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Enforcement and Compliance Assurance Accomplishments Report

FY 1994

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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1.0 INTRODUCTION

In Fiscal Year 1994, under the direction of Administrator Carol Browner, the U.S. Environmental Protection Agency (EPA) reorganized its enforcement and compliance operations to further strengthen enforcement capability and place increased emphasis on compliance assurance. The result of this reorganization was the Office of Enforcement and Compliance Assurance (OECA). This newly created office now provides a single voice for national enforcement and compliance assurance policy and direction.

OECA's national policy integrates enforcement and compliance assurance into an approach that targets noncomplying sectors of the regulated community, as well as sensitive ecosystems and populations. This new enforcement and compliance approach fully supports the Federal initiative of "reinventing government," which, from the Agency's standpoint, translates into improving environmental compliance and encouraging innovative solutions to compliance problems.

This *FY 1994 Enforcement and Compliance Assurance Accomplishments Report* documents the steps EPA has taken in the past year to improve environmental compliance and incorporate innovative solutions into its enforcement cases. This document reports on EPA efforts on the national and regional levels and provides information on some of the enforcement and compliance assurance activities undertaken by some States. It also provides national, regional, and State enforcement highlights and includes information on the cases taken, developed, and settled by EPA and the States.

The report is structured around six Agency themes:

- Multimedia approaches to environmental problems
- Environmental justice
- Industry-specific sectors
- Supplemental environmental projects
- Sensitive ecosystem protection
- Federal facility environmental management.

Definitions and general information on each of these themes is presented in Section 2. As expected, not all FY 94 enforcement and compliance assurance accomplishments can be categorized under the six themes. Significant accomplishments outside the themes are also addressed throughout the document.

Specifically, Section 2 of the report discusses reinvention efforts underway in EPA's national enforcement program and the role EPA (Headquarters and Regions) and the States play in that reinvention. It defines national enforcement initiatives and highlights some of specific enforcement activities conducted throughout the year. In addition, it provides information on enforcement and compliance assurance efforts led by the primary offices within OECA.

Section 3 focuses on regional enforcement accomplishments and region-specific initiatives. It also discusses the relationship between the EPA Regions and the States and highlights some of the coordinated efforts between the two partners. It also contains State-specific activities, including initiatives, penalties, and cases.

Section 4 of the report provides overview information on the enforcement activities (e.g., civil and judicial enforcement, referrals) and penalties sought and assessed by EPA, at both Headquarters and the regional level. This section includes graphics and tables that display the specific numbers and amounts of actions initiated and closed by EPA. (Note: State-specific information on these topics is included in Section 3.)

Finally, Appendix A to this report contains significant judicial, administrative, and criminal cases settled in FY 94 by EPA. The cases are presented by statute (multimedia cases are first, however) in alphabetical order. Appendix B presents the cases reported by individual States. These cases are ordered by EPA Region, that is, States from Region I are presented first, and so on.

2.0 REINVENTING A STRONG NATIONAL ENFORCEMENT AND COMPLIANCE ASSURANCE PROGRAM

When the Agency reorganized its enforcement and compliance program and created the Office of Enforcement and Compliance Assurance, it realized that the changes would affect all levels of its national enforcement program, including Headquarters, the Regions, and the States. EPA knew that the national program itself would need to undergo "reinvention." An integral part of reinventing the national program was recognizing that EPA's traditional enforcement tools—monitoring, administrative actions, criminal sanctions, and monetary penalties—could not, in isolation, lead to sustained compliance in the regulated community. After detailed analysis, Agency officials determined that EPA needed to combine compliance assistance and promotion programs with the traditional aspects of compliance monitoring and enforcement. The heart of EPA's national enforcement program now comprises the following components:

- Compliance assistance: Activities designed to assist the regulated community and encourage voluntary compliance with regulations

- Compliance monitoring: Activities designed to provide information on the compliance status of the regulated community

- Enforcement actions: Powerful sanctions designed to compel compliance by the regulated community.

These three components, together with enhanced coordination of EPA and State actions, will lead to improved compliance with national environmental laws. When EPA Headquarters and Regional personnel join forces with individual States, the result is a far-reaching national program fully capable of using all available compliance tools within each of the three components.

2.1 ENVIRONMENTAL LEADERSHIP PROGRAM

One new tool in the area of compliance assistance is recognizing and rewarding facilities that exhibit leadership in environmental management and compliance. To this end, EPA developed the Environmental Leadership Program (ELP). The ELP is a national pilot program with a two-fold purpose:

- To recognize facilities that develop and implement innovative environmental management systems and "beyond compliance" programs

- To work with these facilities and understand their systems and programs, and then share the information gathered with the regulated community to improve environmental management and increase compliance.

Forty proposals were submitted for the ELP volunteering to demonstrate innovative approaches to environmental management and compliance. In April 1995, EPA selected 12 facilities to participate in the pilot program.

In exchange for participants' commitment to demonstrate their innovative approaches, EPA offers the facilities several benefits, including:

- Public recognition by EPA as an environmental leader
- A limited period to correct any violations identified during the pilot program
- An absence of routine inspections by EPA or the State.

By offering these benefits, EPA has attracted the environmental leaders from all industrial sectors, including Federal facilities. The Agency will use the ELP pilot projects to explore ways that it and the States can encourage facilities to develop innovative auditing, compliance, and pollution prevention programs and to establish public accountability for compliance with existing standards in environmental laws. The pilots also will help EPA develop the elements of a full-scale Environmental Leadership Program, which will be open to all facilities willing and able to meet the program criteria. The pilot phase of this project will run approximately 12 months.

The second component, compliance monitoring, is being reshaped to provide a holistic, facility-wide perspective instead of the more traditional programmatic one. This multimedia concept continues to mature into a significant method of accomplishing EPA's goals. During the past year, EPA inspectors conducted approximately 2,000 multimedia inspections at facilities nationwide. Multimedia inspections not only provide EPA and State personnel with a comprehensive view of a facility, but also result in a more efficient allocation of resources and effective use of personnel. In addition, these inspections are usually less time consuming and burdensome to the inspected facility.

Compliance monitoring activities are also being refocused to support specific Agency initiatives. For example, facilities are now being targeted for inspection based on their location or specific industry type. Environmental justice concerns are playing an increasingly more important role in targeting facilities for inspection, as are concerns about sensitive ecosystems.

EPA's increased emphasis on compliance assistance did not signal weakening of traditional enforcement, the third component. The Agency combined quality cases that protected the public and the environment in substantial ways with a record level of cases to promote deterrence. As shown in Figure 2-1, the Agency brought a record 2,246 enforcement actions with sanctions, including 220 criminal cases, 1,596 administrative penalty actions, 403 new civil referrals to the Department of Justice, and 27 additional civil referrals to enforce existing consent decrees. In addition, the States took 11,334 enforcement actions. These administrative and judicial sanctions, which surpassed those taken last year, are the primary enforcement tools to correct violations, establish deterrence, and create incentives for future compliance.

As shown in Figure 2-2, EPA assessed penalties for FY 94 totaling approximately $151 million combined for civil penalties and criminal fines and another $206 million was returned to the Treasury through Superfund cost recovery. Injunctive relief and supplemental environmental projects in non-Superfund cases exceeded $740 million. The number of consent orders, decrees, and penalties and the vigor with which they were pursued illustrated that EPA is serious about its enforcement commitments. The following high-profile examples illustrate EPA efforts under the new enforcement and compliance assurance approach:

- A corporation will spend more than $3 million to eliminate the generation of hundreds of pounds of hazardous wastes it currently disposes of through underground injection.

- Another corporation will pay for an independent audit covering TSCA compliance at all of its facilities, not just the one facility in violation. It will also disclose and correct all violations discovered as a result of the audit.

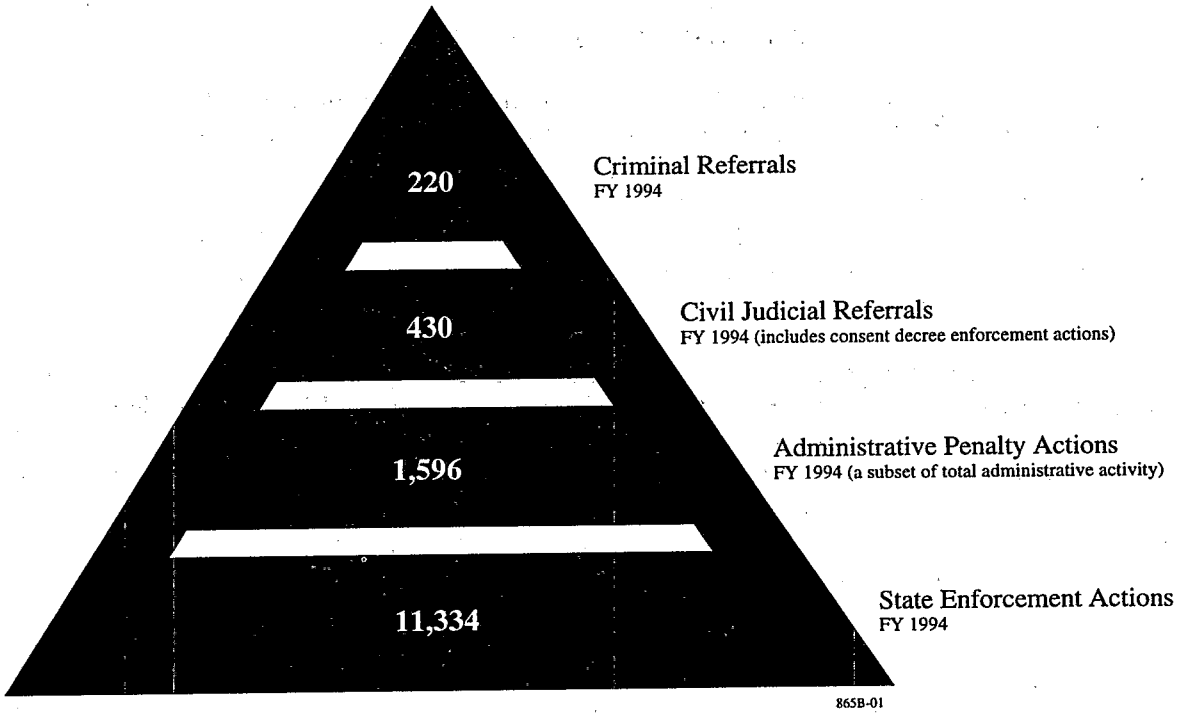


Figure 2-1. FY 1994 Enforcement Actions

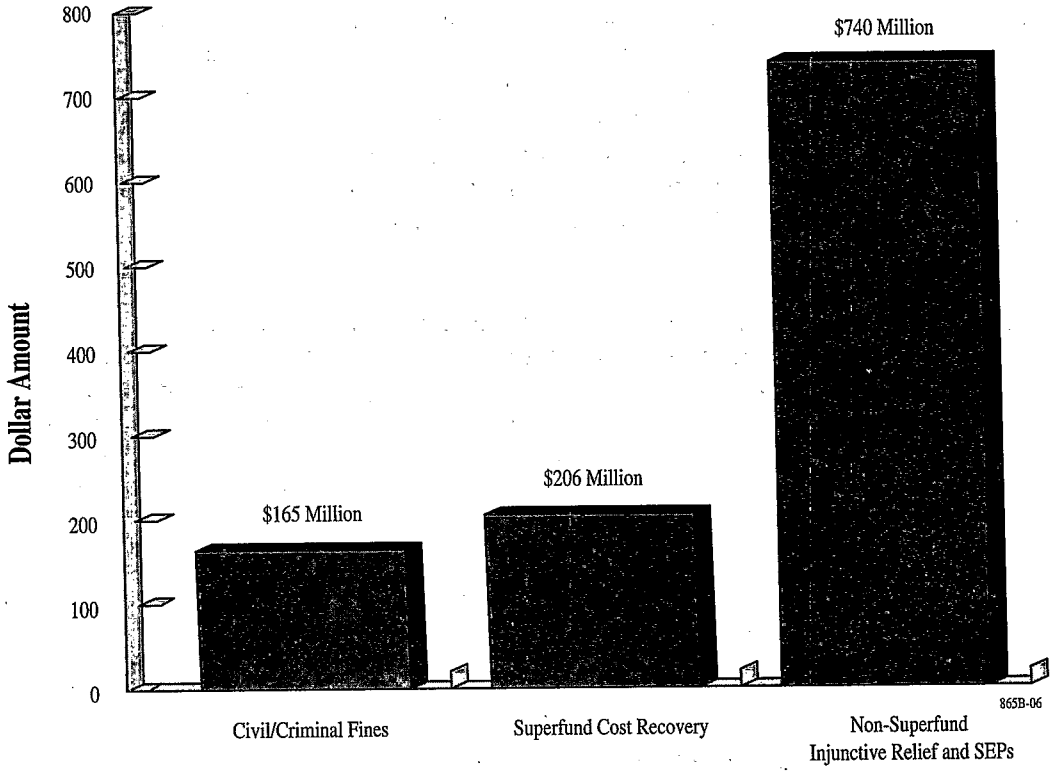


Figure 2-2. FY 1994 Monetary Breakout

- A company will spend $1 million to develop an innovative cooling system that will reduce the amount of water it has to withdraw from an aquifer by 259 million gallons annually.

- A State highway department will conduct lead paint abatement on bridges, targeting those located in minority and low income residential areas.

These types of settlements both significantly expand the environmental and health protection achieved through individual enforcement actions and enhance the prospects for long-term compliance. Similarly, EPA enforcement actions are sending a clear deterrence message to would-be violators, as illustrated by the following examples:

- The manager and shop foreman of a facility whose illegal disposal of toluene in a dumpster resulted in the death of two 9 year-old boys were sentenced to 27 months in prison.

- The owner of a now-defunct electroplating facility who illegally abandoned more than 27,000 gallons of hazardous substances within 500 feet of an elementary school received a sentence of 2 years in prison.

- A laboratory that falsified pesticide residue data used by EPA to ensure the safety of the American food supply received a $15 million fine and its owner was sentenced to 5 years in prison.

When EPA prosecutes violations and publicizes the results, it sends an unmistakable message to violators: "If you threaten the health and safety of the public, you will be caught and you will be prosecuted." This combination of strong, fair, and effective enforcement and compliance promotion will continue to characterize future Agency efforts.

The remainder of this section highlights selected enforcement and compliance assurance activities accomplished at the national level. Several of the activities involved extensive coordination among EPA Headquarters and regional personnel and States. Sections 2.2 through 2.7 discuss national efforts in each of the six themes identified Section 1. Section 2.8 presents information on national enforcement and compliance assurance activities that cannot be categorized according to the themes.

2.2 MULTIMEDIA APPROACHES TO ENVIRONMENTAL PROBLEMS

Multimedia enforcement is a unique and effective tool for addressing environmental problems in a comprehensive way. It encompasses a range of enforcement activities, including inspections, notices of violations, administrative orders, and judicial actions, using a wide-range approach to evaluate the violations, risks, and problems and to develop remedies across multiple environmental programs and statutes in a deliberate and coordinated manner.

Multimedia enforcement is integral to EPA's mandate to protect human health and the Nation's environment. Because it is comprehensive, multimedia enforcement provides EPA with the opportunity to further the Agency's most important goals, including:

- Improving ecosystem health
- Creating incentives for business to adopt pollution prevention and environmental auditing as a corporate commitment
- Attacking the complex problems posed by environmental justice
- Creating partnerships among States, Regions, tribes, and EPA Headquarters.

Multimedia enforcement is effective and appropriate in almost any situation, from small companies to major corporate entities. Moreover, it can be implemented on a local, regional, or State, level. Multimedia approaches also benefit industry. Facility-wide multimedia assessments can assist corporate planners in achieving production goals, while complying with environmental laws, in a cost-effective fashion.

The consolidated multimedia design utilizes trained and experienced teams of experts to develop cases from inspection through litigation or settlement. Potential multimedia cases are identified through multimedia inspections, integrated targeting, coordinated case screening, and improved communication among regulatory programs. To prepare personnel for these multimedia activities, a national multimedia enforcement workshop was held at NETI-West. Nearly 100 people attended, representing legal and program offices from OECA, nine Regions, the National Enforcement Investigations Center (NEIC), Department of Justice, and four States. Panel discussions focused on key multimedia issues, including the use of geographic initiatives; targeting multimedia enforcement for risk reduction, ecosystem protection, environmental justice, or other factors; multimedia inspections; case development and management; use of supplemental environmental projects and pollution prevention in multimedia cases; and State, local, and community involvement. A primary purpose of the workshop was to provide training on the challenges presented by multimedia enforcement and to discuss solutions developed by various Regions.

Inspection Types

Consolidated Inspections: Comprehensive facility evaluations not only addressing compliance in targeted program-specific regulations, but also identifying environmental problems that might otherwise be overlooked. When regulated activities or waste streams are identified, a compliance evaluation is made with respect to applicable requirements.

Coordinated Inspections: Concurrent and coordinated program-specific compliance investigations conducted by a team of investigators representing two or more program offices, Regions, or States. The team conducts a detailed compliance evaluation for each target program.

Single Media Inspections with a Multimedia Checklist: Program-specific compliance inspections that are conducted by one or more inspectors. The inspector(s) screens for and reports on obvious key indicators of possible noncompliance with other environmental statutes, usually using a multimedia checklist.

Using this training as the springboard, EPA inspectors conducted approximately 2,000 multimedia inspections in FY 94. It should be noted that there are at least three different types of multimedia inspections: 1) consolidated, 2) coordinated, and 3) single media with multimedia checklists. Of the 2,000 inspections, 113 were consolidated, 42 were coordinated, and 1,917 were single media using multimedia checklists.

These inspections resulted in the following enforcement actions:

- Nineteen multimedia civil judicial referrals to DOJ
- Thirty-two multimedia administrative actions
- Four multimedia administrative/judicial actions
- Twenty-two single media actions with multimedia settlements.

The following list highlights some examples of these enforcement actions and the coordination among HQ, regional, and State enforcement personnel:

- ***U.S. v. Marine Shale***: In the 1994 multimedia trial against Marine Shale Processors (MSP), the complaint alleged violations of RCRA, CAA, and CWA and sought cost recovery under CERCLA. The original complaint, filed in 1990, alleged that the company violated RCRA by operating an incinerator and hazardous waste storage units without a permit or interim status, placing on the ground incinerator ash that exceeded land disposal restriction (LDR) treatment standards and storing the incinerator ash in unpermitted waste piles. The company claimed that it operated a RCRA-exempt recycling facility that produced an aggregate product from hazardous waste. The complaint was amended in 1993 to allege violations of the CAA, including failure to obtain a Prevention of Significant Deterioration (PSD) permit, violations of the company's State minor source air pollution permit and operating 29 unpermitted air pollution emission sources; violations of the CWA, including discharging water pollution without a permit; and demanding the recovery of the government's costs in a cleanup action under CERCLA. Information on the violations was obtained from citizen complaints and through a number of EPA and State inspections and requests for information. The results of the trial are provided on the next page.

In the Marine Shale multimedia trial, the District Court divided the trial into 5 phases; the results were as follows:

- **In the RCRA sham recycling issues, the jury was not able to determine whether MSP was a legitimate recycler or an incinerator. The jury was dismissed, and no date was set for the retrial.**
- **The court ruled MSP was liable for failure to obtain a PSD permit and for failure to obtain a State Implementation Plan permit for 29 miscellaneous emission sources. The court assessed civil penalties of $2.5 million and $1 million, respectively.**
- **The court ruled that MSP had operated four water outfalls without an NPDES permit and that it had discharged large volumes of heated water into the adjacent bayou in violation of its NPDES permit. A civil penalty of $3 million was assessed.**
- **The judge ruled in favor of the United States on a summary judgment motion claiming that MSP was storing certain hazardous wastes without a permit and without meeting LDR treatment standards. The court assessed civil penalties of $1 million for storage violations and $500,000 for land disposal restricted waste violations.**
- **The Court also entered an injunction prohibiting further violations of the CAA, CWA, and RCRA; however, the effectiveness of the injunction was stayed pending appeal.**

- ***Allied Tube & Conduit***: Region V issued a landmark multimedia administrative complaint against Allied Tube & Conduit for alleged violations of EPCRA and RCRA. This action arose from multiple inspections to determine the company's compliance under both statutes. As a result of the EPCRA inspection, EPA determined that the company failed to report toxic chemical releases to the air in 1989. The RCRA inspection revealed numerous violations,

including failure to 1) properly mark containers, 2) record weekly inspections, 3) conduct personnel training, 4) adequately maintain fire protection equipment, aisle space, and closure of hazardous waste containers, and 5) properly prepare several hazardous waste manifests. Corrections of these multiple statutory violations will provide benefits to the public health and environment.

