were collection actions for non-payment of penalties. This output demonstrates the importance that Region II assigns to ensuring compliance by former violators; the Region is persuaded that follow-through of this sort is essential to the overall success of an enforcement program.

Region II continued its aggressive implementation of the Administrator's goals for multi-media enforcement. Under the auspices of our Regional Multi-Program Enforcement Steering Committee, major, consolidated inspections including nearly every Regional program office were carried out at 13 facilities, including three federal facilities. A number of these yielded evidence of violations in one or more program areas -- although the Region states that fewer very serious violations were detected than in past years.

In addition, Region II has carried out a large number of other consolidated and coordinated multi-media inspections involving a smaller number of Regional program offices (usually two or three). In fact, based on the Agency's data, through the third quarter of FY 1993 Region II accounted for 39% of the nation's consolidated multi-media inspections; over 20% of its coordinated multi-media inspections; and nearly 88% of single media inspections performed utilizing the multi-media checklist.

In addition to major multi-media enforcement inspections, and the enforcement activities arising from them, the Region has actively pursued a number of other multi-media initiatives, including several Regional geographic enforcement initiatives. The Region also pursued geographic initiatives in the Cortland and Corning Aquifer regions of New York as well as the Niagara Frontier region of New York.

Region III - Philadelphia

(Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia)

FY 1993 was a milestone year for enforcement in Region III. Region III had a recordbreaking enforcement year as measured by enforcement activity numbers with 54 civil referrals, 16 criminal referrals, 11 PRNs, 237 administrative orders, and 102 administrative complaints. This represents a 35%, 6.6%, and 12% growth over last year's numbers in civil referrals, criminal referrals, and administrative complaints, respectively. The criminal enforcement program set a new record in FY 1993 for Region III. Furthermore, FY 1993 established a record for the number of civil referrals, when one excludes FY 1978. (The civil referral numbers for FY 1978 were artificially high because a number of civil referrals were fragmented into their parts and referred separately). Programs that witnessed impressive growth in the number of civil referrals over last year's numbers were NPDES and CAA/Asbestos, which had over a 300% and 500% rate-of-growth, respectively.

In addition to these record breaking numbers, Region III also embarked on several significant Special Enforcement Initiatives to focus on specific sites, geographic areas, pollutants, or industrial sectors with noteworthy environmental or compliance problems. The goal of these initiatives are to gain maximum deterrence through publicity and facility-specific impact. Continuing its leadership role, Region III actively developed and pursued regional and national enforcement initiatives in FY 1993.

In FY 1993, Region III embarked on a strategic planning exercise. As a necessary prerequisite for this project, the Region conducted a detailed study of Region III environmental data. The study's findings were an important resource in the establishment of the Region's Strategic planning goals. The goals are Regional Management, Reliance on Data, State Relations, Acid Pollution, and Ozone. They were targeted because they: require special Region-wide focus to succeed; take advantage of unique Region III leadership opportunities; have a high potential for risk reduction, and provide a forum for creative leadership. The goals do not define all of the Region's important work. Instead, they are areas where the Region feels that it can focus some of its efforts and make important improvements in addition to pursuing national priorities. Currently, the Region is actively engaged in devising enforcement strategies and objectives to accomplish these goals and to establish measures to measure their success.

Headquarters and Region III have placed increasing importance on the role enforcement should play in attaining non-traditional enforcement goals, such as protection of human health, preservation and restoration of ecosystems, and ensuring a high quality of public welfare. These are goals that are neither media nor program-specific, and to achieve them requires that they be addressed in a holistic manner. Multi-media enforcement permits addressing the environmental status of a facility in an integrated fashion which recognizes the interconnected relationship between the media and facility processes have the potential to be an important tool in this effort. Region III has recognized this and has placed increased importance on the use of multi-media enforcement as an instrument to achieve its goals.

Over the past three years, the Region has engaged in numerous multi-media enforcement initiatives arising from both the Headquarters' level and the Regional level. While there were some successes, there was the perception in this Region that multi-media enforcement had not yet lived up to its potential. In trying to maximize its effectiveness, the Region's Senior Managers formed a Quality Action Team with representatives from the various enforcement programs and offices. After almost a year of work by the Enforcement Branch Chiefs, the Region finished development and started implementation of a fully integrated case-screening and multi-media enforcement process in FY 1993.

In FY 1993, Region III and its States have made significant efforts to strengthen their enforcement partnership. This year marked the beginning of an effort between Region III and its States to strengthen the Federal/State enforcement relationship. On August 10, 1993, representatives from both the Region III and the State/Local enforcement programs met in Region III's Philadelphia office to discuss enforcement planning for Fiscal Year 1994. While it is common for each of the Regions' enforcement programs to meet with their State counterparts to discuss their specific program goals, this meeting marked the first Region III meeting with its States dedicated to cross-program enforcement issues. This meeting was viewed as a success by all the participants and has lead to the initiation of biannually State/EPA Enforcement Meetings to build upon the State/EPA partnership.

Region IV - Atlanta
(Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee)

Region IV continued to emphasize multi-media enforcement during FY 1993 through two high-level management teams known as the Enforcement Decision Team (EDT) and the Multi-media Enforcement Team (MET), and using the expertise of the Enforcement Planning and Analysis Staff (EP & A). The EDT is chaired by the Assistant Regional Administrator and comprised of Associate and Deputy Division Directors, the Policy, Planning and Evaluation Branch Chief, and the MET chairperson. The EDT reports directly to the Deputy Regional Administrator to assist him in setting multi-media policies and priorities. The MET is chaired by a member of the EDT and comprised primarily of Section Chiefs, one from each division, and the Enforcement Planning and Analysis Staff Chief. The MET reports directly to the EDT and provides support to the EDT by managing and conducting multi-media inspections and enforcement activities. In FY 1993 Region IV conducted 34 multi-media consolidated inspections and initiated three multi-media enforcement cases, including one civil referral. A multi-media enforcement initiative in Chattanooga has resulted in a clean-up program under Superfund for Chattanooga Creek.