- ***U.S. v. Burlington Northern Railroad Company***: DOJ filed a civil multimedia action against the Burlington Northern Railroad Company on behalf of Regions V and VIII. The complaint alleges that the company discharged hazardous substances into the Nemadji River near Superior, Wisconsin, discharged oil into the North Platte River in Guernsey, Wyoming, and discharged oil into navigable waters near the Bighorn River in Worland, Wyoming. DOJ also sought a cost recovery claim under CERCLA for costs incurred by EPA in response to the Nemadji River spill.

- ***U.S. v. Tenneco Settlement Finalized***: After almost 3 years of negotiations, Tenneco reached a settlement with EPA for cleanup of PCB contamination along its natural gas pipelines and payment of a TSCA civil administrative penalty. Tenneco and the Tennessee Gas Pipeline Co. will pay a $6.4 million administrative TSCA penalty and cleanup under a CERCLA Removal Administrative Order on Consent (AOC). Region IV is the lead region on this case, which covers contaminated sites in five Regions. In the AOC, Tenneco has agreed to reimburse EPA for past costs of $357,087. Long-term cleanup costs covered by the AOC may exceed $240 million.

2.3 ENVIRONMENTAL JUSTICE

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

In accordance with President Clinton's Executive Order 12898, EPA is addressing these concerns by assuming a leadership role in environmental justice initiatives and developing an environmental justice strategy to enhance environmental quality for all U.S. residents. The Agency looks to assure, through its policies, programs, and activities, that no segment of the population, regardless of race, color, national origin, or income, bears disproportionately high and adverse human health and environmental effects.

To achieve the objectives of its environmental justice strategy, EPA is:

- Ensuring that environmental justice is part of all Agency programs, policies, and activities

- Identifying methodologies, research, and data needed to identify and evaluate populations at disproportionately high environmental or human health risks,as well as ensuring that these needs are considered in developing the overall Federal research program

- Promoting outreach, communication, and partnerships with stakeholders to ensure sufficient stakeholder access to training, information, and education.

Because implementation of the Agency's environmental justice policy is ongoing, the majority of its efforts to date have been in outreach and education for both Agency employees and the public. The Agency is refining its strategies and analyzing data to direct its compliance assurance, compliance monitoring, and enforcement activities more effectively in support of this principle.

Of primary concern to OECA is the lack of capacity of some low-income and minority populations to become involved in permit decisions and enforcement and compliance monitoring activities. To address this issue, the Enforcement Capacity and Outreach Office (ECOO) of OECA is leading a pilot program to provide education on a variety of environmental justice topics, including:

- Citizens' rights and regulatory processes
- Opportunities for community involvement in permitting decisions
- Training in interpreting data and enforcement/compliance monitoring activities.

In addition to these outreach efforts, the National Enforcement Training Institute (NETI) developed an approach for heightening environmental justice awareness among OECA employees and for enhancing citizen participation in environmental compliance monitoring and enforcement functions. Several of the individual HQ and regional offices have also developed and sponsored environmental justice training for their employees. In addition, the Office of Compliance sponsored the Environmental Justice Bike Tour, which educated students and communities about environmental awareness and environmental justice issues.

At the national policy level, OECA established a process for assuring environmental justice in all OECA programs, policies, and activities. It named a full-time Environmental Justice Coordinator and established an Environmental Justice Coordinating Council (EJCC). The EJCC comprises representatives from each major office within OECA and assists in developing the agency-wide strategic plan. It also provides recommendations to promote environmental justice through enforcement activities at all levels—regional, State, and national.

To date, the EJCC has produced three major draft documents for use within the Agency:

- OECA draft strategy outline, which describes the office's goals and objectives

- Potential projects list, which provides a matrix of current and future activities

- Draft OECA workplans, which include project descriptions, descriptions of project relationships to goals set forth in the strategy outline, anticipated time frames for the projects, and key efforts for completing the projects.

These documents are currently being circulated throughout the Agency for review and comment and will be the Agency's road map for all environmental justice activities.

Several of the primary offices in OECA are developing their own strategies for including environmental justice concepts into enforcement and compliance assurance activities. In conjunction with the Regions, ORE is developing enforcement guidance documents concerning identification of environmental justice cases and emphasizing the need for discussion of environmental justice concerns in litigation packages and consent decrees. It is also coordinating a national enforcement initiative to ensure that pesticide registrants adhere to the pesticide product labeling requirements of the agricultural Worker

Protection Standard (WPS). In October 1994, the first civil administrative cases under the WPS were filed against two of the Nation's largest pesticide manufacturers for misbranding or incorrectly labeling pesticides and posing a risk to workers' health. EPA is seeking a total of $2.1 million in penalties.

EPA is undertaking other activities to incorporate environmental justice into its enforcement and compliance monitoring activities. For example, OC provided access to an extract of the 1990 Census data in the Integrated Data for Enforcement Analysis (IDEA) information retrieval system that allows IDEA users to identify regulated facilities based on Census data, such as race and/or income, and then gather compliance/enforcement information about the facilities. Environmental justice efforts under the Superfund program have involved conducting a comparative analysis of Superfund enforcement process data for all NPL sites. OSRE also continues to coordinate with OSWER on identifying site characteristics and environmental justice indicators to ensure that information relevant to environmental justice issues are incorporated with enhancements to the Superfund information system (CERCLIS).

In addition, EPA is meeting the White House's call for making the Federal sector a national leader in environmental justice efforts. For example, OFA assisted with the development of an executive order on environmental justice, analyzed environmental justice issues and socioeconomic impacts under NEPA, and drafted preliminary guidance for assessing environmental justice in CAA Section 309 reviews of other agency NEPA documents. EPA's Federal facilities offices also completed projects related to environmental justice, including an extensive geographical information system (GIS) analysis at 25 Federal facilities nationwide. This analysis was based on environmental justice parameters, as designated in Executive Order 12898. These 25 surveys will be sent to the 10 EPA Regions as models for conducting GIS analysis at the regional level.

The Office of Criminal Enforcement has implemented an aggressive, multimedia, cross regional enforcement initiative that strategically targets businesses and other violators in minority communities. In partnership with the FBI, ATF, U.S. customs, and other Federal and State law enforcement and regulatory officials, OCE special agents will investigate business enterprises in these communities using confidential informants, undercover sting operations, aerial-infrared and electronic surveillance, and covert sampling and monitoring. The overall effect of this combined effort will have direct and positive impact on the health and safety of community residents.

In FY 94, the Criminal Investigations Division of OCE dedicated 27 percent of its resources to conducting investigations in minority communities. OCE's other accomplishments in achieving environmental justice include:

- Special agents in charge from all 10 Regions have submitted innovative plans for proactive strategic targeting initiatives on environmental criminal violations in communities with environmental justice concerns. These plans include joint investigations with other Federal and State agencies and tribal governments to prosecute violators in environmental justice communities, as well as geographical initiatives that target environmental criminal violations in such communities.

- OCE modified its agent training course and other law enforcement personnel training to include an environmental justice segment.

- Low income and minority areas of Dallas, Texas, received $6 million in remediation projects as the result of EPA's criminal prosecution in *United States v. Robert M. Brittingham and John J. LoMonaco* (N.D. Tex.). The former board chairman and the former president of a large ceramic tile manufacturer were convicted for dumping lead-contaminated hazardous

waste into a sand and gravel pit in a Dallas suburb.

Although somewhat limited, high profile situations have involved environmental justice and enforcement and compliance monitoring activities. In these situations, EPA Headquarters, Regions, States, and municipalities have worked together to forge a solution beneficial to all involved. The Tift County Georgia (Region IV) Environmental Justice Geographic Initiative is an example of this coordination. Under this initiative, Region IV developed and is in the process of implementing a pilot project in Tift County, Georgia, to address waste sites located within the city of Tifton and throughout Tift County.

Tifton is a small Georgia town of approximately 15,000 residents. A total of 19 CERCLA potential hazardous waste sites are located in Tifton. Of these, one is already on the National Priorities List (NPL) (Tifton Drums), one is being evaluated for inclusion on the NPL, and six have undergone waste removal or are currently undergoing waste removal.

EPA, in conjunction with CLOUT (a citizen's group in Tifton), the Georgia Environmental Protection Division, and the Tift County Board of Commissioners, is implementing the Tift County, Georgia, Environmental Justice Geographic Initiative to address the environmental harm from the multiple sites in Tift County. The Agency for Toxic Substances and Disease Registry (ATSDR) has also been active through existing agreements with EPA, which provide for public health assessments in communities surrounding NPL sites. To highlight the activities in Tift County, Region IV's senior management officials attended several community/public meetings to maintain open communication with local community leaders and residents.

Another environmental justice case involves a major utility company with four electric power plants in the Catano, Puerto Rico, area. Catano is a community in which the majority of the people are below the poverty level and suffer from poor air and water quality. The major thrust of the action is to improve the regional water and air quality. Section 3 provides more detail on this case.

EPA provided a $200,000 Clean Water Act grant to the Texas Attorney General to fund a Strike Force that enforces State and local laws against developers of colonias. The purpose of the money is to remedy the colonias' current environmental situation. Colonias are Hispanic communities concentrated near the Mexican border in Texas and New Mexico; they usually lack adequate infrastructure. OFA also worked with ORE, Region VI, DOJ, the Department of Housing and Urban Development, and the Texas and New Mexico Attorneys' General Offices to explore additional responses to the colonias' problem. This initial groundwork will form the basis of an enhanced Federal and State effort in 1995.

2.4 INDUSTRY-SPECIFIC SECTORS

The new framework for EPA's enforcement and compliance assurance programs reorients the Agency's focus to compliance problems that pervade certain sectors of the regulated community. This "sector approach" enables the Agency to 1) address noncomplying sectors more effectively, 2) allow for "whole facility" approaches to enforcement and compliance, 3) measure more specifically rates of compliance and the effectiveness of enforcement strategies, 4) augment enforcement strategies with appropriate compliance enhancement activities, and 5) develop sector expertise, which should improve performance in all aspects of the Agency's enforcement program. During the past year, EPA made great strides in developing sector expertise, which will allow the Agency to begin making sector-based enforcement and compliance assurance an integral part of everyday activities.

The agency-wide Common Sense Initiative is a prime example of EPA's sector-based initiatives and effort to extend its expertise. This program is considered the Agency's cornerstone sector-based initiative. The purpose of this initiative is to develop and implement strategies for making environmental regulation more efficient and more effective. Six industrial sectors were selected to participate:

- Iron and steel
- Electronics and computers
- Metal plating and finishing
- Auto assembly
- Petroleum refining
- Printing.

For each sector, EPA is convening a high-level team comprising industry executives, environmental leaders, government officials, and labor and environmental justice representatives. OECA is represented on every sector team and is the Agency lead for the printing sector. The teams will be looking at six key elements that affect the specific sector:

- Promoting pollution prevention opportunities
- Conducting regulatory reviews
- Undertaking innovative compliance assistance and enforcement initiatives
- Simplifying and improving reporting and recordkeeping requirements
- Implementing permit streamlining opportunities
- Promoting innovative environmental technologies.

To further enhance the Agency's knowledge of specific sectors, the Office of Compliance is conducting an extensive analysis to develop a comprehensive profile of 18 major industrial sectors. The completed profiles will contain a variety of information, including industrial process descriptions, multimedia regulatory requirements, historical enforcement performance data, pollutant release information, current public and private sector initiatives, and an assessment of potential pollution prevention opportunities for the sector. These profiles will be the basis for development of sector compliance strategies, which will address the appropriate mix of compliance and enforcement activities, inspection priorities, regional/State roles, and the use of enforcement actions and targeted initiatives.

The Common Sense Initiative, one of EPA's primary sector-based efforts, comprises 18 industries:

- **Printing**
- **Pulp and Paper**
- **Inorganic Chemicals**
- **Organic Chemicals**
- **Petroleum Refining**
- **Iron and Steel**
- **Rubber and Plastics**
- **Non-Ferrous Metals**
- **Auto Assembly**
- **Ship/Rail/Car/Truck Cleaning**
- **Dry Cleaning**
- **Metal Mining**
- **Non-Metallic Mining**
- **Lumber/Wood**
- **Furniture and Fixtures**
- **Stone/Glass/Concrete**
- **Metal Fabrication**
- **Electronics and Computers.**

In addition to these sector-based programs, several other projects focus on industrial sectors. Some of the programs specifically target compliance assistance; others are primarily enforcement-based programs. Some of the specific sectors and descriptions of the initiatives are described below.

Compliance assistance initiatives included:

- ***Dry cleaning:*** To assist the perchloroethylene (perc) dry cleaners in complying with the various environmental regulations, OC is developing an easy-to-read version of the environmental requirements for dry cleaners, including a Korean language translation of the brochure. This document explains the environmental requirements under CAA, RCRA, CWA, and SDWA and includes commonly asked questions concerning the regulations and a quick reference checklist of activities that an owner/operator must perform to comply with the regulations.

- ***Auto body shops:*** OC is also working with auto body shops and the Department of Education to develop a new national curriculum for auto technicians that includes environmental requirements.

- ***Animal feeding operations:*** The Water Enforcement Division of ORE participated in the development of an initiative targeting animal feeding operations. The goal is to increase protection of water resources by promoting, encouraging, and requiring sound environmental management and practices in the animal feeding operation community.

- ***Pulp and paper mills:*** The Toxics and Pesticides Division of ORE helped develop a voluntary program to restrict the land application of sludges containing dioxin. The American Forest and Paper Association, as well as two pulp and paper mills, signed agreements implementing the program.

The following examples were all enforcement-based initiatives:

- ***Municipal waste combustion facilities:*** The RCRA Enforcement Division of ORE, in conjunction with OC, developed and wrote a strategy for implementing the U.S. Supreme Court decision in the *City of Chicago v. Environmental Defense Fund* concerning municipal waste combustion (MWC) ash. The decision held that RCRA Section 3001(i) exempts MWC facilities from RCRA hazardous waste regulations but that MWC ash is not exempt from RCRA's hazardous waste definition. The strategy provided the Regions with guidance in bringing waste-to-energy facilities affected by the decision into compliance with RCRA Subtitle C as quickly as possible.

- ***Incinerators and boilers and industrial furnaces (BIFs):*** EPA and DOJ announced the second Hazardous Waste Combustion Initiative, which included filing 13 settlement agreements and 10 complaints against owners and operators of incinerators and BIFs. The settled cases recovered $1.5 million in penalties from 4 incinerators and 9 BIFs. The 10 complaints included the first civil judicial BIF complaint; the 9 remaining administrative complaints sought $4.8 million in penalties from 7 BIFs and 2 incinerators.

Also in FY 94, OFA updated its Environmental Assessment (EA) guidance for reviewers of new source NPDES permits. This EA guidance was completed for the following industrial sectors: mining, fossil-fueled electric steam generating stations, pulp and paper mills, timber processing, and coal gasification facilities.

These strategies and other compliance assurance projects will eventually lead the Agency to sector-based compliance monitoring and enforcement. All of this preliminary work, however, will only make those activities more effective and efficient when they are undertaken.

2.5 SUPPLEMENTAL ENVIRONMENTAL PROJECTS

Historically, when the U.S. Environmental Protection Agency took a civil administrative action against a violating facility, it sought only monetary penalties. In the 1990s, however, EPA changed its enforcement approach to seek not only monetary penalties but also an improvement in environmental quality. Environmental improvement is expected to occur as a result of Supplemental Environmental Projects (SEPs). A SEP is a project that a respondent/defendant in a case agrees to conduct as a term of settlement sometimes in exchange for partial mitigation of a civil penalty. The purpose of these projects

is to expand protection of human health and the environment beyond that required by the specific Federal, State, or local law directly related to an enforcement action.

SEPs are an important tool in promoting the Agency goals of pollution prevention, pollution reduction, and environmental justice. In addition to the continued use of SEPs in enforcement cases, the Revised Supplemental Environmental Project Policy is being prepared which will make it easier to incorporate SEPs into settlement negotiations. The policy has been revised to allow maximum flexibility to achieve settlements that enhance environmental protection while maintaining a strong penalty policy to promote deterrence. As part of an enforcement settlement, the amount of the agreed-upon penalty may be reduced to reflect the commitment made by an alleged violator to undertake a SEP. Two critical factors must be considered in negotiating SEPs: 1) the assessed penalty must reflect the gravity of the violation and the economic benefit achieved and 2) the enforcement settlement must foster a deterrent effect. In addition, projects undertaken in SEPs must go beyond compliance requirements with applicable laws and regulations.

Types of SEPs Used In Enforcement Cases

- **Cleanup/restoration projects**
- **Disposal**
- **Environmental audit**
- **Outreach/public awareness projects**
- **Training**
- **Source reduction/pollution prevention—process modification**
- **Source reduction/pollution prevention—recycling**
- **Source reduction/pollution prevention—technological improvement**
- **Waste minimization/pollution reduction—process modification**
- **Waste minimization/pollution reduction—recycling**
- **Waste minimization/pollution reduction—technological improvement**

During FY 94, EPA incorporated SEPs in settlements for violations under a broad range of programs. As in the past, SEPs were applied in EPCRA, TSCA, and FIFRA cases. In FY 94, for example, 190 cases with SEP terms were negotiated under TSCA (55), EPCRA Section 313 (49) and FIFRA (8), with an additional 78 SEPs negotiated under other sections of EPCRA. EPA also applied SEPs in cases brought under CAA, CWA, RCRA, and CERCLA.

Many of the SEP cases in FY 94 represented landmark cases in terms of the scope of the action, the nature of the violation, the type of environmental benefits achieved, or for other reasons. For example, the State-Federal agreement resolving a case against the Massachusetts Highway Department represents the largest ever commitment of public resources to address RCRA violations at State facilities anywhere in the country. In a consent agreement resolving a RCRA administrative action, EPA-New England, the MA DEP, and the Massachusetts Highway Department (MHD) agreed that MHD will spend $20 million to investigate and remediate environmental problems at all 138 of its facilities and will dedicate $5 million to several SEPs, including projects that will benefit environmental justice areas. The 138 State facilities are the most facilities to be addressed by a single RCRA-related agreement.

Another record setting component of this SEP is MHD's $5 million commitment, a significant portion of which is designated for training approximately 350 local and municipal transportation and public works agency personnel and for providing emergency response equipment to Local Emergency Planning Committees (LEPCs) affected by MHD operations, with particular focus on low-income and minority neighborhoods.

Region IV's case against Ashland Petroleum is another notable example. EPA filed a consent agreement and consent order (CACO) that settled alleged reporting violations under Section 304 of EPCRA. The CACO provided for a $1.56 million penalty, for which Ashland agreed to pay $312,000 in cash to EPA, with the remainder of the penalty to be put toward SEPs valued at more than $1,248,000.

The total $1.56 million value of the settlement made this the Agency's largest EPCRA penalty ever. This is also the first multi-State EPCRA action in Region IV's history.

The following list provides additional examples of SEP agreements and the specific activities conducted under the SEP terms:

- ***U.S. v. Eastman Kodak Co. (W.D.N.Y.)*:** EPA and DOJ announced the settlement of a RCRA case against Eastman Kodak in Rochester, New York. The consent decree included a cash penalty of $5 million, a $12 million investment in six SEPs to reduce hazardous wastes in its 2,200 acre Kodak Park, and a compliance schedule. The aggregate reduction in hazardous wastes as a result of the SEPs is expected to exceed 2.3 million pounds of pollutants by the year 2001.