The EP & A staff supports the RA/DRA's role as principal manager for Region IV's enforcement programs. The EP & A staff also supports the EDT and is an active participant in the MET. Activities include developing policies and agreements, analyzing data to target activities and evaluate results, providing agenda/work products, coordinating and developing multi-media enforcement activities, serving as primary multi-media contact with Headquarters and states, and serving as regional spokesperson at national meetings and conferences on enforcement.

Region IV became the first region to initiate multi-year enforcement agreements with its eight states to reduce the time and effort expended in negotiating yearly enforcement agreements. The multi-media agreements cover the period from October 1, 1993 through September 30, 1996, and document general enforcement policies, issues and directions regarding enforcement roles, oversight, penalties, data, training, targeting efforts, enforcement initiatives, and communications. Each media will address specific items as necessary through MOAs and grant workplans that will continue to be developed on a yearly basis by each program.

Region IV continued its strong commitment to multi-media activities at federally-owned sites through its Federal Facilities Coordination (FFC) program. The FFC program conducted two OFFE federal facilities multi-media compliance inspections at Air Force Plant #6 and Redstone Arsenal, ten regional federal facilities multi-media inspections, and five Indian tribal multi-media compliance inspections. The FFC program also held a Regional Multi-media Federal Facilities Environmental Compliance Conference that was attended by over 300 persons.

All Region IV divisions participated in the successful first year of the Tampa Bay Enforcement Initiative, which resulted in 103 inspections, 11 permit reviews, five § 308 letters, 19 NOVs, three AOs, and one civil referral.

Region IV approved twenty-six Supplemental Environmental Projects (SEPs) in FY 1993. The projected costs range from $10,000 to $4,000,000 with the total projected costs exceeding $14.4 million. Thirteen of the SEPs are classified as pollution prevention projects and account for $6.2 million of the total projected costs.

Region IV's RCRA program continued to produce high enforcement outputs by issuing 15 new complaints and settling 25 administrative cases, with penalties in final administrative orders increasing from $900,000 in FY 1992 to $2,446,000 in FY 1993. Emphasis was placed on settling older cases. Final Consent Decrees were entered for Sanders Lead with a penalty of $2 million and for Grumman with a penalty of $2.5 million which included a $1 million pollution prevention project. Region IV referred two new judicial cases to Headquarters in FY 1993.

In FY 1993, Region IV accounted for approximately 20 per cent of all Superfund removal starts nationally, including a solid 25 per cent of all EPA funded clean-ups. Region IV obligated nearly $24 million in clean-up monies to contractors. Major projects completed in FY 1993 included ILCO, Aqua-Tech, Basket Creek, Cherokee Oil, and Escambia Wood (Pensacola).

Enforcement actions under the NPDES program included eight civil referrals, 54 Administrative Penalty Orders (APOs) and 117 Administrative Orders (AOs), all of which exceeded FY 1992 totals. For FY 1993 six judicial consent decrees were signed with cash penalties totaling $4.4 million. The largest one of these, CSXT, contained $3.0 million in cash penalties and $4.1 million in Supplemental Environmental Projects (SEPs). NPDES settled 30 APOs for a total of $569,000, with an additional $5.6 million in SEPs being agreed to in APO settlements. Region IV became the first region to take an NPDES civil judicial action under the emergency powers authority granted in § 504 of the Clean Water Act with its action against Dade County, Florida.

Region IV's UIC program met or exceeded all their workplan goals for FY 1993. The program completed nine AOs and referred two civil and three criminal cases to DOJ. Region IV continued to lead the nation in UIC enforcement activity throughout FY 1993.

Region IV's UST program participated in many of Region IV's multi-media activities for FY 1993, one of which was the first civil referral case in the nation taken against a company for UST release detection violations. In FY 1993 Region IV also took its first administrative action against a hazardous substance tank owner for failure to comply with UST release detection requirements.

Under the Clean Air Act, Region IV filed 14 APOs with total penalty amounts of $658,790 under Section 113(d), which represents a 400% increase in use of this enforcement tool over the initial year of availability, FY 1992, and an increase of 289% in the amount of penalties sought. Three civil referrals were issued in FY 1993 with penalties totaling $2,492,840. In conjunction with ORC and Headquarters, Region IV settled 12 outstanding cases for $4,799,000, including the following: Crown Cork and Seal, $343,000; Louisiana Pacific, Clayton, Alabama and Commerce, Georgia; and Olin Corporation, $1,000,000. Region IV issued the first immediate compliance AO under § 113(d)(3) to require the removal of asbestos containing material (ACM). This precedent setting order was issued at the uncontrolled release of ACM at Louisville Forge and Gear.

Region V - Chicago
(Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin)

In FY 1993, Region V achieved a record number (98) and record national share of judicial consent decrees and orders after trial. This compares to 54 judicial consent decrees and orders for FY 1992. Highlighting the Region's success was a precedential, multi-media consent decree with Inland Steel, which included a $55 million package ($26.5 million for supplemental environmental projects, $25 million in injunctive relief, and $3.5 million in civil penalties). Other highlights include a $6 million penalty judgment after trial against Bethlehem Steel, located in Burns Harbor, Indiana, and the entry of a CWA §309 Order requiring Wayne County, Michigan, to implement plans for a sewer collection system a cost of over $180 million dollars.