  The major violations addressed in the complaint and consent decree involved Kodak's failure to properly characterize waste streams, the leakage of hazardous wastes from a massive (31-mile long) industrial sewer, and operation of an unpermitted incinerator. An NEIC-led team that conducted a 9-week, comprehensive multimedia investigation of the Kodak facility discovered these violations.

  In a separate TSCA administrative enforcement action against Kodak, the company agreed to spend $3.6 million to remove 17 PCB transformers located at the Rochester facility. Based on this very valuable SEP, a $17,000 penalty reduction was allowed; the final cash penalty provided for in the October 1993 settlement was $42,000.

- ***United States v. Beech Aircraft Corporation* (D. Kansas):** The U.S. District Court for the District of Kansas entered a consent decree resolving civil violations of the CWA at Beech Aircraft Corporation's Wichita, Kansas, facility. Beech was required to pay a civil penalty of $521,000 for its violations of Federal categorical pretreatment standards for metal finishers, failure to meet the reporting requirements of the general pretreatment regulations, and failure to comply in a timely manner with an administrative order issued by Region VII.

  In addition to paying the civil penalty, Beech agreed to perform a supplemental environmental project valued at approximately $200,000 that consists of installing centrifuges or equivalent systems to remove sludge from the Wichita facility's existing water wash paint spray booths. The purpose of this pollution prevention project is to reduce the total volume and toxicity of hazardous waste sludge generated and to allow the recycling of paint spray booth wastewater, thereby reducing the volume and concentration of pollutants in the wastewater ultimately discharged to the city of Wichita's POTW.

- ***United States v. City and County of Honolulu* (D. Hawaii):** A consent decree was lodged resolving a CWA enforcement action brought by the United States and the State of Hawaii against the City and County of Honolulu. This action arose as a result of the city and county of Honolulu's poor maintenance of its sewer system, which resulted in more than 300 spills of raw or partially treated sewage into Hawaiian waters (including a spill of 50 million gallons of raw sewage into Pearl Harbor in 1991 that attracted national attention). The city and county of Honolulu also failed to implement an adequate pretreatment program to regulate the discharge of toxics from industries discharging into its sewer system.

Under the consent agreement, the city and county of Honolulu will pay a civil penalty of $1.2 million and committed to improving the operation and maintenance of its sewer system, including the renovation of 1,900 miles of sewer lines during the next 20 years, and to developing and implementing a pretreatment program to regulate the discharge of industrial toxic wastewater. Under the decree, the city and county also committed to spending $30 million on SEPs for treating and reusing wastewater and sludge. Honolulu will recycle 10 tons of sewage sludge per day by 1998 and 10 million gallons of wastewater per day by the year 2001.

2.6 SENSITIVE ECOSYSTEM PROTECTION

The United States and other parts of the world are experiencing a serious loss of essential natural resources. If this continues, this loss will result in a long-term threat to the Nation's economic prosperity, security, and the sustainability of remaining ecological systems. The value of ecosystems can be measured in many different ways. Living things and the ecosystems upon which they depend provide communities with food, clean air, clean water, and a multitude of other goods and services. Native American tribes and many others believe that all life is interconnected—that the health of one depends directly on the health of another. Consequently, the high rates of species endangerment, loss of natural resources (e.g., timber), habitat fragmentation, and losses of recreational opportunities pose a potential threat to the health, cultural values, lifestyle, and economic future of virtually every American.

Many EPA activities have helped protect ecosystems. The Agency has implemented laws to control many of the major sources that pollute the Nation's air, water, and land. Yet, even as the more obvious problems are resolved, scientists discover other environmental stresses that threaten ecological resources and general well-being. Evidence of these problems can be seen in the decline of the salmon populations in the Pacific Northwest and the oyster stock in the Chesapeake Bay, the decrease in migratory bird populations, and degraded coral reef systems.

Although many Federal, State, tribal, and local regulations address these problems, past efforts have been as fragmented as the laws enacted to solve the problems. Because EPA concentrated on issuing permits, establishing pollutant limits, and setting national standards, as required by environmental laws, the Agency did not pay enough attention to the overall environmental health of specific ecosystems. In short, EPA has been "program-driven" rather than "place-driven."

As the Agency moves increasingly to a place-driven approach, existing barriers to progress must be identified and addressed. EPA must collaborate with other Federal, State, tribal, and local agencies, as well as private partners, to remove the barriers and achieve the ultimate goal of healthy, sustainable ecosystems. The Agency, therefore, will act to solve integrated environmental problems through a framework of ecosystem protection in close partnership with others. This approach will integrate environmental management with human needs, consider long-term ecosystem health, and highlight the positive correlation between economic prosperity and environmental well-being.

EPA is currently placing high priority on developing compliance assurance and enforcement programs that focus on sensitive ecosystem protection. However, it is still a relatively new emphasis in the Agency, and, therefore, applicable projects are developing. To date, EPA has promoted this initiative and mandated that it become an integral part of all Agency decision making, as well as an integral part of the compliance assurance and enforcement programs in particular.

OECA's Office of Federal Activities (OFA) has been active in sensitive ecosystem protection and has taken the lead in a number of important ecosystem management and protection initiatives during FY 94:

- ***Midwest floods:*** OFA served as EPA's representative to the White House Task Force on levee repair and long-term recovery and ensured a focus on the opportunities for significant long-term transformation of floodplain management practices in the region. OFA established an overall principle for the Task Force: the need to capitalize upon the lessons learned from this event to trigger reinvention of current Federal programs affecting floodplain management. OFA, in conjunction with the White House, pursued a strategic assessment of Federal activities in floodplains and issued the report entitled, *Sharing the Challenge: Floodplain Management Into the 21st Century.*

- ***Everglades:*** OFA represented EPA at the final negotiations and signing of the multiagency agreement on restoration of the Everglades. OFA continues to coordinate with Region IV, the Office of Wetlands, Oceans, and Watersheds, and other EPA offices to build a team of experts to participate in the technical and scientific studies of this complex ecosystem necessary to create a plan for environmentally sustainable development in the region.

- ***Endangered species activities:*** OFA has been a lead for the Endangered Species Coordinating Committee, which was established to describe current activities and obligations, set priorities, and establish appropriate training, support, and liaison functions with the U.S. Fish and Wildlife Service and National Marine Fisheries Service. OFA also coordinated the Deputy Administrator's agency wide Taskforce on Endangered Species Management within EPA.

- ***Forest conference:*** The forest conference was designed to break the impasse developed over the use and protection of the Northwest forest resources. From the beginning, OFA has been an active member of the President's Forest Team, providing input to ecosystem protection and watershed management in particular. OFA staff have been involved in both the review and preparation of the Draft Forest Conference Supplemental EIS.

2.7 FEDERAL FACILITY ENFORCEMENT AND FEDERAL ACTIVITIES

EPA's newly reorganized enforcement and compliance program has provided the Federal facilities offices with improved opportunities to assure compliance with environmental requirements across the Federal sector. The 1992 Federal Facility Compliance Act boosted enforcement capability by clearly establishing RCRA penalty authority against Federal facilities. The act authorizes EPA to levy fines against other Federal agencies.

In addition to traditional enforcement measures, the Federal facilities program includes compliance assistance activities designed to ensure full compliance without exacting severe penalties. Executive Order 12856, Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements, committed Federal agencies to implement pollution prevention practices across all missions and activities. EPA is taking a leadership role in implementing the Executive Order and has issued a guide for agency-wide pollution prevention strategies, interpretive guidance for all of the Executive Order's requirements, guidance for developing facility-specific plans, a guide for meeting pollution reduction goals, and a user's guide to environmental cost accounting.

To further educate its employees and exchange and develop ideas, EPA held the annual Federal Facilities Coordinator's Meeting. The meeting included Headquarters and regional personnel and covered a range of topics, including regional impacts from the HQ reorganization, revision of the Federal compliance strategy, Federal Facility Compliance Act implementation, implementation of Executive Order 12856, OMB A-106 revisions, and current status of the multimedia initiative.

To help Agency personnel monitor compliance at Federal facilities, the Federal facilities office developed a new version of the Federal Facility Tracking System (FFTS), a pilot computer system that tracks compliance activities at Federal facility sites. The new system provides a multimedia view of activities to assist with planning, targeting inspections, and reporting.

In FY 94, EPA and the States issued 40 administrative orders totaling more than $6.5 million in penalties. The Federal facilities compliance strategy will continue to include joint EPA and State multimedia inspections at targeted Federal facilities. EPA and participating States recently completed first year activities associated with the FY 93/94 Federal Facilities MultiMedia Enforcement/Compliance Initiative (FMECI). In FY 94, EPA evaluated 31 Federal facilities using a multimedia approach; the FY 93 inspections resulted in 75 FY 94 enforcement actions under nine statutes. Federal facilities in seven Regions were assessed a total of $2.1 million in penalties.

In FY 94, EPA and participating States issued:

- **15 Warning Letters**
- **27 Notices of Violation**
- **8 Notices of Noncompliance**
- **18 Administrative Orders**
- **3 Field Citations**
- **4 Federal Facility Compliance Agreements.**

EPA continued its FY 93 enforcement efforts in cleanup and environmental restoration. At the end of FY 94, EPA had crafted 111 Interagency Agreements with Federal agencies defining the cleanup process at 121 NPL Federal facilities. These agreements are backed by stipulated penalties, which are used to ensure compliance with the terms of the cleanup activities.

In July 1994, for example, the Department of Energy settled a CERCLA penalty action with EPA and the State of Colorado for $2.8 million for violations of several cleanup deadlines for the Rocky Flats facility. These violations are resulting in the delay of the overall cleanup at this facility.

The following list highlights selected examples of the enforcement actions taken against Federal facilities in FY 94:

- ***Coast Guard, Kodiak, Alaska Facility:*** EPA Region 10 issued a complaint against the U.S. Coast Guard Kodiak Support Center, Kodiak, Alaska, seeking $1,018,552 in penalties. The complaint resulted from two major violations of RCRA: 1) failure to properly monitor ground water in an area where cleaning solvents had been dumped and 2) the illegal storage of hazardous waste without a proper permit from EPA. The complaint was the first action brought against a civilian Federal agency under the Federal Facility Compliance Act of 1992.

- ***The Presidio:*** Region IX filed a complaint and citations against the U.S. Army Garrison, Presidio of San Francisco, for violating RCRA and assessed a penalty of $556,500 for the hazardous waste violations. Region IX inspectors identified a number of violations at the Presidio, including failure to transport hazardous waste offsite within 90 days, failure to label properly approximately 200 drums of hazardous wastes, failure to keep 15 containers of hazardous wastes closed, and failure to make weekly inspections of three hazardous waste storage areas.

- *Schofield Barracks:* Region IX assessed $543,900 in penalties under RCRA against Schofield Barracks, a U.S. Army facility located in Wahiawa, Hawaii. The facility operates numerous motorpools and maintenance shops that generate various wastes, including waste paint, waste solvents, and contaminated waste oils, which are listed as hazardous waste under RCRA. Region IX inspections determined that the facility was illegally operating as a RCRA storage facility. Violations included failure to transport RCRA-regulated waste offsite within the allowed 90-day accumulation period, failure to label waste properly, and failure to make adequate hazardous waste determinations. In addition, the facility failed to comply with requirements pertaining to the hazardous waste training program, the contingency plan, and preparedness and prevention measures.

EPA's Federal facility offices are also responsible for reviewing all Federal facility documentation prepared under NEPA. In FY 94, for example, 515 environmental impact statements (EISs) were filed with OFA under its delegation from the Council on Environmental Quality (CEQ) (278 draft and 237 final). EPA commented on 210 draft EISs and 172 final EISs. Of these, EPA rated 2 draft EISs EU (environmentally unsatisfactory), 30 draft EISs EO (environmental objections), and the remaining draft EISs either EC (environmental concerns) or LO (lack of objections). Also during the year, OFA approved eight Environmental Policy Agreements between EPA and other Federal agencies, including the Department of Justice, Department of Agriculture, Department of Interior, Department of Defense, Small Business Administration, Department of Commerce, and Department of Transportation.

2.8 OTHER ENFORCEMENT AND COMPLIANCE ASSURANCE ACTIVITIES

In FY 94, enforcement and compliance assurance accomplishments occurred in arenas beyond the six theme areas. Significant achievements were accomplished across all program areas and under each environmental statute. The following sections document some of the more significant accomplishments throughout the year.

2.8.1 Redelegation

As an adjunct to the reorganizational changes that occurred in FY 94, OECA eliminated unnecessary or duplicative layers of review by assessing and revising existing delegation of authority and concurrence procedures by redelegating a substantial portion of the authority to manage and settle civil judicial and administrative enforcement cases to the Regional Counsel. The redelegation authorizes the Regions to settle a substantial number of enforcement cases without the formal involvement of OECA, thus eliminating a potentially redundant and time-consuming level of review and freeing OECA to focus with the Regions on enforcement cases that present nationally significant issues.

The Assistant Administrator redelegated to the Regional Counsel the authority to settle enforcement cases with bottom-line penalties of less than $500,000 without formal OECA involvement, provided that the cases present no nationally significant issues. With the agreement of OECA's Office of Regulatory Enforcement, the Regional Counsel may also settle non-nationally significant cases with penalties higher than $500,000. OECA's continued formal involvement in nationally significant cases, regional audits, the regional Counsels' reporting relationship to the Assistant Administrator, and numerous informal contacts between OECA and the regions will all ensure that national policy goals will continue to be met.

Redelegation marks a real turning-point in the Headquarters/regional relationship in the enforcement and compliance assurance arena. The new approach preserves and enhances OECA's

leadership role of setting national directions and policies on enforcement issues, while providing regional managers the flexibility to implement their compliance and enforcement programs in a more efficient manner. To help implement the redelegation, OECA's Office of Regulatory Enforcement produced a uniform, cross-media set of procedures that further emphasize trust, flexibility, and common sense as the fundamental principles of the Headquarters/regional relationship.

2.8.2 Task Forces and Work Groups

In FY 94, Headquarters and regional personnel represented OECA on numerous task forces and work groups. The Air Enforcement Division of ORE worked on an intergovernmental task force designed to coordinate the government-wide response to the illegal importation of ozone depleting chemicals. OFA chaired a work group that examined EPA programs and NEPA. The work group conducted a comprehensive study of EPA activities with respect to the key NEPA criteria—environmental analysis, consideration of alternatives, and public participation. The work group also look at program office compliance with other environmental requirements, such as the Endangered Species Act.

OFA also represented EPA on the Technical Advisory Group to develop international standards for environmental auditing by coordinating EPA comments and working on this draft report to reflect EPA's preferred positions. In addition, OFA chaired a new group designated to develop U.S. proposed standards for environmental audits of Environmental Management Systems.

The Enforcement Capacity and Outreach Office's Constituent Outreach Team (COT) established a framework that assists OECA in consulting with State, local, and tribal governments on broad policy and specific issues associated with enforcement and compliance assurance. As a result, OECA has designed an intergovernmental relations framework that incorporates three components: a Forum of senior-level policy makers to focus on broad enforcement and compliance policies; a network of federal, State, local, and tribal enforcement and compliance practitioners; and specific strategies for strengthening regional and State interaction.

When fully implemented, the network will consist of 30 to 40 environmental enforcement practitioners from EPA (Headquarters and regions) and State, local, and tribal governments. The main objectives of the network are to enhance State/EPA communications and to develop a network of environmental enforcement and compliance assurance managers to provide expertise on planning and priority setting process.

2.8.3 Training and Guidance

As a result of the OECA reorganization, the National Enforcement Training Institute (NETI) experienced significant growth in FY 94. NETI made progress in the area of training technology by using the computer and satellite transmission to disseminate training materials, information, and courses. NETI also emphasized its role serving as a clearinghouse for training information, in assessing constituent needs, in continuing international training, and developing plans for the state-of-the-art NETI Headquarters Training Center in Washington, DC. In FY 94, NETI trained more than 7,000 enforcement professionals. NETI provided training through 180 courses conducted in all 10 regional offices, the NETI-West facility at Lakewood, Colorado, various State locations, and Mexico. Through funding by grants and cooperative agreements, NETI assisted the four Regional Environmental Enforcement Associations. This year, the associations jointly sponsored the Environmental Crime Awareness Training for Law Enforcement, which was transmitted via satellite to 2,200 local law enforcement officers.

Moreover, NETI redesigned and delivered the Basic Environmental Enforcement Course, which focuses on the entire enforcement process, including a walk-through inspection, writing inspection reports, and a mock negotiation simulation. NETI offered several new courses, including the Advanced RCRA Inspector Institute. Experienced EPA and State RCRA inspectors applied their experiences in RCRA enforcement through an exchange of information, concepts, and skills.

EPA also conducted several inspector training courses in FY 94, including the following FIFRA and EPCRA courses: FIFRA Worker Protection Inspector Training, Pesticide Use Inspector Training, Pesticide Product Enforcement Course, and EPCRA Section 313 Inspector Training and EPCRA Health and Safety Training.

EPA also developed and distributed several guidance documents, including:

- Acid Rain Compliance/Enforcement Guidance
- Waste Analysis Plan Guidance
- Final guidance on ways to incorporate pollution prevention into NEPA and Clean Air Act Section 309 environmental review processes.

2.8.4 Initiatives

In addition to the accomplishments discussed according to the six themes, EPA began several other national initiatives, as demonstrated by the examples in the following list:

- ***Oil Pollution Act Initiative:*** EPA, in conjunction with DOJ and the U.S. Coast Guard, announced the coordinated filing of 28 cases against commercial polluters who unlawfully discharged oil or other hazardous substances into waters of the United States or adjoining shorelines and, in some cases, who violated oil spill prevention regulations. The initiative included two judicial cases filed by DOJ on behalf of EPA and the Coast Guard—1 civil and 1 criminal—as well as 26 EPA administrative penalty actions in 13 States. The administrative cases collectively sought civil penalties of approximately $1 million.

  One DOJ case involved the discharge of bilge water and waste oil from the cruise ship *Viking Princess* that left a 2.5-mile oil slick off the Florida coast. This case resulted in a plea agreement and the payment of a $500,000 fine. Among the administrative cases, one involved Tosco Refinery, a refiner and marketer of wholesale petroleum products in Martinez, California, for spilling more than 2,500 gallons of oil into a drainage ditch that emptied into U.S. waters. Another involved Burlington Asphalt Corporation in Mt. Holly, New Jersey, which spilled more than 7,500 gallons of fuel oil onto county property and a storm drain that emptied into a creek.

- ***Diesel Enforcement Initiative:*** EPA's Mobile Source Program executed a joint initiative with the State of Maryland and the Internal Revenue Service for enforcement of the diesel desulfurization regulations. Upon receiving a tip from a Maryland State trooper about possible diesel misfueling, including the use of untaxed, high-sulfur diesel in motor vehicles in violation not only of EPA's diesel desulfurization regulations but of both Federal and State tax laws, a series of joint inspections were conducted, resulting in both State and Federal

enforcement actions. Eight notices of violations with proposed penalties of $46,500 were issued. Three of the cases have been settled for penalties of $8,400.

- ***TSCA Inventory Update Rule (IUR) Case Initiative:*** The IUR seeks information to update EPA's TSCA Chemical Substance Inventory, which is EPA's baseline of information on toxic substances. To target violators and highlight the importance of compliance with the IUR, EPA Headquarters and regional offices filed complaints seeking approximately $2.9 million in penalties against 39 U.S. chemical manufacturers and importers for failing to report specific chemical production and site information in a timely and accurate manner. EPA launched the IUR case initiative to increase industry awareness of IUR reporting requirements and of the IUR reporting cycle.

- ***FIFRA Good Laboratory Practice Standards Case Initiative:*** EPA issued 12 civil complaints against pesticide registrants proposing $183,000 in penalties for violations of the Agency's GLP standards and FIFRA. Citing the GLP violations, the Agency also issued five warning letters to the testing facilities that had conducted studies supporting pesticide registrations and issued one warning letter to another registrant for less serious violations. These enforcement actions reaffirm EPA's commitment to vigorous enforcement of FIFRA's data quality provisions.