Last year, The Geographic Initiative process reached a certain level of maturity. The Region currently is operating five initiative areas: Gateway (East St. Louis, IL), Tri-State (Ironton, OH area), SEMI (Detroit, MI area), Northwest Indiana, and Southeast Chicago. During the year, the Northwest Indiana/Southeast Chicago Geographic Initiative area was split into two separately functioning units along the state line. The reason for this division was to make each of the initiatives more manageable since the work being done in the area had grown quite substantially in the years since the creation of the original Region V geographic enforcement initiative area.

Another positive development of the geographic initiatives was the expansion of interaction with state and local governments and local community groups. For example, toward the end of the year the Region and the State of Indiana took steps to move from periodic meetings held to describe actions that have been taken, to much more frequent, specific and detailed meetings to jointly plan, conduct and coordinate enforcement actions according to a comprehensive enforcement action plan. Another example is the creation of the position of Enforcement Ombudsman to work with local community groups in the Southeast Chicago area.

During FY 1993, multi-media enforcement became less of an experiment and more of a standard and very useful tool in the Region V enforcement arsenal. The creation one year ago of the Multi-Media Branch in the Office of Regional Counsel has significantly helped the coordination of such enforcement strategies and actions. During the year, a number of important multi-media actions were concluded and others initiated. These specific cases, such as Inland Steel, are described in detail previously in this report. The cross divisional Multi-Media Litigation Screening Committee met on a monthly basis throughout the year and coordinated the development of the multi-media enforcement actions. In addition, a list of 23 facilities in priority order were targeted for multi-media inspection during FY 1994. All of these facilities are located in the five geographic initiative areas. It is most unlikely that resources will allow for all of these inspections to be conducted, but it is a good sign of the general acceptance of the value of the multi-media approach that this many actions would be selected.

Region V's wetlands program was very successful in FY 1993. The first criminal indictment for a wetland violation in Region V was handed down by a grand jury in June 1993. In addition, through the permit process and Superfund coordination, thousands of acres of mitigation were proposed in an attempt to comply with the zero net loss of wetland objective.

Region V continued to encourage innovative forms of relief in negotiating settlements. In FY 1993, the Region used Supplemental Environmental Projects (SEPs) in settlement of 52 cases. The total value for fiscal year 1993 SEPs was nearly 15 times greater than the value of FY 1992 SEPs, reaching approximately $42 million dollars. Many of the SEPs focused on pollution prevention, responding to EPA's increasing concern with fighting pollution at its source.

Region V participated in all of the National Enforcement Initiatives organized by the Office of Compliance Monitoring in OPPTS. In two of the three TSCA enforcement initiatives, and in the EPCRA Section §313 enforcement initiative, Region V lead all other EPA regions in the number of complaints issued and in the total proposed penalties.

During FY 1993, the Region continued high levels of activity in the Boiler Industrial Furnace (BIF) Initiative. EPA conducted inspections at over twenty BIF facilities which had become subject to the new hazardous waste combustion regulations promulgated in August of 1991. The Region's efforts culminated in ten administrative enforcement actions being filed as part of EPA's highly successful Combustion Initiative.. Total penalties sought in these actions amounted to over $8 million.

The RCRA Illegal Operators Initiative got underway this year. This Initiative is a cooperative effort between EPA Headquarters, EPA Regional Offices and State Environmental Agencies. As part of this effort, States focused their inspection activities towards identifying entities engaged in the illegal storage or disposal of hazardous wastes. Judicial, administrative and criminal enforcement cases seeking injunctive relief and monetary penalties were filed to address the violations detected as part of these inspections. Most of the cases, filed as part of the Initiative in June and July of 1993, are in preliminary stages of litigation or negotiation.

Finally, Region V's criminal enforcement program had a record year. The number of referrals (28), indictments (15) and defendants charged (24) exceeded any previous year's totals.

Region VI - Dallas
(Arkansas, Louisiana, New Mexico, Oklahoma, Texas)

Region VI maintained an active enforcement program in FY 1993. The RCRA program had an exceptional year in 1993 by commencing 33 new enforcement actions with total proposed penalties of over $12 million. Final orders were issued for 12 cases. In addition, four enforcement corrective action orders were finalized and two imminent and substantial endangerment orders were issued, including the first such order nationwide to a federal facility. The Region also commenced two of the first administrative penalty cases against federal facilities under the authority given in the Federal Facility Compliance Act. Regional RCRA enforcement initiatives included commencing eight enforcement actions against boilers and industrial furnaces, four enforcement actions against facilities in the area of the U.S./Mexico Border, and two enforcement actions against foundries.

Another Region VI RCRA enforcement initiative involved the improper handling of shipments of hazardous waste into the United States. A binational Hazardous Waste Tracking System (HWTS) has been developed by EPA RegionVI and the Mexican government to verify compliance with U.S. and Mexican laws of transboundary shipments of hazardous waste. The HWTS is capable of merging and comparing Mexican hazardous waste shipment data with U.S. manifests to confirm movement of hazardous waste from maquiladoras in Mexico to treatment, storage and disposal (TSD) facilities or recycling facilities in the United States. The system tracks volumes of wastes, waste types, foreign generator, and ultimate disposition of the waste. Discrepancy reports generated by the HWTS identified U.S. import violations which resulted in three Administrative Complaints. This initiative has received considerable positive national media coverage (e.g. Wall Street Journal and Journal of Commerce).