2.8.5 Regulations, Rulemaking, Policy, and Interpretive Guidance

In FY 94, EPA proposed and promulgated several rules and regulations that focused on various aspects of the Clean Air Act. For instance, AED worked with the Office of Air and Radiation on numerous Title VI-related rules and regulations, including:

- A rule on the phase out of ozone depleting chemicals
- A rule on the sale of nonessential products
- A proposed rule concerning the labeling of products containing ozone depleting chemicals
- Regulations addressing certification of individuals to service motor vehicle air conditioners.

In addition, AED contributed to a proposed rule for the Clean Air Act Field Citations Program and a proposed rule for the Clean Air Act Citizens Awards. The Mobile Source Enforcement Branch (MSEB) of AED completed the reformulated gasoline (RFG) and anti-dumping standards and requirements.

EPA also completed its first year of compliance monitoring and enforcement of the diesel desulfurization regulations. These regulations, which require the removal of approximately 80 percent of the sulfur content from unregulated diesel fuel, are a companion to other agency regulations that require substantial reductions in particulate emissions from diesel motor vehicle engines beginning with the 1994 model year. Program office and enforcement staff conducted extensive public outreach targeting all levels of the diesel fuel industry, including diesel fuel users, to ensure a smooth industry transition into this new requirement and to maximize compliance. EPA inspectors were in the field monitoring compliance on the first effective date of the regulations and completed more than 4,000 inspections during the first year.

EPA also undertook the following regulatory and rulemaking efforts in FY 94:

- Published a proposal to create a new EPCRA Section 313 reporting threshold of 1 million pounds for facilities that release and/or transfer offsite less than 100 pounds of a regulated toxic chemical per year.

- Published in the Federal Register a final rule adding 21 chemicals and proposed another rule to add more than 300 chemicals to the list.

- Published in the Federal Register a final rule amending EPA's hexavalent chromium rule. The amendment resulted from a petition filed by the Chrome Coalition in the DC Circuit Court of Appeals. EPA negotiated a settlement agreement under which it would propose an amendment to narrow the scope of the hexavalent chromium rule.

- Proposed several amendments to its new chemical review process under TSCA Section 5. These amendments included an expanded exemption for polymers, an expanded low volume exemption, increased opportunities to use the expedited process for issuing significant new use rules, and various procedural changes.

- Completed the interim final amendments to the Agency's asbestos Model Accreditation Plan. This regulation now extends the training and accreditation requirements of AHERA to asbestos inspectors and abatement personnel in all public and commercial buildings. The new regulation also contains criteria and standards for revoking the accreditation of persons and the approval of training courses and state programs.

- Proposed requirements for lead-based paint activities. These regulations establish a training and accreditation program for lead abatement workers that resembles the asbestos Model Accreditation Plan. The regulations also prescribe standards for conducting lead-based paint inspections, hazard assessments, and abatements in target housing (housing built prior to 1978), public and commercial buildings, and superstructures, such as bridges.

In addition to the rules and regulations, EPA issued some major policies and strategies. For example, the Agency published the Combined Sewer Overflow (CSO) Control Policy, which addresses pollution that occurs as a result of combined sewer overflows. CSOs are overflows that occur when the capacity of sewer systems or treatment facilities is exceeded due to a precipitation event. The policy is both a permitting and enforcement strategy and clarifies how CSOs should be permitted in the future. EPA also issued its Storm Water Enforcement Strategy. The enforcement priorities for the storm water program were designed to address covered municipalities that have not applied for a storm water permit and to identify and enforce against covered facilities with industrial activity that have failed to apply for a storm water permit. EPA also revised the UIC Class I Wells Significant Noncompliance (SNC) definition in FY 94. Under the revised definition, violations with the potential to affect underground sources of drinking water are maintained as SNC violations; minor infractions would not necessarily require SNC reporting.

2.8.6 Native American Affairs

Throughout FY 94, the Agency, specifically OFA, was involved extensively in Native American affairs and programs. OFA held Interagency Indian Work Group meetings with numerous Federal agencies, chaired the Headquarters Indian work group monthly meetings, and sponsored the annual national conference. In addition, OFA completed the FY 93 report entitled, *Environmental Activities on*

Indian Lands and assisted many of the 545 tribes and Alaska Native villages that are preparing to environmentally manage to their lands. Selected accomplishments in this area include the following:

- ***General Assistance Program:*** The Multimedia Assistance Program began in FY 90 with $151,000 for two pilot projects. In FY 94, $8.5 million was appropriated for the program, bringing the total to $22.9 million with 133 new and continuation grants serving more than 350 tribes under individual tribal and intertribal consortia grants.

- ***Treatment as a State Regulations:*** An intra-agency work group, chaired by OFA, drafted regulations simplifying the procedure and making it less burdensome and offensive to tribes to apply and become eligible for grants and program authorization.

- ***Tribal Enforcement Report:*** OFA prepared the first annual report to Congress on the number of tribes approved by the Administrator to enforce environmental laws and the effectiveness of that enforcement. Although the Administrator had not approved any Native American tribes to enforce environmental laws, the Agency did enter into pesticide enforcement agreements with 23 tribes and certified a number of tribal pesticides inspectors.

2.8.7 International Activities

EPA is becoming more involved in international environmental affairs, especially with our North American neighbors. In FY 94, EPA designed and delivered several programs to an international audience. For example, NETI trained 56 Mexican inspectors at a 5-day Multimedia Inspection Course. This course is part of ongoing cooperative training activities between EPA and Mexico's environmental protection agency, the Secretaria de Desarrollo Social (Ministry of Social Development) (SEDESOL). NETI also designed and presented a 4-day Train-the-Trainers workshop in Mexico City for 17 SEDESOL officials, who were selected as future trainers in Mexico.

OFA developed a training course for U.S. and Mexican customs and environmental officials in detecting and inspecting hazardous waste shipments. The course will be delivered at key border crossings throughout 1995. OFA also performed the following activities:

- Trained and provided technical assistance to Mexican environmental inspectors and enforcement personnel

- Promoted interagency cooperation among agencies on both sides of the border through grants to border enforcement programs implemented by State environmental agencies

- Initiated efforts to promote voluntary compliance with applicable environmental laws among U.S. operations in Mexico through environmental auditing and pollution prevention

- Helped prepare subpoenas issued under the Toxic Substances Control Act to U.S. parent companies of Maquiladoras operating in Mexicali, Mexico.

In conjunction with Regions VI and IX, OFA led EPA efforts with the U.S./Mexico Cooperative Enforcement Strategy Work Group. EPA initiated cooperative training efforts with U.S./Mexican customs officials in compliance monitoring for transboundary shipments of hazardous waste and began activities to encourage U.S. parent companies to take leadership roles in promoting compliance and pollution

prevention among their Mexican operations through participation in Mexico's environmental audit program.

In addition, through cooperative activity with Federal and provincial officials, EPA worked with the Province of Manitoba, Canada, to require pollution control for a major new facility that is equally stringent to the control on U.S. plants. The Canadian precedent will help maintain competitiveness of U.S. industry by requiring comparable levels of pollution control for facilities in both countries. OFA also supervised management of an environmental project in Nizhnii Tagil, Russia, designed to target low-cost efforts to address the most serious problems in a highly polluted provincial region. Compliance and enforcement are key elements in the institution building project component, which also includes training and technical assistance in monitoring, risk assessment, standards, and regulations.

3.0 REGIONAL AND STATE ENFORCEMENT AND COMPLIANCE ASSURANCE ACTIVITIES

As discussed in Section 2, EPA's enforcement and compliance assurance program involves coordinated efforts among EPA Headquarters and regional and State offices. This section focuses primarily on the accomplishments of the regions and on partnerships that exist between the regions and States in monitoring and ensuring compliance throughout the regulated community.

Authority to implement the wide variety of environmental regulations is sometimes widely distributed across several regional and State programs. Accordingly, several situations involving disparate program offices require cooperation and coordination between those offices. To achieve this coordination, many of the regions have actively promoted region/State partnerships, and FY 94 provided numerous examples of the beneficial results, including:

- EPA-New England and Massachusetts have begun piloting a coordinated case initiative for CAA violations; the region is also working with Connecticut to direct pilot efforts at CWA violations. EPA-New England also undertook an initiative to coordinate CAA Stage I bulk terminal vapor recovery activities with the States. The region provided inspector training for the States, issued information requests and emission testing requirements to subject sources, and conducted emission tests in Massachusetts, Maine, and Connecticut.

- Region II conducted consolidated inspections that were performed jointly with the New York State Department of Environmental Conservation, the first such joint Federal/State multimedia inspections in Region II.

- Region V and the States in the region have entered into cooperative agreements with EPA for pesticide enforcement. The States now work closely with Region V on inspections and take many enforcement actions for pesticide misuse violation. The States still refer most of the product violations to Region V for enforcement. Therefore, most of Region V's FIFRA enforcement actions are based on the findings of State inspections.

- Region VIII Multimedia Field Inspection Team performed several cooperative inspections that included State and city agency personnel.

These are a few examples of the coordination that is currently occurring between regions and States. The following sections provide more examples of these partnerships, as well as further describing regional and State enforcement and compliance assurance accomplishments.

3.1 MULTIMEDIA APPROACHES TO ENVIRONMENTAL PROBLEMS

As described in Section 2, multimedia compliance monitoring and enforcement represent increasingly important tools in EPA's efforts to enforce environmental regulations. Multimedia inspections provide a cost-efficient approach for directing compliance monitoring resources and also increase the environmental return on enforcement investments.

During FY 94, EPA regions continued to expand their multimedia enforcement activities. Positive developments have taken place in areas of multimedia program coordination, inspections conducted, and multimedia enforcement cases brought and settled. Joint efforts have included: increasing the focus on

multimedia issues and methods through implementation of oversight committees, participation in multimedia enforcement training, and incorporation of national and region-specific priorities in enforcement targeting strategies. As a result, more multimedia inspections were conducted, with a corresponding increase in case referrals, administrative actions, criminal actions, and case settlements.

Overall, regional multimedia activity for the year increased. Region II reported 12 consolidated multimedia inspections, involving essentially all of the program offices. Region III also placed increasing importance on the role of multimedia enforcement. During FY 94, the region undertook six major multimedia inspections. The inspections focused on several major regional objectives, including environmental justice, State-Federal relations, and Federal facility compliance. Region VII conducted eight consolidated multimedia inspections. These inspections, resulting from the regional targeting mechanism, included State and local participation, and evaluated environmental justice factors.

Region IV multimedia activities for FY 94 included 19 consolidated multimedia inspections with two or more programs sending inspectors simultaneously. Two of the inspections were undertaken as part of the Federal Facility Multimedia Enforcement/Compliance Initiative (at Fort Stewart, Georgia, and the Naval Complex, Pensacola, Florida). In addition to the 19 multimedia inspections, all of Region IV's Federal facility inspections were multimedia in nature. The Region IV Federal Facilities Coordination (FFC) program conducted seven Federal facilities multimedia inspections in FY 94. These FFC program inspections resulted in at least seven State or EPA Region IV enforcement actions.

Region IV settled six cases in FY 94 resulting from these multimedia activities. The total penalties amounted to more than $10.3 million with several penalties yet to be determined. The RCRA program settled its multimedia case against Gulf States Steel for $1.1 million. The RCRA program and the Underground Storage Tank (UST) program participated in a major multimedia case against Somerset Refinery and reached settlement in principle with penalties of $2.75 million. The TSCA/CERCLA multimedia case handled by Region IV against Tennessee Gas Pipeline for violations in several regions was settled for $6.4 million.

Region VIII defined an organizational plan designed to more effectively address cross cutting, multimedia issues. The goal of this reorganization was to place programs and functions in organizations that will enhance multimedia opportunities and maintain the large majority of single-media responsibilities. In FY 94, the region conducted 10 targeted multimedia inspections. By including census data evaluation and the three "lifestyle clusters" suggested by OECA into both targeting and screening activities, an environmental justice profile was prepared for each site.

Region X multimedia efforts continued to integrate and strengthen a cross-program/multimedia perspective and capacity into all stages of the compliance assurance and enforcement planning and decision-making process. The region targets multimedia inspections using risk factors, including the toxicity and amounts of the pollutant(s) emitted, the proximity to sensitive/disadvantaged populations, the sensitivity of the environment and history of noncompliance. The region also continued to invest in the National Multimedia Federal Facilities Initiative, which resulted in enhanced compliance at the Federal facilities that have been inspected. Two facilities received comprehensive multimedia compliance inspections.

These examples reflect the increasing emphasis the regions have placed on multimedia enforcement activities during FY 94. For some regions, the emphasis is maintained and leveraged through the development of multimedia oversight committees responsible for coordinating multimedia enforcement activities. In Region VIII, for example, the multimedia program is carried out by a number of offices and through several mechanisms. The Regional Enforcement Officer and the Regional Enforcement

Coordinator are responsible for coordinating the multimedia activities of the 15 separate Regional enforcement programs. The Regional Enforcement Forum represents all enforcement programs and coordinates the review and implementation of regional, cross-program, and multimedia inspection and enforcement activities including inspection coordination and review of selected enforcement actions.

In addition to providing a management structure supportive of multimedia enforcement, some regions have increased awareness of the potential for multimedia actions through training. Training has been directed at both regional program office staff and State agency personnel. During FY 94, Region VII provided multimedia training to the Nebraska Department of Environmental Quality (NDEQ). This training was a result of dialogues between the region and NDEQ management in which NDEQ identified several specific training needs. Region VII then designed, developed, and provided training that met NDEQ's needs.

Another example of the region-State partnership at work in multimedia enforcement is provided by the multimedia inspection of KBP Coil Coaters (Denver, Colorado) conducted in Region VIII. Six environmental programs were interested in this facility and inspectors participated from four entities, including EPA, the State, the Denver County Air Program, and the Denver Metro Wastewater Reclamation District. Various violations were discovered during the inspection, including unidentified waste streams, unknown process modifications, abandoned underground storage tanks and drums, potential PCB leaks, fire code violations, and potential OSHA violations.

Based on the coordinated inspections, Region VIII and Colorado began a coordinated enforcement response to bring this facility into compliance and seek penalties for past violations. The response includes coordination of additional information requested from the facility, financial status research, prioritization of compliance activities, tracking and timed issuance of two NOVs, and two administrative complaints. A team approach involving EPA and State personnel was taken in all these activities.

The regions have improved implementation of multimedia enforcement through oversight, training, and State/region coordination. Equally important, however, are changes in the application of enforcement efforts. The Regions have expanded the use of multimedia enforcement as one of many tools in support of broad regional and national enforcement initiatives. For example, an inspection of the New Jersey Transit Bus Operations supported the national transportation facilities initiative and South Dakota and Region VIII conducted a multimedia inspection at Merrilat Industries in support of the National Wood Products Initiative.

Regional targeting strategies directly address national priorities. A primary example is the incorporation of environmental justice considerations in prioritizing and targeting multimedia inspections. Regions III, IV, VIII, and X reported consideration of environmental justice in multimedia targeting strategies. Region VIII, for example, prepares an "environmental justice profile" for each site included in its inspection targeting and screening process, so that environmental justice is evaluated with other criteria in determining the need for action at particular sites. (For more information on environmental justice activities, see Sections 2.2 and 3.2.)

Multimedia enforcement in the regions has also benefitted from the consideration of priorities particular to the individual regions. For example, Region II actively pursued several regional geographic enforcement initiatives. The region's initiative in the Cataño region of Puerto Rico generated a number of enforcement cases in addition to its major multimedia cases against PREPA and the Caribbean Petroleum Company. The region also pursued geographic initiatives in the Corning, Chemung, and Cortland aquifer regions of New York, the Camden Aquifer region of New Jersey, and the Niagara Frontier region

of New York. Similarly, as part of the Puget Sound Initiative, Region X participated in inspections in the Duwamish River watershed, an environmental justice area identified by a GIS mapping system used for multimedia targeting. In conjunction with these inspections, Region X worked with contractors to create a multimedia checklist designed to obtain readily available information relating to potential violations of CWA, EPCRA, CAA, and TSCA.

Region X's experience illustrates another development in multimedia enforcement activities in the regions, the use of multimedia checklists. Several of the regions have increased their use of this tool to broaden the scope of program-specific investigations. Region II leads the Nation in single-media inspections performed using multimedia checklists.

3.2 ENVIRONMENTAL JUSTICE

FY 94 efforts to include environmental justice in enforcement activities vary widely among regions, with some regions explicitly including environmental justice as a criterion in targeting and others creating specific geographic initiatives to address enforcement and compliance issues in environmental justice areas. Some regions have incorporated environmental justice-oriented projects in SEP terms of case settlements or included equity considerations as part of larger geographic initiatives. This section summarizes select environmental justice activities in the regions, focusing first on compliance monitoring efforts and second on enforcement. Taken together, these examples indicate that consideration of environmental justice is becoming a standard operating procedure in the regions, with environmental justice activities being combined with other ongoing enforcement and compliance assurance activities.

Region III developed two geographic initiatives aimed at areas with environmental justice concerns. One of these initiatives focuses on Chester, Pennsylvania, an area in which more than 68 percent of the residents are African-American, more than 60 percent are on public assistance, and the average per-capita income is less than $9,200. This area has a concentration of industrial sources contributing to pollution, as well as traffic and noise, which are of great concern to the residents. The region's enforcement strategy in Chester has two components: toxic emission reductions and compliance.

Region IV has made environmental justice a focus of its enforcement activities within its NPDES program by doubling monitoring efforts at facilities located in minority or lower income areas to ensure compliance. All of the major industrial facilities along the Lower Mississippi Corridor, from Baton Rouge to New Orleans, Louisiana, are monitored closely to ensure compliance. These facilities comply with their NPDES effluent limitations more than 99 percent of the time. Compliance rates of municipalities in the corridor are also closely monitored as it became necessary to file a complaint against the City of New Orleans in FY 1994, for long-term improper treatment of its

Region III ranked facilities in Chester using the chronic index, a system of weighing TRI emissions by their toxicity. The 10 highest scoring facilities were then reviewed for enforcement potential and a number of multimedia and single-media inspections scheduled. Four multimedia inspections and numerous single-media inspections are planned in FY 95. The goal of these actions is to reduce, either directly through injunctions or indirectly through SEPs, emissions of toxic pollutants. A second aspect of the toxic emission reduction strategy will grow out of a long-term risk assessment for Chester that is targeted for completion in FY 95. Emissions estimates will be used to model exposures in order to determine which areas of the city are at the greatest risk. Facilities with the highest emission levels will then become candidates for increased enforcement surveillance. Region III also plans to improve compliance with environmental regulations in Chester by increasing oversight in a number of programs.

The region's second geographic initiative focuses on the Anacostia River, Washington, DC. The Anacostia River is among the most contaminated in the country. Fish tissue contamination is a public health concern. Economically disadvantaged residents of the surrounding communities are exposed to risks that EPA and others are seeking to eliminate. Recent studies of the Anacostia identified "hot spots" of sediment contamination that appear to be associated with particular storm sewers. The sources of these contaminants, and their potential as continuing sources, are not fully understood.

Region III's enforcement strategy is to identify the major sources of the contamination isolated in the sediment/storm sewer studies and commence enforcement for ongoing discharges. The region will separately evaluate the contribution of spills (especially of PCBs) in the storm drain area to the observed contamination of sediments and fish in the Anacostia and evaluate enforcement as a means of preventing future spills. In addition, the region will evaluate nearby Federal facilities and assess their present or historic contribution to the problem and responsibility for participating in its solution.

In at least two cases in FY 94, EPA-New England incorporated environmental justice projects in SEP terms of case settlements. One such case, involving the Massachusetts Highway Department (MHD), includes SEP conditions for provision of hazardous materials emergency response equipment to the local emergency planning committees (LEPCs) in communities affected by MHD operations, with particular focus on low-income and minority neighborhoods. The equipment will assist the local committees in tracking and storing information on the identity and location of hazardous chemicals in their districts and enhance their response action information systems. Efforts will also be made to remediate lots in inner city communities affected by MHD's hazardous waste practices; the plan is then to convert the lots into beneficial areas, such as parks, green spaces, or economic development projects in the neighborhoods.

Region X is incorporating multimedia enforcement tools to address enforcement and compliance issues in an environmental justice area. As part of the Puget Sound Initiative, Region X oversaw SPCC inspections in the Duwamish River watershed, an environmental justice area identified by the GIS mapping system used for multimedia targeting. In conjunction with these inspections, the region created a multimedia checklist designed to obtain readily available information relating to potential violations of CWA, EPCRA, CAA, and TSCA. Region X is working cooperatively with the State of

Similarly, EPA entered a consent agreement and final order in which the city of Boston agreed to pay $117,300 in civil penalties for violation of the TSCA PCB requirements at Boston City Hospital. The city also agreed to perform a SEP as part of the settlement, which involves removal of 10 underground storage tanks located throughout the city at a cost of more than $80,000. Boston City Hospital serves mostly a low income, minority population. The settlement will bring this inner city hospital into compliance with environmental regulations and reduce the risk of harm to public health and the environment in the Boston minority community.

During FY 94, Region VI developed a civil judicial enforcement action that was filled on October 27, 1994, in the Middle District of Louisiana, against Borden Chemicals and Plastics and two related Borden entities. The case involves alleged hazardous contaminant releases at Borden's Geismar, Louisiana facility, which is located in a highly industrialized area on the Mississippi River with a predominantly African-American population. In addition, the case alleges other violations, including illegal export of hazardous wastes to South Africa. In a press release issued on October 27, 1994, EPA Administrator Carol Browner said, "The Clinton Administration is committed to making sure that no company will realize unfair profits from pollution anywhere in the U.S., but particularly in minority and low-income communities that already face disproportionate risks." The Administrator also noted that "environmental

pollution does not stop at U.S. borders, and we will use all of our enforcement authorities against those who engage in the illegal international hazardous waste trade."

3.3 INDUSTRY-SPECIFIC SECTORS

FY 94 witnessed significant enforcement activities aimed at specific industrial sectors in the regions. Some of the initiatives represented regional efforts to implement larger national programs, as described in Section 2; others developed from region-specific priorities. This section highlights selected industry-specific initiatives by region.

Several of the regions accomplished industry-specific compliance monitoring activities during FY 94. EPA-New England, for example, developed and implemented an initiative under the CAA amendments of 1990. Under the CAA Stage II initiative, the State of Connecticut conducted approximately 970 inspections at gasoline stations and other facilities subject to the vapor recovery requirements and issued approximately 800 notices of violation. Also, as part of the National Administrative Order with Automotive Service Stations project, Region III confirmed the closure of all facilities inventoried by the major oil corporations within this region. More than 200 wells were closed as part of the compliance and outreach effort specified in this order. The region also issued proposed orders for noncompliant facilities that required the violators to inventory all facilities operated in this Region for additional injection wells and to implement pollution prevention measures at all facilities.

Region VI provides an example of compliance monitoring under the National Combustion Initiatives. The region and the States annually inspect 100 percent of the combustion facilities actually burning waste. During FY 94, Region VI issued consent agreement and final orders (CAFOs) for five combustion cases. In addition, through the course of 30 inspections, Region VI discovered wide-spread noncompliance among foundries. Based on pervasive noncompliance and the concerns over impacts to the environment and worker safety, the region targeted the foundry sector for compliance assistance. The Region conducted inspections, gathered data, and met with industry and State agencies to lay the groundwork for a meaningful State/EPA compliance outreach to the industry in FY 95.

Region VI's EPCRA enforcement activities included targeted compliance sweeps of facilities in a number of industrial sectors. EPA conducted these sweeps in San Antonio and Fort Worth, Texas, targeting manufacturers, plating shops, refineries, and warehouses. Of the 120 facilities inspected, 11 complaints were issued under EPCRA Section 312, for non-filing of inventory reports with State and local emergency response agencies.

Region VII also focused much of its efforts on industry-specific compliance assistance activities. For example, the region conducted the following activities:

- Conducted extensive outreach for two new air toxics rules that were promulgated under the CAA during FY 94. Two massive mailings were sent to the dry cleaning industry and the region set up a hot-line number to allow people quick access for answers.

Region VI initiated an effort to ensure that quality data is being submitted by laboratories. The region developed an initiative within the NPDES Enforcement Program to inspect and enforce, as necessary, against contract laboratories that have been providing analytical services to a number of major discharge facilities. The Enforcement Program also works closely with the Regional Office of Criminal Investigation to develop cases against individuals for falsification of discharge monitoring report data.

- Conducted outreach efforts in the chemical manufacturing industry for the new Hazardous Organic NESHAPs regulation. A mail-out was sent to 300 potential sources subject to the new requirements. The region emphasized education and outreach to facilities subject to new toxics rules promulgated under Section 112 of the CAA.

- Implemented the Missouri Voluntary Compliance Program, which was aimed at non-metallic mineral processing plants. This program offered a time-limited opportunity to a specific industrial sector to disclose violations of the CAA NSPS testing/reporting requirements in exchange for reduced administrative penalties and compliance assistance. This program brought 45 facilities into compliance, most of which would not have been reached via traditional enforcement methods. Region VII is continuing with the second phase of this program, which is to follow up with non-participating facilities in this sector with strong traditional inspection and enforcement activities.

- Conducted outreach meetings with the Cement Kiln Recycling Coalition to assist that industry sector in complying with the RCRA Boilers and Industrial Furnaces Rule.

- Conducted extensive outreach/compliance assistance activities in the four States to alert and inform members of the agricultural sector, Congress, State legislatures, and the public of the requirements of the FIFRA Worker Protection Standards (WPS).

In FY 94, Region VIII conducted three major compliance and enforcement initiatives:

- ***Mining Initiative***: The goal of the Mining Initiative was to obtain compliance with the CWA at approximately 300 active metal mines and metal mining exploration facilities. In South Dakota, EPA identified and inspected all metal mines prior to delegation to the State. EPA has issued NPDES permits to two of the mines and is pursuing an administrative enforcement action for discharge without an NPDES permit for one of the mines. It is expected that the State will issue permits to the remaining South Dakota mines by the end of 1994. The knowledge gained during the initiative will help identify and develop optimum approaches for regulating mining activities. Previous RCRA inspections at about a dozen mining facilities (including two trona mines) in Wyoming led to 8 RCRA § 3008(a) orders with FY 94 settlements totalling $506,267 and SEPs totalling $675,794.

- ***Refinery Initiative***: Under this initiative, Region VIII reviewed the issues surrounding the RCRA/CWA interface pertaining to contaminated ground water seeps to surface water from petroleum refineries. (This issue gained attention due to recent citizen suits against CRC and Texaco in the Region.) The region identified approximately 40 operating and closed refineries. Of these, six have a "high" RCRA corrective action ranking for surface water under NCAPS. In FY 94, the Court entered a consent decree between the United States and Defendants known as the Powder River Crude Processors (Texaco Refining and Marketing, Conoco Pipeline Company, Phillips Petroleum Company, Eighty-eight Oil Company, and True Oil Company) which requires, among other things, payment of $300,000 in penalties and performance of work at the Site, estimated to cost several million dollars, which addresses conditions posing imminent and substantial endangerment to the environment. The Regional Refinery Workgroup is now completing a comprehensive evaluation of and strategy for all the refineries in the Region.

- ***Trona Initiative***: Wyoming holds the largest deposits of soda ash in the U.S., in the form of an ore known as "trona." As a result, five trona mines and processing plants have been built and are currently in operation. The region of southwestern Wyoming in which these plants are congregated often has a visible layer of air pollution hanging over it, which has prompted several citizen complaints over the past few years. EPA and the States believe that the five trona plants are contributing significantly to this pollution. Region VIII decided that, due to exceedances of mass particulate limits, as determined by stack tests, condensable organic matter is being emitted and is likely a major contributor to the pollution. Due to the grandfathering of these sources to the test methods for measuring condensable organics, none of these "violations" has been able to go forward. The goals of the initiative are to determine an approach for documenting the opacity violations at these plants and a strategy for correcting this deficiency, such as a Finding of Violation pursuant to CAA Section 113(a)(2), which may also lead to additional controls for volatile condensable organics. In FY 94, the RCRA program settled two RCRA § 3008(a) orders with two trona mines for a total of $239,000. Additionally, the RCRA program identified a need for training in the management of hazardous waste at several of the plants. The Region is also addressing acid rain and visibility issues affecting the Wind River Reservation (9,000 Arapahoe and Shoshone) in the Rock Springs area. The U.S. Fish and Wildlife Service is looking into issues affecting how the evaporation ponds affect migratory birds and effects on the Bridger and Fitzpatrick Wilderness Area. Other programs participating in this initiative include: RCRA, NPDES, EPCRA §§ 311/312/313, TSCA/PCB, and TSCA §§ 5 and 8. The Region is now completing a comprehensive multimedia compliance evaluation of all trona mines and auxiliary industries in the Region.

Region VIII also contributed to other industry-specific initiatives. In response to the Data Quality Initiative, the Region undertook targeted inspections of injection well operators' data gathering and reporting procedures. As a result of the initiative, the region reinforced its belief that clearer UIC reporting requirements in the UIC regulations are needed and that continued outreach is needed for operators to ensure that permit/regulatory requirements are thoroughly understood and expectations for compliance are consistent.

As part of the Federal enforcement program in Colorado and Wyoming, Region VIII specifically targeted pesticide-producing establishments potentially subject to the WPS, including bulk repackagers and users of aluminum phosphide type pesticides for prairie dog control. Both initiatives documented compliance issues (i.e., bulk repackagers are not complying with worker protection relabeling requirements and users of aluminum phosphide type pesticides continue to violate endangered species labeling).

Region X participated in industry-specific initiatives in FY 94. One Region X air program initiative involved rock crushing operations subject to Federal NSPS under the CAA. Region X conducted an intensive training effort to inform the regulated community about the Federal requirements, including giving operators copies of the checklists used by compliance inspectors, to help facilities voluntarily comply. Region X conducted several inspections in northern Idaho, met with concerned citizens, and assisted the State of Idaho in its enforcement against several facilities that were out of compliance. In addition, Region X reviewed more than 100 pest control advertisements that allegedly made false or misleading safety claims. A citizen's group submitted the advertisements to EPA for review. As a result of the review, the region issued 25 warning letters for clear violations of FIFRA and 16 letters advising companies to make changes to their advertisements for less obvious violations.

Region X also funded an initiative by the Idaho Department of Agriculture to conduct a compliance audit of every commercial and public pesticide applicator in the State during a 2-year period. The State inspector uses a checklist during the site visit to evaluate recordkeeping, pesticide use, mixing/loading, storage, and disposal. The inspector signs the checklist, which serves as a warning letter if violations were noted, and the applicator is given time to make corrections. The initiative gives the department a chance to make contact with every applicator. More than 400 audits were conducted in FY 94, and the program has been well received in the State.

Under two separate initiatives aimed at public water systems, Region III issued 209 NOVs to systems that failed to comply with sampling and reporting requirements of the Lead and Copper Rule, SDWA, and 226 NOVs to systems that failed to comply with sampling and reporting requirements for nitrate under the Phase II Rule, SDWA.

Several regional industry-specific enforcement actions also took place in FY 94. Region II initiated industry-specific enforcement activities under the CAA. The Region issued administrative penalty complaints against the owners of six boating supply stores for violating the ban on the sale of "non-essential" products containing CFCs. The region issued these penalty actions after inspections of the stores revealed that each store was selling CFC-based propellants for marine safety horns. Region II also initiated the first administrative penalty actions to secure compliance with the Sewage Sludge Use/Disposal Regulations (Part 503 Regulations) recently promulgated under Section 405 of the Clean Water Act. In August 1994, the Region filed five administrative complaints against municipal wastewater treatment works under Section 309(g) of the CWA.

Region IV's RCRA program continued to lead the Nation in providing cases for the National Combustion Initiative. Region IV and its States had 12 of the 22 cases settled and 2 of the 10 new actions announced under this national initiative. Special emphasis was also given to the CFC initiative in the region. Region IV announced the filing of nine administrative enforcement actions seeking $256,989 in penalties for violations of Sections 608 and 609 of the CAA. The cases involving Section 608 allege violations of disposal regulations for appliances containing refrigerant capable of damaging the ozone layer and/or violations of prohibitions of venting refrigerant directly into the atmosphere. The cases involving Section 609 allege failure to have certified equipment and technicians servicing motor vehicle air conditioners.

During FY 94, Region VII issued 26 administrative complaints for violations of Section 609(c) of the CAA. Respondents were charged with servicing or repairing motor vehicle air conditioners without proper training and certification by an approved technician certification program and/or without proper use of approved equipment. The complaints addressed violators in each of the States located in Region VII and the proposed penalties totaled $170,000. Eleven of the 28 FIFRA administrative complaints issued by Region VII in FY 94 involved cross-contamination of bulk repackaged pesticides. These cases, which are highly complex and controversial and have no precedent, have consumed a significant amount of regional resources to develop and litigate. They have also focused national attention on the regulated community and the Agency on pesticide product cross-contamination and have encouraged coordination among the members of the regulated community, States, and the Agency to try and resolve the difficult regulatory and potential risk and food safety issues posed by cross-contamination of pesticides.

3.4 SUPPLEMENTAL ENVIRONMENTAL PROJECTS

EPA uses SEPs to gain significant environmental benefits in conjunction with the settlement of enforcement cases. Nominally, SEPs are projects voluntarily undertaken by members of the regulated community in conjunction with case settlements to provide some level of environmental benefit usually

unrelated to the nature of the violations committed. In exchange for SEP performance, the facility is granted penalty relief equaling some fraction of the total value of the stipulated penalty. Historically applied predominantly in reporting violation cases, SEPs are maturing into a more versatile tool, with SEPs now included in CAA, CWA, RCRA, and other program area settlements.

In FY 94, EPA-New England negotiated 21 SEPs worth approximately $7.3 million. Region II included SEPs in 28 settlements under the CAA, EPCRA, TSCA, RCRA, and CWA programs with a total dollar value of more than $18.5 million. In most cases, the value of these SEPs substantially exceeded the value of the civil penalties that they were used to offset; overall, penalty offsets totaled less than $4 million. Region III negotiated 10 SEPs, at a total dollar value of approximately $10.2 million. Region VII incorporated SEPs into settlements at a value of more than $7 million. Region V also settled several cases using SEPs with a total value of the SEPs being approximately $5.4 million. Thirteen SEPs were worth more than $100,000. Region X negotiated 25 SEPs in FY 94. The dollar value of the SEPs was nearly $1.3 million. Of the 25 SEPs, 20 were in the pollution reduction and pollution prevention categories.

In FY 94, SEPs included diverse projects such as resource commitments to local emergency planning councils, an air toxics reduction technology demonstration study, source reduction and pollution reduction programs and process changes, energy conservation, land reclamation, and recycling. Pollution prevention projects received particular attention, in keeping with current regional and national priorities. Table 3-1 lists some of the types of projects included as SEPs in case settlements.

Some of the SEPs incorporated into settlements require substantial process modifications at manufacturing facilities resulting in significant source reduction gains benefitting the environment. Region III executed a CACO, with an associated Settlement Conditions Document, settling an EPCRA administrative action filed against the Homer Laughlin China Company for violations of EPCRA Section 313. The settlement included a substantial SEP, exceeding $9 million, in which Laughlin converted its entire china dinner-ware production system to a lead free process.

A consent decree filed in settlement of claims against I.E. DuPont de Nemours for violations of its NPDES permit and Section 301 of the CWA contained a pollution prevention SEP. This SEP will prevent the generation of between 60 million and 145 million pounds of RCRA hazardous waste per year currently being deep well injected in onsite disposal wells. The information on the violations was received from self-reporting and from an EPA inspection. Under the consent decree, DuPont agreed to pay a civil penalty of $516,430 and to perform a SEP costing an estimated $3.2 million.

The process modifications required in some SEPs may also involve the application of developing innovative technologies, thereby serving a valuable technology demonstration function with possible attendant environmental benefits at future sites. For example, Region IV filed a CACO against Everwood Treatment Company, Inc., resolving Everwood's violations of Section 103 of CERCLA and Section 304 of EPCRA. The CACO settled this action for $54,500 and required the respondent to pay $32,000. In addition, the CACO calls for Everwood to implement a SEP to construct a new wood treatment plant built specifically for the use of a wood preservative that is not a hazardous waste. This SEP will cost approximately $225,000. If successful, Everwood's SEP could set a precedent for other wood treaters and, thus encourage the reduction in one the Nation's most toxic hazardous wastes.

Table 3-1. Types of Supplemental Environmental Projects in Case Settlements

SEP Category	Example of Project Type Included in FY 1994 SEP
Cleanup/Restoration Projects	• UST removal • Abandoned oil production well plugging and site restoration • Abandoned mine land reclamation (partial)
Disposal	• PCB testing and removal • Asbestos abatement
Environmental Audit	• Facility environmental and chemical usage audits
Outreach/Enforcement-Related Environmental Public Awareness Projects	• Resource commitments (e.g., computers, other equipment, personnel) to LEPCs
Source Reduction/Pollution Prevention—Process Modification	• Solvent substitution and other toxics reduction through product substitution
Source Reduction/Pollution Prevention—Technological Improvement	• Installation of alternative cooling system to reduce fresh water withdrawals
Training	• Compliance awareness publications in trade journals • Training for LEPCs
Waste Minimization/Pollution Reduction—Process Modification	• Installation of high-efficiency lighting • Wastewater treatment facility improvements
Waste Minimization/Pollution Reduction—Recycling	• Utilization of wastewater treatment sludge as fertilizer
Waste Minimization/Pollution Reduction—Technological Improvement	• Improved scrubber performance for air toxics reduction • Demonstration project for air toxics reduction

In Region IV, the U.S. District Court entered a consent decree that settled Crown, Cork & Seal Inc.'s (CC&S) alleged violations of the CAA's prevention of significant deterioration (PSD) requirements and NSPS. The CACO had a civil penalty of $343,000 and required CC&S to perform three SEPs valued at more than $2 million. The penalty represents one of the largest CAA

Several FY 94 SEPs required violators to perform environmental projects at locations other than where violations occurred. This approach directed effort toward achieving a greater environmental benefit than may otherwise have been practicable. In one such case, the U.S. District Court entered a consent decree resolving a suit brought by EPA and the State of Arizona against Magma Copper Company in response to violations of the CWA and related State law at three copper mining and processing facilities operated in southeastern Arizona. The decree requires Magma to pay penalties of $385,000 to the United States and $240,000 to the State of Arizona. The decree also requires Magma to undertake compliance measures and to complete a SEP designed to control contamination at an abandoned mine. The cost to Magma is estimated to be $1.5 million. In addition, the decree further requires Magma to pay $50,000 to fund three additional SEPs that the U.S. Forest Service will complete to benefit the affected watersheds.

In another multisite SEP, Region III and Anzon, Inc., a manufacturer of lead products, settled a TSCA administrative complaint involving violations of the Inventory Update Rule (IUR) requirements of the TSCA. Anzon failed to submit IUR reports on four chemicals manufactured at its Philadelphia, Pennsylvania, plant. Anzon agreed to pay a $57,000 civil penalty, $43,620 of which may be remitted by EPA upon completion of SEPs in Anzon's Philadelphia and Laredo, Texas, facilities. The Philadelphia project involves the early removal and disposal of four PCB transformers. The Laredo project requires increased controls for the capture of antimony oxide emissions from the facility. These projects have a combined estimated cost of $198,800. The Laredo project represents a TSCA settlement in Region III with an "inter-regional" SEP.

In Region V, two noteworthy SEPs were negotiated in FY 94. In the first, Ohio Power agreed to remove 600 PCB capacitors at a cost of $61,547. The second SEP, for EPCRA Section 313 violations, requires Welded Tube in Chicago, Illinois, to replace its solvent paint with water-based paint to reduce the release of toluene and xylene by 298,610 pounds per year. The SEP is estimated at $300,000.