During this fiscal year, the Region VI Office of Underground Storage Tanks (OUST) was very active in assisting other Regions in developing and implementing the federal field citation program. OUST provided assistance to RegionVI in their federal field citation program by providing on-the-job

training for State UST inspectors in Arizona and California, and conducted classroom training for California UST State/County/Local regulators at the University of California. Because of OUST's field initiative, all but two Regions have now begun to implement their own federal field citation program. The field citation program developed and implemented by Region VI OUST continues to be an effective and efficient enforcement tool. Joint EPA/State inspections, using field citations, were conducted in Texas, Arkansas and Louisiana. During FY 1993, 50 inspections were conducted and 38 field citations were issued. Total penalties collected were $17,850 (field citation penalties ranged from $50-$1,500 per facility).

The New Mexico Environment Department (NMED) will be acting as EPA's oversight representative during the Remedial Investigation and Feasibility Study (RI/FS) at the Atchison, Topeka, and Santa Fe (Albuquerque) Superfund Site. Over the past several years, NMED has been overseeing the Responsible Party's activities at the site and has provided comments to the Responsible Party throughout the initial stages of the investigation. In order to reduce the possibility of

duplication of efforts and, more importantly, to provide the state with an opportunity to build its Superfund capability, EPA has requested NMED act as EPA's oversight representative during the RI/FS and perform the human health and ecological risk assessments. NMED will be conducting the human health and ecological risk assessments in-house.

On May 14, 1993, EPA issued a Unilateral Administrative Order under the Comprehensive Environmental Response, Compensation, and Liability Act to ARCO and El Paso Natural Gas (EPNG) for the performance of the remedial design and remedial action for the Prewitt Abandoned Refinery Superfund Site in New Mexico. As a result of unresolved differences between ARCO and EPNG, and in order for both parties to continue to be in compliance with the Administrative Order, both parties took it upon themselves to submit separate work plans for the performance of the remedial design (RD). Thus, EPA, the New Mexico Environment Department (NMED) and the Navajo Nation Superfund Program (NSP) have been conducting dual reviews of the RD work plans. As during the remedial investigation and feasibility study and the record of decision writing process, both NMED and NSP have provided technical support to EPA during the RD work plan review. Both NMED and NSP have cooperated with EPA in providing comments on all of the revisions and have been willing to participate in conference calls and meetings when their assistance was needed.

The Clean Water Act National Pollutant Discharge Elimination System (NPDES) enforcement program was very successful in FY 1993. The commencement of 81 administrative penalty actions represented approximately one-third of the national total, and the issuance of 735 administrative orders (non-penalty) represented over one-half of all such orders issued by EPA nationwide. The Region was also very successful in resolving judicial and administrative penalty cases, resulting in the payment of over $4.6 million in civil penalties.

The NPDES program was also successful in maintaining the integrity of the self-reporting program and in protecting water quality. Specifically, the Region participated in a national initiative to ensure accurate reporting and analysis, by initiating enforcement actions for failure to submit accurate discharge monitoring reports, for failure to properly collect and analyze wastewater samples, and for failure to re-apply for NPDES permits in a timely manner.

To address water quality concerns, the Region laid the groundwork for future enforcement actions by identifying facilities with serious sanitary sewer overflows and bypasses. A number of enforcement actions were commenced to eliminate raw sewage overflows from sanitary sewers.

Region VII - Kansas City
(Iowa, Kansas, Missouri, Nebraska)

Region VII emphasized its Multi-Media Enforcement Committee as the focus of its enforcement targeting and coordination efforts, for case selection for reducing risk and implementing enforcement initiatives and the Administrator's priorities. The Region targeted three multi-media inspection candidates using TRI data, compliance histories, and geographic location. All three have resulted in referrals for enforcement. Multi-media enforcement cases are most successfully developed from initial targeting for multi-media inspections in a small Region like Region VII.

The Region's efforts and emphasis on state enforcement activities continued in FY 1993. However, the severe flooding in the Midwest resulted in lower numbers of state cases than in prior years. Nonetheless, Region VII states completed a number of cases and began utilizing press releases to announce the successful conclusion to case filings. The Office of Regional Counsel has done significant outreach to publicize the pollution prevention/supplemental environmental projects alternative to a portion of the assessed penalty. Region VII states are beginning to accept alternative environmental projects to offset a portion of the penalties.

Region VII is committed to maintaining a strong federal/state enforcement program. Recognizing that most of the programs which can be delegated to the states have been in the region, they have invested time and resources in helping their states develop and utilize their enforcement capacity. The result of this effort has been an improved relationship between EPA and the states, and better leveraging of the increasingly scarce state and federal resources.

Region VIII - Denver
(Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming)

In FY 1993, Region VIII referred 23 cases to the Department of Justice and took 308 administrative actions. Activities in FY 1993 were somewhat lower than FY 1992. FY 1993 numbers appear lower in comparison to FY 1992 because FY 1992 activities were higher than is the norm for most programs. Other reasons for the somewhat lower numbers were program specific. For example, in the FIFRA program the delayed revision of a required form caused the lowered numbers. The UST program decrease was due to states receiving increased authority. In other cases, programs with administrative authority equal to their civil authority chose to use the former.