3.5 SENSITIVE ECOSYSTEMS

Unlike other initiative areas discussed in this document, consideration of sensitive ecosystems in regional enforcement activities does not relate to discrete program activities. Whereas SEPs and multimedia activities relate to the specific category of enforcement activity conducted, and industry-specific or Federal facility initiatives relate to identifiable sub-populations of the regulated community, sensitive ecosystem activities can include a wide range of enforcement or compliance assurance tactics and can be aimed at any specific or mixed population of the regulated community. As shown in Section 3.2, several environmental justice initiatives could also be categorized as sensitive ecosystem or sensitive environment initiatives. This section presents regional efforts to protect identified sensitive ecosystems and environments, other than those with environmental justice concerns.

During FY 94, a number of regions conducted geographic initiatives targeting identifiable ecosystems. Region II, for example, brought a case against Broomer Research, Inc., which is located in a mixed industrial and residential area of Islip, Long Island, New York, and is situated directly over a ground water aquifer, a source of drinking water for the community. The plant manufactures optical lenses and uses thorium fluoride and organic solvents in the coating and cleaning process. The Suffolk County Department of Health (SCDOH) identified organic solvents in the wastewater sludges generated and then discharged by Broomer into its sanitary septic system. EPA, SCDOH, the U.S. Attorney for the Eastern District of New York, and several other Department of Defense offices executed a search warrant to inspect this facility. Samples taken during this inspection contained appreciable amounts of organic solvents in the wastewater and appreciable levels of radionuclides, assumed to be thorium, in the sludge discharged to the septic system. On June 24, 1994, Region II issued an administrative order on consent to Broomer Research, Inc. under the "emergency" authorities of Section 7003 of RCRA and Section 1431 of SDWA. This is the first time the Region has used its emergency authority under Section 1431 of SDWA.

The Mid-Snake River area (near Twin Falls, Idaho) has and continues to be a high-priority watershed for Region X. The region conducted a workshop in Boise, Idaho, for State and EPA inspectors in preparation for the upcoming inspections of feedlots and dairies in the Twin Falls and Boise areas. The workshop covered items to look for at these operations and information required for the inspection reports. Region X and the State inspected 74 facilities, several of which were identified as having violated the CWA. EPA is preparing these cases for formal enforcement actions. The inspections also identified 24 facilities with potential problems. These facilities were sent letters notifying them of the potential problems.

Another example of ecosystem protection is Region V's new effort to protect the ecosystem of the Mississippi River basin. In addition to its Cleveland office, the region's Criminal Investigation Division has recently announced the opening of new offices in Minneapolis and Detroit. These offices ensure that a local workforce is available to investigate and support prosecutions in these areas. Region V has also taken steps to protect other sensitive ecosystems in the region, including:

- 21 SEPs negotiated in the Great Lakes Basin of Region V in hopes of providing added protection for that sensitive environment

- 6 SEPs negotiated in the geographic region of the SEMI Initiative
- SEPs in other geographic initiatives as well, including 2 under the Gateway Initiative.

3.6 FEDERAL FACILITIES

In FY 94, the regions continued to focus their enforcement and compliance assistance activities on Federal facilities. Using the Federal Facilities Compliance Act as its basis, Regional enforcement personnel continued to target, inspect, and take enforcement actions against Federal facilities. In several of the activities, the region and the applicable State worked closely to ensure that the action taken would benefit both public health and the environment. EPA-New England initiated a specific compliance assistance program in FY 94—the Multimedia Federal Facility Program environmental management review (EMR) effort. The purpose of conducting an EMR is to review a Federal facility's overall environmental management program (structure, staffing, training program) and assist the facility with compliance issues. After an EMR is conducted, a brief report is prepared and provided to the facility. In FY 94, two EMRs were conducted, and six are planned for FY 95.

Several regions also conducted compliance monitoring activities at Federal facilities. During FY 94, for example, Region III continued its vigorous oversight of environmental regulations/statutes at Federal facilities. This included multimedia inspections at Ft. Belvoir, Maryland, and the Naval Surface Warfare Center at Indian Head, Maryland. Regions II and IV also targeted Federal facilities for multimedia inspections. Region II conducted three Federal facility multimedia inspections in FY 94; Region IV conducted seven Federal facility multimedia inspections.

While the majority of such actions are typically taken against military installations (i.e., Army bases, Navy bases), some are taken against other types of Federal facilities. For example, Region III issued an emergency administrative order under Section 1431 of the SDWA to the District of Columbia. The Government of the District of Columbia owns and operates a public water system for the storage and distribution of piped water for human consumption to the residents of the District and surrounding areas. The Army Corps of Engineers, Baltimore District, provides the water. In late 1993, water samples collected by the District and analyzed were total coliform positive, a violation of the Total Coliform Rule. One repeat sample was fecal coliform positive, an acute violation that may pose a risk to human health. The District issued a boil water advisory to the people in the vicinity of the fecal coliform positive sample location, issued public notice of the violations, and increased its distribution system flushing program.

In response to the imminent and substantial endangerment created by the unusually high percentage of total coliform-positive samples within the District of Columbia's public water system, EPA Region III issued an Emergency Administrative Order to the U.S. Army Corps of Engineers, Baltimore District, to determine whether the Corps contributed to or could have helped prevent the District's violation. EPA staff from Region III, Headquarters, and Cincinnati, inspected the treatment plants and made recommendations for further action by the Corps of Engineers.

Before the Corps had the opportunity to implement EPA's recommendations, an exceedance of the turbidity maximum contaminant level (MCL) occurred at the Dalecarlia water treatment plant. In response to this turbidity MCL exceedance, EPA issued a boil water notice to all users of the distribution system in Falls Church and Arlington, Virginia, as well as in the District. EPA established a command center and hotline in the offices of the Metropolitan Washington Council of Governments and directed the Corps to conduct extensive water quality monitoring. Testing was negative, and the boil water advisory was lifted. Following inspections of the Dalecarlia plant by EPA Headquarters, Cincinnati, and

regional personnel and a subsequent investigation by EPA's NEIC, Region III issued an Emergency Order to the Corps that incorporated the recommendations from the inspections. In addition, the order incorporated the recommendations from EPA's previous investigation of the coliform problem. EPA subsequently participated in two congressional hearings on the matter conducted by the District's Representative to Congress.

EPA and the States initiated the following enforcement actions against military installations in FY 94:

- ***Naval Construction Battalion Center (NCBC)***: EPA-New England reached a precedent-setting settlement with the Navy under RCRA. The Navy agreed to pay a penalty of $57,223 for RCRA violations at the Naval Construction Battalion Center in Davisville, Rhode Island. The penalty was the first RCRA penalty collected by the region against a Federal facility and the first collected nationally from the Navy under the Federal Facility Compliance Act of 1992. The action resulted from a multimedia inspection of the facility conducted by EPA-New England with State participation. The complaint alleged numerous hazardous waste management and disposal violations by the Navy.

- ***Natick Army Laboratory***: EPA-New England issued its first complaint against the Army pursuant to EPA's authority under the Federal Facility Compliance Act of 1992. Based on an inspection at the Natick facility, the region proposed a civil penalty of $117,000. The respondent violated a variety of RCRA base program requirements, including failure to properly conduct hazardous waste determinations, failure to clearly label and mark satellite accumulation containers, failure to keep containers of hazardous waste closed during storage, and failure to label properly containers stored at the less than 90 day storage area.

- ***West Virginia Ordnance Works***: A dispute with the U.S. Army resulted in payment of stipulated penalties to Region III in the amount of $500,000 for violations occurring at the West Virginia Ordnance Works Superfund Site. EPA assessed stipulated penalties in the amount of $2 million for the Army's failure to submit documents within the established deadlines of the second IAG. The Army invoked the dispute resolution provisions of the IAGs; the disputes were eventually elevated to the Senior Executive Committee, which settled on a $500,000 penalty with requirements to implement an improved reporting and tracking system.

- ***RCRA-Aberdeen Proving Ground Facility***: EPA Region III issued a RCRA Section 3008(a) administrative complaint to the U.S. Army Aberdeen Proving Ground (APG) facility in Aberdeen, Maryland, citing APG for storing for more than 1 year 171 containers of hazardous waste restricted from land disposal. The complaint also cited APG for manifest violations concerning the shipment of land disposal restricted hazardous waste. The penalty was $115,546. This administrative complaint was the first issued by Region III to a Federal facility pursuant to the newly enacted Federal Facility Compliance Act. In addition to this RCRA action, the SDWA-UIC program is undertaking an inventory and remediation action at Aberdeen in response to the identification of numerous injection wells at the facility.

- ***In the Matter of U.S. Naval Air Facility, El Centro, California***: Region IX signed a CACO resolving an administrative complaint against the U.S. Naval Air Facility in El Centro, California, involving various RCRA violations. Under the terms of the settlement, the Navy will pay a penalty of $100,000 and will implement two SEPs relating to pollution prevention.

The first SEP involves the installation of six jet parts washers that will use high-velocity water and biodegradable detergent in lieu of the solvents currently used to achieve a 90-percent reduction in the volume of hazardous wastes used in degreasing operations. The second SEP involves the construction of a hazardous waste minimization center, which will achieve a 25-percent reduction in hazardous waste generation through centralized ordering and distribution of hazardous materials. The total cost of the two supplemental environmental projects is approximately $250,000.

The case is significant because it was Region IX's first enforcement action under the Federal Facility Compliance Act of 1992. In addition, the consent agreement is significant because, for the first time in an agreement with a Federal facility, EPA was able to limit the dispute resolution process to the regional level. Any disputes under this consent agreement will not go beyond the Deputy Director of Region IX's Hazardous Waste Management Division.

4.0 ENVIRONMENTAL ENFORCEMENT ACTIVITIES AND PENALTIES

The U.S. Environmental Protection Agency's (EPA's) mandate to protect public health and safety depends on effective enforcement. The costs of violating environmental laws, both direct litigation costs, as well as costs resulting from remediation and the assessment of civil penalties or criminal fines and incarceration, are great. Strong, deterrence-based enforcement—as reflected, for example, in the rapid growth of EPA's criminal enforcement program—creates a climate that forcefully motivates innovation, prevention, and compliance by the regulated community.

EPA's enforcement and compliance assurance program operates at its peak when strong enforcement is used in tandem with the compliance assistance programs. The tools and methods are familiar:

- Criminal sanctions
- Administrative actions/injunctive relief that force violators to correct their violations
- Civil/Judicial referrals
- Monetary penalties that are designed to punish violators and assure the recovery of the economic benefit of noncompliance.

These tools, used in conjunction with the compliance assurance activities identified and discussed throughout this document, will continue to play a pivotal role in increasing compliance with environmental laws and regulations, and thus protecting human health and the environment.

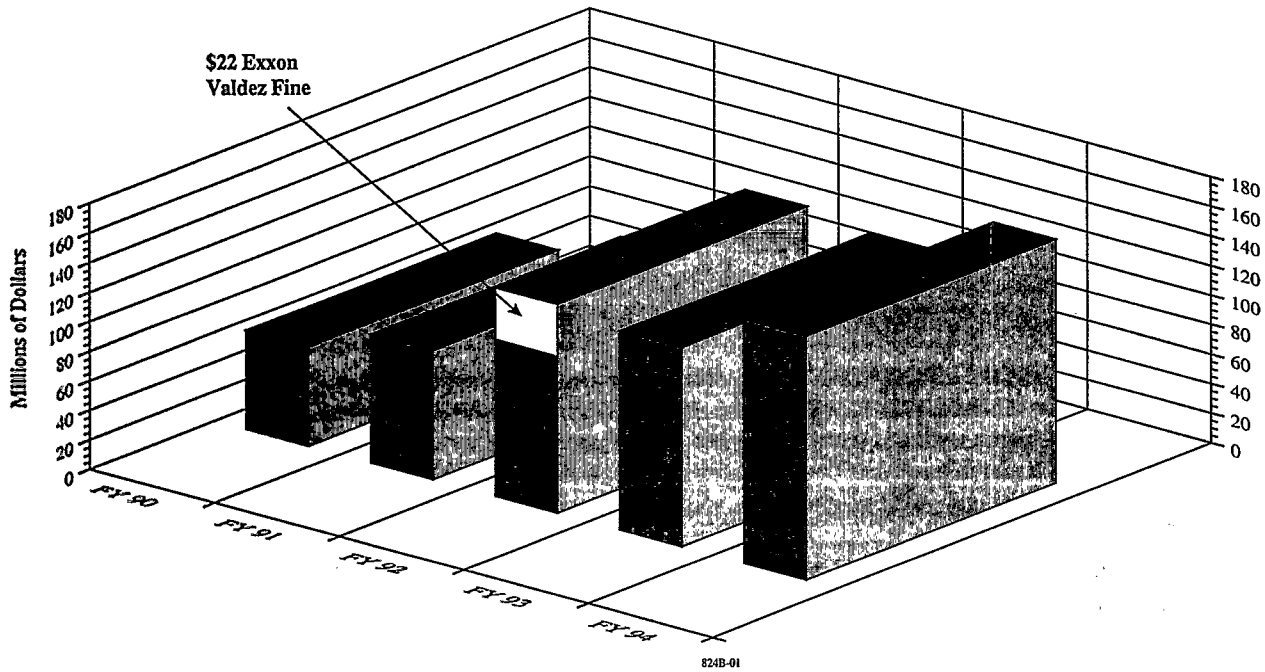
During FY 94, the Agency brought a record 2,246 enforcement actions with sanctions, surpassing the previous mark established in FY 93. This record includes 220 criminal cases, 1,596 administrative penalty actions, 403 new civil referrals to the Department of Justice, and 27 additional civil referrals to enforce existing consent decrees. These administrative, judicial, and criminal sanctions are the primary enforcement tools used to correct violations, establish deterrence, and create incentives for future compliance.

The FY 94 figures also indicate that the States were active in their enforcement efforts against noncomplying entities. These figures indicate that States took 11,334 enforcement actions. The States take the majority of environmental enforcement actions and are primary partners with EPA in assuring national compliance with the environmental laws and regulations.

Penalties for FY 94 totaled a record $151 million combined for civil penalties and criminal fines and another $206 million was returned to the Treasury through Superfund cost recovery. Figure 4-1 presents the FY 94 penalty totals compared to the totals for the last 5 years.

The Agency's Federal Facilities Enforcement Office (FFEO) greatly expanded the scope of its activities. In October 1992, Congress, through the Federal Facility Compliance Act (FFCA), clarified that EPA has RCRA order and penalty authority against Federal agencies. Since passage of the FFCA, EPA has issued 20 compliance orders to Federal agencies. In FY 94, it issued 10 RCRA administrative penalty orders to military facilities with proposed penalties exceeding $5.7 million. In addition, the program negotiated 5 federal facility compliance agreements and 2 CERCLA cleanup agreements. OFFE also

Figure 4-1. EPA Civil Penalties and Criminal Fines



continued to implement its Federal Facilities Multimedia Enforcement/Compliance Initiative by taking follow-up enforcement actions after conducting 41 multimedia investigations at federal facilities across the country in FY 93.

The following sections discuss some of the specific environmental enforcement activities, including criminal enforcement, administrative enforcement, referrals, and CERCLA enforcement. There is also a general discussion of penalties. This section concludes with several tables that contain regional-specific information pertaining to environmental enforcement activities and penalties.

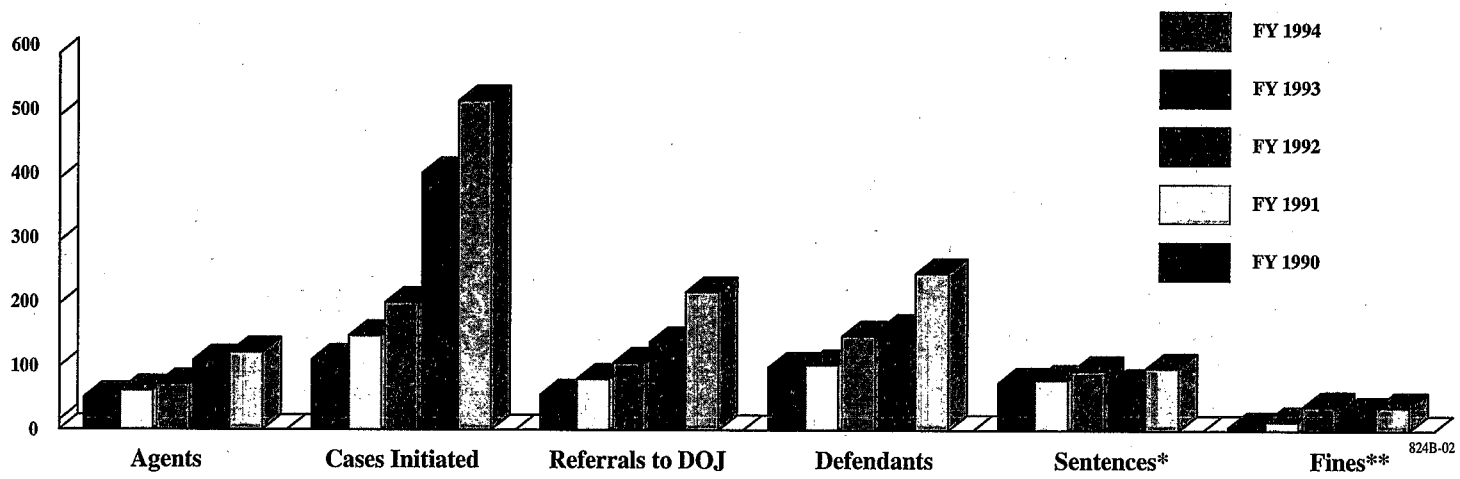
4.1 CRIMINAL ENFORCEMENT

EPA's criminal enforcement program set new records in several categories, including 220 referrals to the Department of Justice (36 percent more than the record of 140 set in FY 93), criminal charges brought against 250 individual and corporate defendants (40 percent more than the record of 161 set in FY 93), and 99 years worth of jail sentences imposed (25 percent more than the 74.3 years of incarceration imposed in FY 93). The program also assessed $36.8 million in criminal fines (19 percent more than the $29.7 million assessed in FY 93). Figure 4-2 provides a statistical comparison of criminal enforcement activities over the last 5 years.

The Pollution Prosecution Act (PPA) of 1990 authorized a number of enhancements to EPA's enforcement program. Most significantly, the Act mandated an increase in criminal investigators to 200 by FY 96. In addition, the PPA required "increasing numbers of additional support staff (i.e., technical, legal, and administrative) to the Office of Criminal Enforcement." By the end of FY 94, EPA had increased the number of criminal agents to 123 compared to 47 in FY 89. As shown in Figure 4-1, this

Figure 4-2. Office of Criminal Enforcement

Five Year Statistical Comparison



	Agents	Cases Initiated	Referrals	Defendants	Sentences*	Fines**
FY 1990	51	112	56	100	75.3	5.5
FY 1991	62	150	81	104	80.3	14.1
FY 1992	72	203	107	150	94.6	37.9
FY 1993	110	410	140	161	74.3	29.7
FY 1994	123	525	220	250	99	36.8

* Years of Incarceration

** Millions of Dollars

additional investment in agents has yielded significant increases in most key areas of the criminal program including 525 new investigations in FY 94.

As mentioned, OCE referred 220 criminal cases to DOJ in FY 94 and opened 525 new investigations. Table 4-1 presents information on the number of referrals and new investigations by statute.

Table 4-1. Number of New Investigations Opened and Referrals to DOJ by EPA's Criminal Enforcement Program in FY 94

Statute/Program Area	New Investigations Opened	Referrals to DOJ
Clean Air Act	89	39
Clean Water Act	174	66
Wetlands	14	3
Safe Drinking Water Act	7	2
RCRA	173	74
CERCLA	21	12
TSCA	11	6
FIFRA	22	15
Other	14	3
Total	**525**	**220**

Also contributing to the increase in criminal enforcement activity is a document issued by OCE—"Guidance on the Exercise of Investigative Discretion." This guidance was the first comprehensive guidance issued by EPA that established discrete criteria for Agency investigators when considering whether or not to proceed with a criminal investigation. The guidance was designed to promote consistent, but flexible application of the criminal environmental statutes.

4.2 CIVIL ENFORCEMENT

In FY 94, the Agency took nearly 3,600 administrative enforcement actions. This number emphasizes the importance EPA is placing on administrative enforcement mechanisms to address violations, compel regulated facilities to achieve compliance, and assess penalties. EPA's expanded authority with administrative actions now allows the Agency to impose injunctive relief and penalties that are comparable to those that could be imposed through civil judicial enforcement. In FY 94, EPA issued 1,596 administrative penalty orders for more than $48 million. Table 4-2 provides information on administrative penalty orders by statute/program area.

Table 4-2. Administrative Penalty Orders by Statute/Program Area

Statute/Program	No. of Cases	Penalties (in dollars)
Clean Air Act	171	3,882,550
Clean Water Act	272	5,154,892
Safe Drinking Water Act	70	393,402
RCRA	103	9,824,031
UST	102	3,760,190
TSCA	288	14,236,483
EPCRA	242	8,266,020
FIFRA	150	1,779,448
CERCLA	35	723,925
Total	**1,433**[1]	**48,021,941**[1]

[1] These numbers do not include the 163 administrative penalty actions taken by EPA Headquarters under the Clean Air Act. Penalty amounts were not available at the time of publication.

In addition to the administrative penalty orders, EPA issued a total of 166 civil judicial penalties totalling more than $65 million. Table 4-3 presents a breakout of those penalties by statute/program area.

Figures 4-3 through 4-6 on the following pages are graphical representations of the administrative and civil judicial statistics.

Table 4-3. Civil Judicial Penalties by Statute/Program Area

Statute/Program	No. of Cases	Penalties (in dollars)
Clean Air Act	67	13,490,486
Clean Water Act	51	20,006,225
Safe Drinking Water Act	2	20,000
RCRA	24	12,342,760
TSCA	2	1,121,100
EPCRA	0	0
FIFRA	1	500
CERCLA	17	4,999,859
Multimedia	2	13,655,000
Total	**166**	**65,635,930**

Figure 4-3. Number of Administrative Penalty Orders by Statute/Program Area

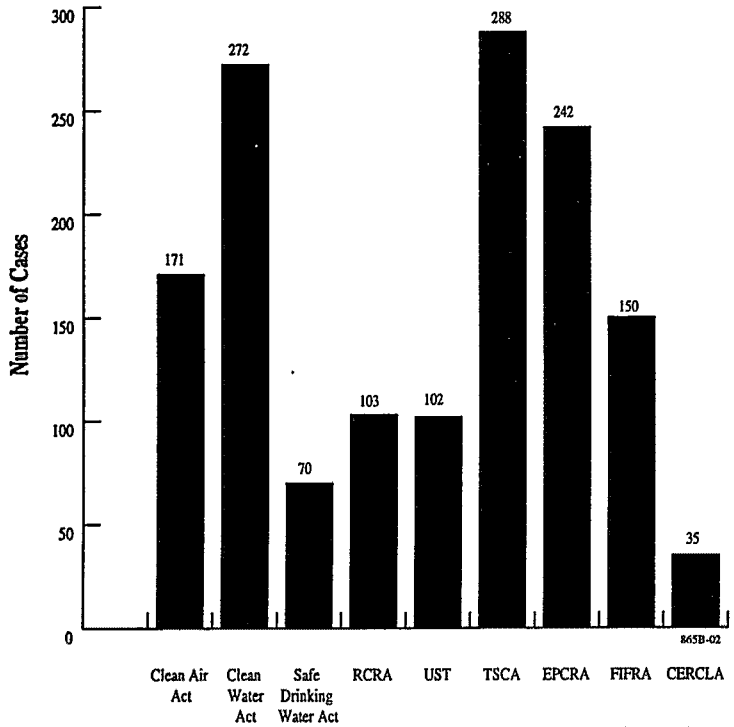


Figure 4-4. Total Penalties Assessed in Administrative Penalty Orders (by Statute/Program Area)

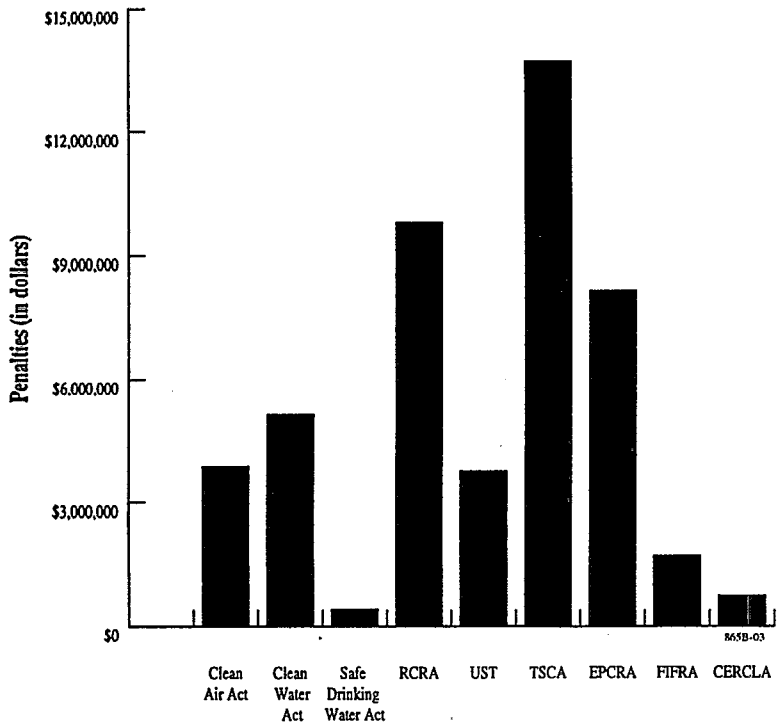


Figure 4-5. Number of Civil Judicial Penalties by Statute/Program Area

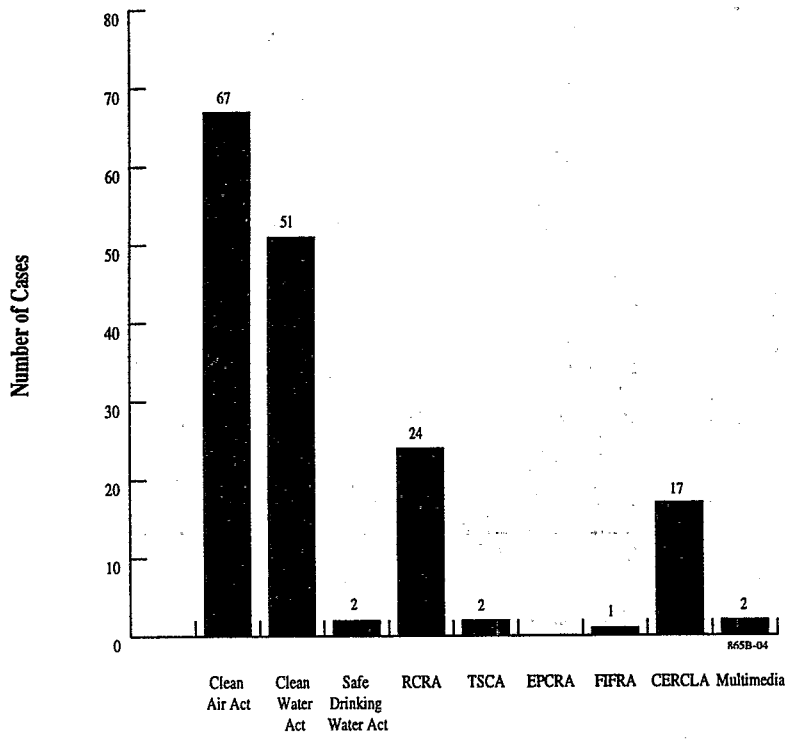
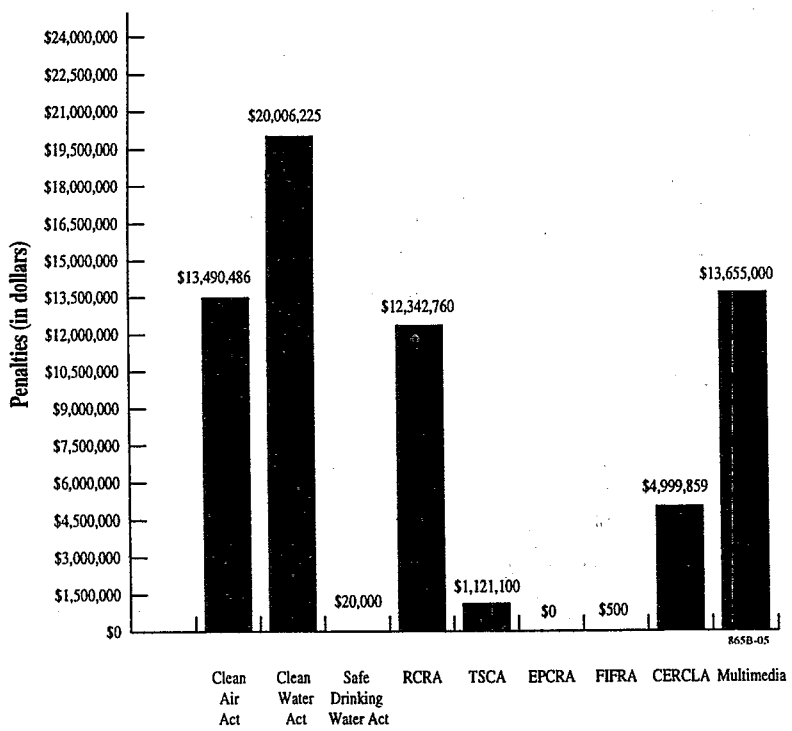


Figure 4-6. Total Amount of Civil Judicial Penalties (by Statute/Program Area)



Several regions reported information on injunctive relief. In Region II, for example, there was approximately $350 million in non-CERCLA injunctive relief (largely driven by the Kodak settlement) and approximately $112 million in CERCLA injunctive relief. In Region III, preliminary estimates indicate an injunctive relief/cost recovery total of nearly $412 million. The large dollar value reported is largely attributable to the region's Superfund Enforcement Program, especially the Removal Enforcement Program, which had a $267 million multi-regional settlement in FY 94. In Region V, there were 63 injunctive relief cases. The value of the injunctive relief in FY 94 was $141 million. However, there are still several cases pending that could change this number. Region VIII reported five cases with injunctive relief.

4.3 CIVIL REFERRALS

The 430 civil referrals brought in FY 94 by the regions and the regulatory enforcement office—both new and to enforce existing consent decrees—are the highest 1-year total in EPA's history. In addition to the 403 civil referrals, the Agency also referred 27 cases to DOJ to enforce existing consent decrees. Table 4-4 presents information on the statute/program area of the 430 FY 94 civil referrals.

Table 4-4. Number of Civil Referrals by Statute

Statute	Number of Civil Referrals
Clean Air Act	139
Clean Water Act	86
Safe Drinking Water Act	11
RCRA	35
TSCA	6
EPCRA	6
FIFRA	1
CERCLA	144
Total	**428**[1]

[1] This number does not include 2 civil referrals made by EPA Headquarters.

4.4 CERCLA ENFORCEMENT

The Superfund program secured more than $1.4 billion in private party remedial cleanup commitments in FY 94. This was the fifth consecutive year in which private party cleanup commitments exceeded $1 billion, bringing the total value of private party cleanups to $10 billion since the program's inception. Potentially Responsible Parties (PRPs) conducted approximately 80 percent of the remedial work at National Priority List sites during FY 94, the largest percentage to date.

Of this total amount, approximately $959 million was for remedial design and remedial action (RD/RA) response work. The three types of RD/RA settlements and their associated values were:

- 35 consent decrees referred to the Department of Justice (DOJ) for cleanup response estimated at $585 million

- 35 unilateral administrative orders (UAOs) issued to PRPs and with which they have agreed to comply, for response worth over $295 million

- 18 administrative orders on consent (AOCs) for remedial design estimated at close to $79 million.

The Superfund program also concluded "de minimis" settlements with over 4,000 PRPs, by far the most negotiated in any single year since the inception of the program. The Superfund enforcement program has expanded the use of these settlements to make negotiations more efficient and to reduce the transaction costs to parties that had been only minor contributors of wastes to superfund sites.

In FY 94 the Agency issued a total of 110 unilateral administrative orders (versus 126 in FY-93), and signed 154 administrative orders on consent (versus 108 in FY-93) with PRPs. The Agency addressed 186 past costs cases, including statute of limitations cases, for amounts greater than or equal to $200,000. Of these actions:

- 42 were cases referred to DOJ for cost recovery

- 34 were administrative settlements

- 74 were decision documents in which EPA formally decided not to pursue any further cost recovery actions.

The program achieved total cost recovery settlements worth over $205 miliion (compared to $199 million achieved in FY 93).

In FY 94 approximately 75 percent of the total RD/RA starts at non-federal facility sites were initiated by PRPs. In FY 93, the percentage of PRP initiated RD starts was 65 percent, and the percentage of PRP initiated RA starts was 79 percent.

Since the inception of the Superfund Program in 1980, PRPs have committed to response actions estimated at over $10 billion, and the program has achieved cost recovery settlements for over $1.4 billion.

4.4.1 Alternative Dispute Resolution

During FY 94, the Office of Enforcement and Compliance Assurance and the Regional Offices of Regional Counsel made substantial progress toward the Agency's stated goals of making the consideration and appropriate use of alternative dispute resolution (ADR) mechanisms standard operating procedure for all enforcement actions and implementing the Administrative Dispute Resolution Act and Executive Order on Civil Justice Reform. Significant strides were made in every aspect of the ADR Program including case use of ADR, case support systems, training and internal ADR services, and outreach to the regulated community.

The use of ADR mechanisms to assist resolution of enforcement negotiations were initiated by Regional offices in 13 civil actions during FY 94. These results substantially surpassed the figures for FY 1993. In addition, at 29 sites regional offices supported PRP allocation settlement efforts through

encouraging and providing ADR services in coordination with OSRE. Regional support for the use of ADR grew substantially, with all regional offices using or supporting PRP use of ADR to assist settlement efforts. FY 94 also heralded an increased awareness of ADR as a tool for increasing the efficiency of resolution of future disputes, with mediation included in the dispute resolution provisions of several judicial and administrative settlement documents.

The scope of ADR use also expanded during FY 94, with the first significant uses of ADR beyond traditional Superfund cost recovery and RD/RA cases. For the first time in actions of this magnitude, Region II and Region III utilized ADR professionals to obtain agreement on major *de minimis* settlements involving over 1,000 parties. In addition, a pilot in the use of arbitration to resolve Superfund cost recovery cases, conducted with the assistance of private arbitration experts, resulted in the drafting of proposed case selection criteria and hearing procedures.

4.5 EPA CONTRACTOR LISTING

In June of 1994, the responsibility for administering the contractor listing program shifted from OECA to the Office of Administration and Resources Management. Prior to the reorganization, 18 facilities were added to EPA's List of Violating Facilities (List) under the authorities provided to EPA by the Clean Air Act (CAA) Section 306 and Clean Water Act (CWA) Section 508. Under these sections of the CAA and CWA, Federal agencies are prohibited by statutory mandate from entering into contracts, grants, or loans (including subcontracts, subgrants, 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), effective automatically on the date of the conviction. Facilities that are mandatorily listed remain on the List until EPA determines they have corrected the conditions that resulted in the violations. As of June 1994, 133 total facilities were on the List. Eighteen of these were added in FY 94. Seven facilities were removed from the List in FY 94 and an additional 13 removal requests were pending.

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REGION I

CLEAN AIR ACT

***U.S. v. D'Addario Industries, Inc., et al.* (D. Conn.)**: On July 5, 1994, the court approved a Stipulated Settlement Agreement (SSA) resolving a consent decree enforcement action in this CAA asbestos case. The SSA requires defendants to pay the full amount of stipulated penalties owed, plus interest, for a total payment to the United States of over $109,000. EPA took this action for stipulated penalties after defendants paid a portion of the underlying penalty more than 6 months late. The decree required payment of stipulated penalties of $500 per day for each day the penalty payment was late.

In re Syncor International Corporation: On September 26, 1994, EPA issued an administrative order to Syncor International Corporation of Woburn, MA, for failure to comply with the radionuclide NESHAP (Subpart I) emission standard. The order required Syncor to comply with the emission standard and to begin submitting monthly reports to EPA and a compliance plan as required by Subpart I for those facilities that report exceedances of the radionuclide emission standard.

CLEAN WATER ACT

***U.S. v. L.S. Starrett Company* (D. Mass.)**: On May 12, 1994, the court entered a consent decree resolving violations of CWA pretreatment requirements by the L.S. Starrett Company, a metal finisher located in Athol, MA. EPA had alleged that Starrett had violated §§ 307 and 308 of the Act by (1) exceeding effluent limitations, (2) violating the pH standard, and (3) failing to comply with reporting requirements. The consent decree requires Starrett to maintain compliance with pretreatment requirements and to pay a civil penalty of $325,000 for its past violations.

RCRA

Allegro Microsystems, Inc.: On April 5, 1994, EPA-New England issued a RCRA complaint against Allegro Microsystems, Inc. of Worcester, MA. The complaint alleges that since August 21, 1991, Allegro has been burning hazardous waste in two industrial boilers without a permit or interim status. In addition, the complaint alleges that Allegro failed to comply with the operating conditions for boilers contained in the boiler and industrial furnace (BIF) regulations. These regulations require emissions monitoring and set emissions standards for a number of pollutants. The complaint proposes a penalty of $102,194 and orders Allegro to cease burning hazardous waste. This was the first action brought by EPA pursuant to the BIF regulations.

In re Massachusetts Highway Department: In a consent agreement resolving a RCRA administrative action issued on September 30, 1994, EPA, the MA DEP, and the Massachusetts Highway Department (MHD) agreed that MHD will spend $20 million to investigate and remediate environmental problems at all 138 of its facilities and will dedicate $5 million to several SEPs, including projects that will benefit environmental justice areas. In addition, MHD will pay a civil penalty of $100,000 to settle this action brought by EPA for the state agency's violations of hazardous waste laws.

***U.S. v. Hanlin Group, Inc.* (D. Maine)**: On December 22, 1993, a consent decree was entered by the court against the Hanlin Group, Inc. of Linden, NJ. Hanlin agreed to pay a $1,152,000 penalty for violations of RCRA at its Orrington, Maine, facility. Hanlin also agreed to complete a site investigation and corrective measures study prior to undertaking any necessary corrective action at the facility. EPA determined that Hanlin had allowed releases of mercury, carbon tetrachloride, 1,1,2-trichloroethane, and trichloroethylene into the groundwater flowing under the facility and the Penobscot River. A 1986 administrative consent agreement entered into by Hanlin and EPA had required Hanlin to undertake an RCRA facility investigation, including sampling, analysis, monitoring, and

reporting of hazardous wastes, at the facility. The December 23, 1994 settlement addressed the violations of the 1986 consent agreement.

In re Hamilton-Standard: On April 18, 1994, EPA and Hamilton-Standard entered into EPA's first RCRA §3008(h) corrective action order to contain Alternate Dispute Resolution (ADR) provisions. EPA determined that a plume of contaminated groundwater migrating from the facility might present an imminent and substantial endangerment to human health or the environment, specifically to groundwater used by residents. Further, the contaminated plume released hazardous levels of volatile organic compounds (VOCs) into the basements of some residences. The consent order abates known and potential threats through implementation of four separate interim corrective measures, including: (1) groundwater containment, (2) monitoring of VOC levels in indoor air of residences above the plume, followed by any necessary corrective measures, (3) monitoring of residential drinking water, followed by any necessary provision of alternate water supplies, and (4) containment of contaminated water flowing to the wetland area to minimize ecological impacts.

In re Upjohn Company: On June 12, 1994, EPA signed a RCRA corrective action consent order with the UpJohn Company for the remediation (including immediate control of the release of hazardous wastes to groundwater) of its North Haven, CT, facility. Upjohn's plant is now inactive, but in the past produced more than 20 different specialty and industrial chemicals. In 1989, EPA issued an RCRA §3013 administrative order to Upjohn, requiring the company to conduct a RCRA Facility Investigation (RFI) at the facility. Based on reports generated by that order, EPA determined that the facility poses a threat to human health and the environment.