The Region VIII Multi-Media Program continued to grow, gain momentum, and become institutionalized. This year, the Regional Enforcement Officer (REO) also acted as the Multi-media Enforcement Branch Chief of ESD and worked directly with the multi-media inspection teams. The Region participated in eight targeted multi-media inspections and focused on including states in the site selection and inspection process. Additionally, in FY 1993, the Region developed increased environmental justice capacity by including census data evaluation and the three "lifestyle clusters" suggested by the Office of Enforcement (OE) into both targeting and screening activities.

In the early stages of its existence, the Enforcement Standing Committee (ESC) addressed both enforcement policy and management and facility or case-specific matters. As the Region began to institute the multi-media approach and the number of multi-media actions increased, the Region realized that a mechanism was needed to discuss and manage facility or case-specific issues. Thus the Regional Enforcement Forum (REF) was created to deal with facility and case-specific enforcement related activities (see above). The creation of the REF has left the ESC as the Regional body responsible for discussing and addressing Regional enforcement policy.

The Regional Enforcement Forum serves as the primary mechanism for regularly needed cross-program and region-wide enforcement communications and coordination. The REF serves as a standing committee representing all enforcement programs and coordinates the review and implementation of regional, cross-program and multi-media inspection and enforcement activities including inspection coordination and review of selected enforcement actions. It is the REF that evaluates cases, forms multi-media teams and develops initial strategies and directions for these. It is the REF that works at the nuts-and-bolts level of multi-media case work. For example, the REF determines whether or not an activity should be addressed regionally and, if so, what program division is the lead. The REF prioritizes targeted and untargeted multi-media inspections and establishes multi-media inspection teams. Another important function of the REF is to resolve case of inspection specific conflicts and, where appropriate, elevating all unresolved conflicts to the ESC. The REF also recommends decisions regarding inspections and enforcement policies & operations to the ESC.

During FY 1993, the Region improved its multi-media inspection targeting process by adding new factors to the "base" process. The base process included all facilities having RCRA IDs and reporting to Toxics Release Inventory (TRI), all federal facilities permitted in at least two different media, and NEIC's CCRIP report-facilities listed are added to above list if not already there. Throughout the process state and program input/feedback on lists (20 facilities per state). IDEA analysis on each site - scores are determined for each site by considering compliance history, multi-media potential, status of facility on NPL, FY 1993 National/Regional/State initiatives (e.g., Environmental Justice, NPDES heap-leach mining sites, RCRA non-notifiers, pulp & paper facilities, ND tribal lands initiatives, etc.) for the coming year. Scores from above factors lead to list of top five facilities in each state; consensus is then reached between the Region and each State to do two multi-media inspections in the next fiscal year in each state. Prior to the inspections, the objective of each multi-media inspection is discussed and agreed upon with each state.

Originating the multi-media concept, the Sand Creek Pilot Project was designed to institutionalize the holistic approach to compliance and enforcement into environmental protection. Region VIII, the Colorado Department of Health, and the Tri-County Health Department participated jointly in the Pilot Project. Targeted inspections at two large facilities in the area resulted in coordinated multi-media State and EPA enforcement actions to address seepage into Sand Creek. Following compliance inspections, using data and information gathered during the Project, the three agencies hosted a series of pollution prevention workshops for companies in the area. These workshops, consisting of three different half-day pollution prevention workshops, were designed around the types of violations found in the area as well as the primary types of industry.

During FY 1993, Region VIII has incorporated environmental equity activities into the following Regional processes: Building an Environmental Equity Database, Targeting Multi-Media Inspections, and Case Screening. Future environmental equity accomplishments include developing a user-friendly equity database that can be used by everyone with a connection to the LAN, so that equity factors can be used in everyone's daily work processes.

Region VIII has had success in integrating pollution prevention into enforcement. Some of the activities include: Nephi Rubber Products, Huish Detergent, Denver Metal Finishing Company, City of Rock Springs, the Trona Mine Initiative, and projects such as the Sand Creek Pilot Project and Wyoming Outreach. The unique aspect of the Nephi Rubber Products case is that a pollution prevention pilot project has been proposed and has been agreed upon by the facility, the EPA Regional office, and the State agency. Huish Detergent, Salt Lake City, Utah, which was required to put in a safety chlorine cleaning system which would clean any spills and set up an isolation system. Denver Metal Finishing Company, Denver, Colorado, which was installed a sand filter for use in their production process.

Region VIII continues to be a leader in developing tribal capacity. For example, the FIFRA program supported efforts conducted/hosted two training sessions: National Tribal Workshop and Advanced Inspector Training (states/tribes). Also two tribal inspectors were also brought into the Regional Office for one-on-one training by regional staff. The Oglala Sioux (Pine Ridge) Tribal Enforcement Program submitted a draft Revised Pesticide Code and Certification Plan to Region VIII for approval. This Code and Plan are now being reviewed by Regional and Headquarters staff. Also the Cheyenne River Sioux Enforcement Program received approval for an Endangered Species Protection Program, the first Tribal Program in Region VIII to conduct endangered species protection activities. Additionally, during FY 1993 the Region reviewed a program assumption proposal for the CWA § 404 program submitted by the Confederated Salish and Kootenai Tribes of the Flathead Reservation in Montana.

The Region also continues to develop state capacity. For example, the Underground Injection Control (SDWA/UIC) program has an annual meeting between all the States, interested Tribes and EPA in which information/technical exchange occurs regarding better/different ways to implement the program. In FY 1993 the Region provided grant funds for over $1 million in State program development efforts and related wetlands activities. To standardize the Region's approach to the RCRA program oversight of State enforcement programs, EPA negotiated, created and will now implement the Appropriate State Oversight Program (ASOP) with its States. The ASOP effort emphasizes a base line & differential (incremental) approach to oversight in order to focus on states where program enhancement is needed as well as disinvest where it is not. In the RCRA program, states are encouraged to participate in RCRA enforcement cases as a partner. In some cases, EPA RCRA turns significant actions over to the States for capacity and partnership building experiences. For example, in the State of Utah, EPA allowed the State laboratory personnel conduct a RCRA Lab audit at Nephi Rubber for the purposes of identifying compliance concerns and pollution prevention opportunities.

Region IX - San Francisco

(Arizona, California, Hawaii, Nevada, Trust Territories)

Region IX's enforcement accomplishments during FY 1993 were highlighted by multi-media compliance activities, implementation of a field citation program, continuing success with significant settlements and criminal prosecutions.

The Region's multi-media compliance effort focused on Federal Facilities, areas of geographical significance and petroleum refineries. The majority of the Federal Facility activity was conducted in cooperation with the State of California. The geographical focus was provided by the San Francisco Bay Delta as a priority estuary as well as Santa Monica Bay. The refinery interest intersects the geographic focus and was performed in cooperation with state and local environmental agencies.

The Underground Storage Tank field citation program was initiated in Region IX during FY 1993. This approach enables inspectors to issue citations and gain signed consent agreement- final orders with an efficient expenditure of resources. The inducement to the facility is a lower penalty than might be the result if a formal CC/CAFO process was pursued subsequent to the inspection. These on-the-spot citations are issued for clear cut violations that are easily identified at the time of the inspection. Begun during the fourth quarter, results are positive. Of 28 inspections conducted, 24 citations with penalties were issued and 21 were settled before the quarter's end. Penalties ranged from $50 to $800 with an average between$300 to $400. The citations have achieved expedited compliance from the regulated community, with efficient enforcement resource use.

In U.S. v. Mobil Oil Corporation, (E.D. Cal) a consent decree was entered on February 4, 1993. Under the decree Mobil will pay a civil penalty of $950,000 for violations of the Clean Air Act. The complaint alleged that Mobil's polystyrene foam manufacturing facility emitted more isopentane, a volatile organic compound that is a precursor to ground level ozone pollution, than was permitted by the applicable State Implementation Plan. The fine is the second largest penalty levied by EPA for Clean Air Act violations in California.

Region IX continues to aggressively enforce pretreatment requirements. In U.S. v McDonnell Douglas Corp (C.D. Cal) a consent decree was entered on September 17, 1993 in which the company agreed to pay $505,000 in settlement of the action brought to address violations at its aerospace manufacturing facility in Huntington Beach, California. The company discharged approximately 7,000 gallons of metal finishing waste from its printed circuit board manufacturing operations in violations of the pretreatment standards. The wastewater was discharged to the County Sanitation Districts of Orange County wastewater system.

Region X - Seattle
(Alaska, Idaho, Oregon, Washington)

In FY 1993, Region X undertook a comprehensive look inward at the enforcement processes and outcomes currently associated with their enforcement/compliance activities. This activity is on-going and will help shape enforcement and compliance activities in the future.

Continuing its effort to build an integrated multi-media enforcement program, in FY 1993 Region X emphasized the refinement of its risk-driven targeting process. A Targeting Workgroup was set up to create a systematic targeting procedure which will be used and improved upon, based on this year's success, in future years to ensure a list of multi-media inspection sites which meets the criteria that it be risk-based, consider regional and national enforcement initiatives, and incorporate program priorities and best professional judgment of state and EPA inspectors. Integrating information from several databases was a key element of the process. The Workgroup was aided by a facilitator in developing its targeting protocol.

Consistent with improving its targeting procedures, Region X refined and emphasized its multi-media program by performing ten coordinated multi-media inspections in FY 1993. Setting new precedent in State/EPA cooperation and partnership opportunities, was the cross-media inspection at the FMC Corporation in Pocatello, Idaho. This inspection involved ten media programs, and was performed by inspectors from EPA Region X in Seattle and Operations Office in Boise, Idaho, EPA National Enforcement Investigation Center (NEIC), State of Idaho Department of Environmental Quality (DEQ), and inspectors from the Shoshone Bannock tribe. In addition, Region X was a full participant in the National Federal Facilities Multi-Media Enforcement Initiative, and performed multi-media inspections at the Puget Sound Naval Shipyard at Bremerton, Washington, and Ft. Richardson Army Base at Ft. Richardson, Alaska.

In FY 1993, Region X continued its active program for innovative enforcement settlements, emphasizing Pollution Reduction, Pollution Prevention, Waste Minimization and Environmental Restoration Supplemental Environmental Projects (SEPs). In FY 1993 Region X had a total of 20 SEPS, mostly in TSCA and EPCRA cases, and will continue to do more. Region X's FY 1993 SEPs also included five administrative Clean Air Act Cases that will result in a significant reduction of particulate emissions. Of particular note in Region X are the settlements in two judicial cases involving the Oil Pollution Act. These cases were settled for approximately $970,000 and included the company's commitment to install and operate state of the art oil spill prevention and leak detection programs at an estimated cost of $1,600,000.

Region X Water Division has pioneered the watershed approach in environmental protection. This approach is built on three main principles. First, target watersheds should be those where pollution poses the greatest risk to human health, ecological resources, desirable uses of the water, or a combination of these. Second, all parties with a stake in the specific local situation should participate in the analysis of problems and the creation of solutions. Third, the actions undertaken should draw on the full range of methods and tools available, integrating them into a coordinated, multiorganization attack on the problems. Using these criteria, the National Pollution Discharge Elimination System (NPDES) Compliance Program conducted inspections in priority watersheds, clustered enforcement actions, and offered technical assistance/outreach in priority areas.

In March 1993, eight EPA and four state inspectors inspected 33 concentrated animal feeding operations (CAFOs) in the mid-Snake River area of south-central Idaho. These inspections were planned to occur during the snow-melt and rainfall period of early spring. From these inspections twelve administrative penalty complaints were issued in mid-June. These cases were part of a regional enforcement initiative in which dischargers to this water quality limited waterbody were targeted.

Suspension and Debarment are administrative processes which exist for the protection of the Government in its business dealings. Even though Suspension and Debarment are not traditionally viewed as enforcement tools, they provide an important adjunct to EPA's regulatory programs by creating incentives for compliance with EPA's civil and criminal environmental laws.

In FY 1993 the EPA Office of Grants and Debarment placed the position of Northwest District Debarment Counsel in Region X. This position covers both Region X and Region VIII, and currently maintains an open caseload of over 125 cases. In FY 1993, formal notices of suspension and/or proposed debarment were issued in 21 cases, and formal settlements or closures occurred in 13 cases. Region X emphasizes the use of suspension and debarment in order to protect the public's interest in the integrity of EPA contracting and assistance benefits programs.

Appendix

Historical Enforcement Data

List of Penalties by Media

List of Headquarters Enforcement Contacts

List of Regional Enforcement Information Contacts

EPA CIVIL REFERRALS TO THE DEPARTMENT OF JUSTICE
FY1972 TO FY1993

	FY72	FY73	FY74	FY75	FY76	FY77	FY78	FY79	FY80	FY81	FY82
AIR	0	4	3	5	15	50	123	149	100	66	36
WATER	1	0	0	20	67	93	137	81	56	37	45
SUPERFUND	0	0	0	0	0	0	2	5	10	2	20
RCRA	0	0	0	0	0	0	0	4	43	12	9
TOXICS/PESTICIDES	0	0	0	0	0	0	0	3	1	1	2
TOTALS	1	4	3	25	82	143	262	242	210	118	112

	FY83	FY84	FY85	FY86	FY87	FY88	FY89	FY90	FY91	FY92	FY93
AIR	69	82	116	115	122	86	92	102	86	92	80
WATER	56	95	93	119	92	123	94	87	94	77	84
SUPERFUND	28	41	35	41	54	114	153	157	164	137	129
RCRA	5	19	13	43	23	29	16	18	34	40	30
TOXICS/PESTICIDES	7	14	19	24	13	20	9	11	15	15	15
TOTALS	165	251	276	342	304	372	364	375	393	361	338

EPA ADMINISTRATIVE ACTIONS INITIATED (BY ACT)
FY1972 TO FY1993

	FY72	FY73	FY74	FY75	FY76	FY77	FY78	FY79	FY80	FY81	FY82
CAA	0	0	0	0	210	297	129	404	86	112	21
CWA/ SDWA	0	0	0	738	915	1128	730	506	569	562	329
RCRA	0	0	0	0	0	0	0	0	0	159	237
CERCLA	0	0	0	0	0	0	0	0	0	0	0
FIFRA	860	1274	1387	1614	2488	1219	762	253	176	154	176
TSCA	0	0	0	0	0	0	1	22	70	120	101
TOTALS	860	1274	1387	2352	3613	2644	1622	1185	901	1107	864

	FY83	FY84	FY85	FY86	FY87	FY88	FY89	FY90	FY91	FY92	FY93
CAA	41	141	122	143	191	224	336	249	214	354	279
CWA/ SDWA	781	1644	1031	990	1214	1345	2146	1780	2177	1977	2216
RCRA	436	554	327	235	243	309	453	366	364	291	282
CERCLA	0	137	160	139	135	224	220	270	269	245	260
FIFRA	296	272	236	338	360	376	443	402	300	311	233
TSCA	294	376	733	781	1051	607	538	531	422	355	319
EPCRA								206	179	134	219
TOTALS	1848	3124	2609	2626	3194	3085	4136	3804	3925	3667	3808

EPA CRIMINAL ENFORCEMENT
FY 1982 TO FY 1993

	FY82	FY83	FY84	FY85	FY86	FY87	FY88	FY89	FY90	FY91	FY92	FY93
Referrals to DOJ	20	26	31	40	41	41	59	60	65	81	107	140
Cases successfully prosecute	7	12	14	15	26	27	24	43	32	48	61	76
Defendants charged	14	34	36	40	98	66	97	95	100	104	150	161
Defendants convicted	11	28	26	40	66	58	50	72	55	82	99	135
o Months sentenced			6	78	279	456	278	325	745	963	1,135	892
o Months served			6	44	203	100	185	208	222	610	744	876
o Months probation		534	552	882	828	1,410	1,284	1,045	1,176	1,713	2,478	3,240

STATE ENVIRONMENTAL AGENCIES
JUDICIAL REFERRALS AND ADMINISTRATIVE ACTIONS
FY 1986 TO FY 1993

ADMINISTRATIVE ACTIONS

	FY86	FY87	FY88	FY89	FY90	FY91	FY92	FY93
FIFRA	6,055	5,922	5,078	6,698	4,145	3,245	3,095	4,172
WATER	2,827	1,663	2,887	3,100	3,298	3,180	2,748	3,960
AIR	760	907	655	1,139	1,312	1,687	1,411	2,005
RCRA	519	613	743	1,189	1,350	1,495	1,389	1,744
TOTAL	10,161	9,105	9,363	12,126	10,105	9,607	8,643	11,881

JUDICIAL REFERRALS

	FY86	FY87	FY88	FY89	FY90	FY91	FY92	FY93
WATER	221	286	687	489	429	297	204	383
AIR	162	351	171	96	156	190	258	174
RCRA	25	86	46	129	64	57	112	133
TOTAL	408	723	904	714	649	544	574	690

Prior to FY 1990, the State FIFRA Administrative Action total included warning letters.

Total Amount of Civil Judicial and Administrative Penalties in FY 1993

	Total dollars
Clean Water Act	$ 27,834,375
Judicial	23,169,948
Administrative	4,664,427
Safe Drinking Water Act	$ 5,567,203
Judicial	5,398,500
Administrative	168,703
Stationary Source Air	$ 20,384,422
Judicial	18,384,422
Administrative	2,000,000
Mobile Source Air	$ 2,528,785
Judicial	850,596
Administrative	1,678,189
RCRA	$ 22,766,695
Judicial	14,211,000
Administrative	8,555,695
EPCRA § 304-312 - Administrative	$ 1,128,560
CERCLA § 103 - Administrative	$ 489,272
CERCLA § 104, 106, 107	$ 24,352,324
Judicial	23,899,052
Administrative	453,272
Toxics Release Inventory - Administrative	$ 2,556,507
TSCA - Administrative	$ 6,892,697
FIFRA - Administrative	$ 632,574
TOTAL	**$ 115,133,414**

* Clean Water Act includes Sections 311 and 404.

U.S. Environmental Protection Agency Regional Offices
Enforcement Information Contacts

Region I - Boston

Connecticut, Maine, Massachussetts,
New Hampshire, Rhode Island, Vermont

Office of Public Affairs
JFK Federal Building - One Congress Street
Boston, MA 02203
617-565-2713

Region II - New York

New Jersey, New York, Puerto Rico,
Virgin Islands

External Programs Division
Jacob K. Javitz Federal Building
26 Federal Plaza
New York, NY 10278
212-264-2515

Region III - Philadelphia

Delaware, District of Columbia, Maryland,
Pennsylvania, Virginia, West Virginia

Office of External Affairs
841 Chestnut Building
Philadelphia, PA 19107
215-597-6938

Region IV - Atlanta

Alabama, Florida, Georgia, Kentucky, Mississippi,
North Carolina, South Carolina, Tennessee

Office of Public Affairs
345 Courtland Street, N.E.
Atlanta, GA 30365
404-347-3004

Region V - Chicago

Illinois, Indiana, Michigan, Minnesota
Ohio, Wisconsin

Office of Public Affairs
77 West Jackson Boulevard
Chicago, IL 60604-3507
312-353-2072

Region VI - Dallas

Arkansas, Louisiana, New Mexico,
Oklahoma, Texas

Office of External Affairs
First Interstate Bank Tower at Fountain Place
1445 Ross Ave. 12th Floor Suite 1200
Dallas TX 75202-2733
214-655-2200

Region VII - Kansas City

Iowa, Kansas, Missouri, Nebraska

Office of Public Affairs
726 Minnesota Avenue
Kansas City, KS 66101
913-551-7003

Region VIII - Denver

Colorado, Montana, North Dakota,
South Dakota, Utah, Wyoming

Office of External Affairs
999 18th Street Suite 500
Denver, CO 80202-2405
303-294-1120

Region IX - San Francisco

Arizona, California, Hawaii, Nevada,
Trust Territories

Office of External Affairs
75 Hawthorne Street
San Francisco, CA 94105
415-744-1585

Region X - Seattle

Alaska, Idaho, Oregon, Washington

Public Information Center
1200 Sixth Avenue
Seattle, WA 98101
206-553-1465

EPA Headquarters Enforcement Offices

Office of Enforcement (OE)

Assistant Administrator	202-260-5145
Deputy Assistant Administrator	202-260-4137
Director of Civil Enforcement	202-260-4540
Air Enforcement Division	202-260-2820
Water Enforcement Division	202-260-8180
Superfund Enforcement Division	202-260-3050
RCRA Enforcement Division	202-260-4326
Pesticides and Toxic Substances Enforcement Division	202-260-8690
International Enforcement Program	202-260-2879
Office of Criminal Enforcement	202-260-5439
Office of Compliance Analysis and Program Operations (OCAPO)	202-260-4140
Office of Federal Activities (OFA)	202-260-5053
Office of Federal Facilities Enforcement (OFFE)	202-260-9801
National Enforcement Investigations Center (NEIC - Denver)	303-236-5100

Office of Air and Radiation (OAR)

Stationary Source Compliance Division (SSCD)	703-308-8600
Field Operations and Support Division (FOSD)	202-233-9000
Manufacturers Operations Division (MOD)	202-233-9240

Office of Water (OW)

Office of Wastewater Enforcement and Compliance (OWEC)	202-260-8304
Office of Groundwater and Drinking Water (ODW)	202-260-5522
Office of Wetlands, Oceans and Watersheds	202-260-7166

Office of Solid Waste and Emergency Response (OSWER)

Office of Waste Programs Enforcement (OWPE - CERCLA)	703-603-8900
Office of Waste Programs Enforcement (OWPE - RCRA)	202-260-4808

Office of Prevention, Pesticides and Toxic Substances (OPPTS)

Office of Compliance Monitoring (OCM)	202-260-3807

*U.S. Government Printing Office: 1994 — 521-360/81161