TSCA

U.S. v. New Waterbury, Ltd. **(D. Conn.)**: On May 23, 1994, the U.S. District Court entered a civil consent decree settling PCB violations under TSCA. The consent decree requires defendants New Waterbury Ltd., Vanta, Inc., and Winston Management and Investment, Inc. to remove and properly dispose of approximately 91 tons of abandoned, illegally stored PCBs from equipment at the former Century Brass Products, Inc. facility in Waterbury, CT. Pursuant to this settlement, defendants have removed and properly disposed of all PCB equipment and PCB waste at an estimated cost of $450,000.

In re City of Boston, Boston City Hospital: On September 30, 1994, EPA entered a consent agreement and final order in which the City of Boston agreed to pay $117,300 in civil penalties for violation of the TSCA PCB requirements at Boston City Hospital. The City also agreed to perform an SEP as part of the settlement which involves removal of ten underground storage tanks located throughout the city at a cost of over $80,000. This civil administrative case arose as a result of EPA's PCB inspection of the hospital. The complaint alleged that the City violated the PCB regulations by failing to comply with the marking and recordkeeping requirements pertaining to PCB transformers.

EPCRA

In re Wyman-Gordon, Inc.: In a consent agreement issued on May 18, 1994, Wyman-Gordon, Inc., of North Grafton, MA, agreed to pay a $137,955 penalty and implement a SEP to reduce its use of two dangerous acids to settle a complaint alleging that the company violated §103 of CERCLA and §§ 312 and 313 of EPCRA. Wyman Gordon, a forged metal components manufacturing facility, failed to immediately notify the National Response Center of a release of hydrofluoric acid during a fire at the facility on September 24, 1988. The company also failed to submit emergency and hazardous chemical inventory forms and report various emissions of chemicals during 1987 and 1988. The company has agreed to construct a $474,000 acid purification and recovery system to recover 80 percent of the hydrofluoric and nitric acid from its waste acid stream.

CERCLA

***U.S. v. O.K. Tool Company, et al.* (D. N.H.)**: On December 5, 1994, the court entered this consent decree settling all remaining CERCLA and fraud claims in connection with the Savage Municipal Water Supply Well Superfund Site in Milford, NH. The cashout settlement represents the final agreement in a global resolution of the legal issues arising out of the contamination of a groundwater aquifer which supplied Milford with 45 percent of its drinking water prior to 1983. A mixed work consent decree with two other corporate PRPs at the Site, as further described below, was entered by the Court on June 27, 1994. The work being performed by the government is valued at $10 million. Under the cashout consent decree, 22 settling defendants whose liability arises out of a relationship to O.K. Tool Company have agreed to pay the federal government approximately $2.1 million.

***U.S. v. Conductron Corporation, et al.* (D. N.H.)**: On June 27, 1994, the court entered a civil consent decree in which two corporate PRPs agreed to perform the remedial action for part of the Savage Municipal Water Supply Well Superfund Site in Milford, NH. The consent decree resolves claims under CERCLA for releases of hazardous substances into the environment. Under the terms of the decree, Conductron, d/b/a Hendrix Wire & Cable and Hitchiner Manufacturing Company, will undertake response actions including extraction and treatment of contaminated groundwater, long-term monitoring, and institutional controls to protect human health. It is estimated that the cost of the response action to be performed by the settling parties will be $15 million. The settling defendants have also agreed to pay approximately $1 million in past costs and oversight costs subject to a ceiling of $3 million or 15 percent of the cost of the work, whichever is greater.

***U.S. v. William Davis, et al.* (D. R.I.)**: On January 18, 1995, the court entered a consent decree that resolves the liability of Clairol, Inc. and Ciba-Geigy Corporation, defendants in the Davis Liquid Superfund Site cost recovery litigation. Under the settlement, Clairol will pay $3 million plus interest and Ciba-Geigy will pay $475,000 plus interest. In exchange, both settling parties will receive a covenant not to sue under CERCLA §107(a) with standard reopeners. The decree also contains a "cost reopener" that allows the government to institute new proceedings against Clairol and Ciba-Geigy in the event that the total response costs at the site exceed $68 million.

On October 31, 1994, the court entered a civil consent decree providing that Providence Journal Co., also a defendant in the Davis cost recovery litigation, will pay $650,000 plus interest. In exchange, Providence Journal obtained a covenant not to sue with standard reopeners. Also on October 31, the District Court entered a third consent decree providing that Pfizer, Inc., another defendant in this cost recovery litigation, will pay $1.5 million plus interest. The decree also contains a cost reopener that allows the government to institute new proceedings against Pfizer in the event that total response costs exceed $68 million. In exchange, Pfizer received a covenant not to sue with standard reopeners.

***U.S. v. DiBiase Salem Realty Trust, et al.* (D. Mass.)**: On December 5, 1994, the court entered this consent decree in connection with the Salem Acres Superfund Site in Salem, MA. Under the terms of the settlement, DiBiase Salem Realty Trust and Ugo DiBiase agreed to pay $80,329 in past costs, to perform remedial activities valued at approximately $650,000 on a portion of the Site, and to pay the future oversight costs incurred in connection with those remedial activities, valued at approximately $110,000. The DiBiases agreed to these terms to settle a civil action brought under CERCLA.

REGION II

CLEAN AIR ACT

In re Ronzoni Foods Corporation: On January 25, 1994, EPA entered into a consent agreement with Hershey Foods, the parent of Ronzoni Foods, resolving an administrative enforcement action brought under the Clean Air Act to address opacity violations at Ronzoni's facility located in Queens, NY. Hershey Foods elected to close the violating facility because it felt it could not ensure long-term compliance, but volunteered to undertake a supplemental environmental project (SEP) involving another facility, its San Georgio plant located in Philadelphia, PA (within EPA Region III). The consent agreement included a $30,000 penalty.

U.S. v. Amelia Associates and Joey's Excavating, Inc. (D. N.J.): On November 3, 1993, the court entered a consent decree that settled CAA claims against a real estate partnership and demolition contractor regarding the defendants' demolition of a 5-story hotel building in Atlantic City, NJ, in 1990. The complaint in the case charged defendants with violations of the NESHAPs pertaining to asbestos removal in demolition operations. The settlement provides for payment of a civil penalty of $112,000, and includes broad injunctive relief. The consent decree requires both defendants to implement an asbestos control program, with the goal of ensuring that the companies' future operations are in compliance.

U.S. v. 179 South Street (D. N.J.): On July 29, 1994, the court entered a consent decree that enjoins the defendants from further violations of the asbestos NESHAP. The decree also requires the defendants to institute an Asbestos Control Program, and obligates them to pay $74,000 in civil penalties. The case involved several violations, including failure to notify EPA of asbestos removal, failure to ensure that the asbestos remained wet prior to disposal, failure to properly dispose of the asbestos and failure to comply with previously issued compliance orders.

CLEAN WATER ACT

U.S. v. PRASA: During FY94, EPA filed four more quarterly Motions to Enforce in this enforcement action against the Puerto Rico Aqueduct and Sewer Authority (PRASA). In these motions, EPA sought a total of $284,000 in penalties from PRASA based on violations of provisions of the 1985 and 1988 consent decrees entered in the action. Substantial penalties result from PRASA's noncompliance with the "alternate power" and "sludge handling" provisions of the 1985 Court Order. EPA has been filing quarterly Motions to Enforce the requirements of the consent decrees against PRASA since January 1989, pursuant to a "preclusion order" from the Court that violations be promptly identified. The motions allege violations based on the Court-appointed Monitor's quarterly compliance reports. In the 24 Motions filed to date, EPA has sought nearly $3.3 million in noncompliance penalties from PRASA. In FY94, PRASA paid close to $1.5 million in judicial and administrative penalties for CWA and consent decree violations at its various facilities.

U.S. v. City of Hoboken (D. N.J.): On September 13, 1994, the Court entered a stipulation and order in this case. Under the stipulation, the Hoboken, Union City, Weehawken Sewerage Authority (HUCWSA) agreed to pay stipulated penalties in the amount of $2.8 million for its violations of a January 1991 consent decree entered in this action. Of this amount, $1,152,000 will be paid to the EPA; $850,000 will be paid to the New Jersey Department of Environmental Protection, and the balance will be paid to the Interstate Sanitation Commission.

In re Cheeseborough Ponds Manufacturing Corp.: On March 31, 1994, EPA issued an administrative order on consent against Cheeseborough Ponds, which assessed a penalty of $105,000 in administrative penalties under CWA §309(g). The company owns and operates a wastewater treatment plant at its manufacturing

facility in Las Piedras, Puerto Rico, which has effluent discharges into Los Muertos Creek. In March 1993, EPA issued an administrative complaint alleging violations of Respondent's NPDES permit between 1989 and 1993 and proposing the assessment of $125,000 in administrative penalties.

SDWA

***U.S. v. Kennemuth (d/b/a Moose Oil)* (W.D. N.Y.)**: On June 1, 1994, the court entered a Default Judgment requiring the defendant to plug 75 injection wells in Allegheny County, NY, in accordance with a previously approved plugging and abandonment plan, and the payment of $138,095 in civil penalties.

***U.S. v. Wasson & Regis* (W.D., N.Y.)**: On April 26, 1994, a complaint was filed in the court alleging that Wasson & Regis was in violation of an administrative order issued by EPA. The order was to enforce the financial responsibility, casing and cementing and closure requirements of the underground injection control (UIC) program of the Safe Drinking Water Act against Class II enhanced recovery injection wells owned and operated by defendants in Allegheny County, NY, The judicial complaint seeks to compel defendants' compliance with the administrative order and seeks penalties for past violations of the substantive requirements of the UIC program and the administrative order.

In re PRASA: On September 30, 1994 the EPA issued four CACOs that resolved four administrative penalty actions against PRASA under §1414(g)(3) of the Safe Drinking Water Act (SDWA) for violations of the Surface Water Treatment Rule (SWTR). The four CACOs assessed a collective administrative penalty of $15,000 and established new compliance dates by which PRASA must install filtration. PRASA had failed to comply with previous administrative compliance orders requiring that it initiate filtration pursuant to the SWTR at four of its public water supplies.

U.S. v. Melvin Blum: The President of Burlington Bio-Medical Corporation was found guilty on August 8, 1994 on two counts of conspiring to obstruct an EPA investigation and three counts of falsifying pesticide records submitted to EPA under FIFRA. A codefendant pled guilty on May 19, 1994 to FIFRA violations. On October 31, 1994, Melvin Blum was sentenced to 5 months imprisonment, to be followed by 5 months of home confinement and 2 years of probation, and fined $10,000. His codefendant, Charles Monteleone, was given 1 year of probation and a $25 fine.

RCRA

***U.S. v. Eastman Kodak* (N.D. N.Y.)**: On October 7, 1994, EPA lodged a consent decree with the court to resolve various RCRA violations concerning Eastman Kodak Corporation's Rochester, NY, facility. Under the settlement, Kodak agreed to upgrade miles of industrial sewers and reduce the discharge of hazardous wastes. Kodak agreed to an $8 million civil penalty, and will spend millions of dollars more to inspect, repair and upgrade an estimated 31 miles of industrial sewers at the facility, and will correct a series of other violations. Kodak violated RCRA by failing to identify hazardous wastes generated at the Kodak Park facility, and by allowing the unlawful disposal of various hazardous wastes through leaks in the facility's industrial sewer. Kodak will be permitted to reduce the penalty by up to $3 million by implementing six environmental projects worth at least $12 million to reduce hazardous wastes in its 2,200 acre Kodak Park. The aggregate reduction is expected to exceed 2.3 million pounds of pollutants by the year 2001, which should improve the water quality of the Genessee River and air quality in northwestern New York.

In addition to its other RCRA violations, Kodak failed to obtain a permit for an incinerator used to treat its industrial wastewater sludge, and failed to disclose both hazardous and solid waste management units that should have been included in Kodak Park's RCRA permit. Kodak also failed to comply with several of its RCRA permit

conditions, and additionally committed violations of regulations covering the import and export of hazardous wastes and the proper closure of certain underground storage tanks.

In the Matter of Redound Industries, Inc. d/b/a Interflo Technologies and Liqui-Mark, et al.: On June 24, 1994, EPA issued a unilateral administrative order pursuant to RCRA §7003 to Redound, its President Irving Wolbrom, and Fil Realty Ltd. This order directs the Respondents to perform numerous tasks at various facilities owned or operated by them to abate an imminent and substantial hazard to the environment, their employees and surrounding areas. Respondents are engaged in the manufacture of water-based and alcohol-based marking pens, ballpoint pens and a variety of porous plastic products. They conduct their business at several facilities in Greenpoint, Brooklyn, and Westbury, Long Island. All of these facilities generate hazardous wastes. Nevertheless, none of the Respondents had ever notified EPA or the State of New York, pursuant to the requirements of RCRA §3010, of their hazardous waste activities.

***U.S. v. BCF Corp.* (E.D. N.Y.)**: On May 4, 1994, the court entered a consent decree executed by the United States and BCF, a used oil refiner located in Brooklyn, NY. The decree addresses violations of RCRA requirements at the facility, which handled waste oil contaminated with hazardous waste although it was not authorized to do so. The settlement includes detailed provisions for operation of the facility so as to ensure that no contaminated waste oil will be received in the future. The decree also provides for payment of $100,000 civil penalty to resolve the past violations.

In the Matter of Puerto Rico Sun Oil Company: On June 14, 1994, EPA issued an administrative order on consent pursuant to RCRA §3008(h) to Puerto Rico Sun Oil. The order requires PRSO to investigate 17 solid waste management units/areas at its facility to determine the nature and extent of any possible contamination from these units/areas. The PRSO refinery, formerly known as Yabucoa Sun Oil, was the subject of a Corrective Action order issued unilaterally by EPA in 1992.

In the Matter of PPG Industries, Inc.: On May 27, 1994, EPA issued an administrative Modification/Amendment on consent to a 1990 RCRA §3008(h) corrective action consent order to PPG Industries, Inc. As a result of the development of groundwater monitoring wells, purging and sampling of groundwater monitoring wells and aquifer testing at its Guayanilla, Puerto Rico facility, PPG generated wastewater for which it needed storage. The company requested approval of a temporary storage unit for 1 year. Approval of the unit was published for public notice and comment; no comments were received. The Amendment/Modification specifies the conditions under which the temporary storage unit is required to operate and the contingency plan which will be implemented in the event of a spill or discharge from the unit.

In re Westchester County, New York, Sportsmen's Center: On January 28, 1994, EPA issued an administrative order on consent to the County of Westchester. The order was issued pursuant to RCRA §7003, and requires the County to assess the nature and extent of the contamination (predominantly lead) from shooting activities at the Sportsmen's Center located in the Blue Mountain Reservation, in the town of Cortlandt, NY. The County is further required to design and implement a plan for the remediation of the contamination, and to design and implement a plan to prevent the re-contamination of the facility in the future.

In the Matter of Gaseteria Oil Corp.: On April 28, 1994, EPA settled an administrative enforcement action against Gaseteria Oil Corporation. The 1992 complaint which initiated the action alleged that Gaseteria violated RCRA Subtitle I requirements concerning underground storage tanks (USTs). Under the settlement the company agreed to the assessment of a civil penalty of $3 million; the parties further agreed to a $339,000 settlement of this assessed penalty in the context of the company's reorganization pursuant to Chapter 11 of the Bankruptcy Code.

TSCA

In the Matter of DIC Americas, Inc.: In December 1993, an EPA administrative law judge issued a Decision and order assessing the full $85,000 civil penalty sought by EPA in an EPCRA enforcement action against DIC Americas, Inc. DIC imports chemical substances for commercial purposes. Based on an inspection of its Fort Lee, NJ, facility EPA issued an administrative complaint citing the company for failures to submit, by the December 1986 deadline, the required Inventory Update reports for five chemical substances imported during the company's 1985 fiscal year. The judge had, in December 1991, issued an order finding in favor of EPA on the issue of DIC's liability. A hearing on the question of the amount of the civil penalty to be paid was held in March 1992. This case is now before the Environmental Appeals Board awaiting a decision on Respondent's appeal.

In the Matter of SUNY-New Paltz: In October 1993, EPA entered into an administrative consent agreement and order with the State University of New York at New Paltz. The order required the University to pay a civil penalty of $90,750 for various TSCA violations, and replace all PCB transformers at the campus. The action arose out of an incident in December 1991: an electrical surge resulted in PCB transformer explosions and damage to six separate buildings. Based on subsequent inspections EPA determined SUNY had failed to comply with TSCA PCB regulations; an administrative complaint was issued in June of 1992. In addition to the penalty, the settlement provided for the removal and proper disposal of 10 PCB transformers from the campus by November 31, 1994.

In the Matter of Cray Valley Products, Inc.: On September 1, 1994, EPA entered into a CACO with Cray Valley Products, Inc. The 1992 administrative complaint which initiated the case charged the company with eight counts of TSCA violations concerning its failure to comply with premanufacturing notice and chemical importation requirements. Under the CACO the company will pay a civil penalty of $175,000.

In the Matter of Eastman Kodak Co.: On October 25, 1993, EPA finalized settlement of an administrative case against Kodak. The complaint, filed in 1992, charged the company with ten violations of the TSCA PCB regulations. Under the settlement, Kodak paid a penalty of $42,000 and, in addition, undertook an environmentally beneficial expenditure by removing and properly disposing of 17 PCB Transformers at a cost of approximately $4 million. The removal work was completed by September 30, 1994. On March 18,1994, EPA entered into another administrative consent order with Kodak, which required the company to pay $13,750. The complaint in that case, issued on December 9, 1993, charged the company with one count of unauthorized disposal of PCBs, based on a voluntary disclosure made by Kodak on July 1, 1993. In addition to emphasizing the importance of pollution prevention, the settlement, which was negotiated during FY94, emphasizes the federal government's commitment to cleaning up aging industrial facilities, the strong deterrent effect of a large penalty, the efficiencies resulting from prefiline negotiations, the ability of multimedia inspections to serve as a catalyst for changing the ways that companies do business, and the outstanding cooperative partnership with New York State throughout the entire process.

In the Matter of Sharp Electronics Corporation: On December 10, 1993, EPA issued a consent agreement and order to Sharp Electronics Corporation resolving an administrative TSCA enforcement action brought pursuant to TSCA §§ 5 and 13. The complaint in this action cited Sharp for importing chemicals which were not on the TSCA Inventory without prior notification to EPA of its intent to import, and for inaccurately certifying to U.S. Customs officials that it was importing the chemicals in compliance with TSCA. Under the settlement agreement, the company will pay a $685,000 penalty. Sharp also agreed to carry out several environmentally benefical projects at a cost in excess of $800,000. Sharp agreed to develop and implement TSCA training programs for its company and for the electronic trade, to upgrade its internal compliance program, to produce a compliance manual and a

video presentation on TSCA and Sharp's compliance programs and to undertake an internal TSCA audit of its last 5 years of operation.

In the Matter of General Electric Company: On December 30, 1993, EPA issued an administrative complaint to the General Electric Company (GE) charging multiple violations of TSCA, and seeking a penalty of $139,875. GE operates a research and development facility in Niskayuna, NY, where for many years it conducted research on PCBs without an approval from EPA. Since research on PCBs is deemed to be a form of disposal, the complaint charges GE with unpermitted disposal. The complaint also charges that GE manufactured, processed, and distributed PCBs without the requisite EPA permits, and failed to prepare annual documents concerning the disposition of its PCB materials. The matter was settled in June 1994, with GE's agreement to pay a penalty of $70,000 and maintain compliance with the TSCA requirements.

In the Matter of Presbyterian Homes of New Jersey Foundation: On March 31, 1994, EPA issued a two count complaint to Presbyterian Homes of New Jersey for its failure to maintain records of quarterly inspections of its PCB Transformer, and its failure to compile and maintain annual documents on the disposition of PCBs and PCB-items. The complaint proposed a penalty of $197,000. The violations were detected during an inspection in 1993 at the Foundation's Hightstown, NJ facility. EPA discovered that Respondent had not compiled any of the requisite documents for any of its several PCB transformers.

***U.S. v. State of New York Department of Transportation* (N.D. N.Y.)**: On March 23, 1994, the court entered a consent decree settling an action brought by EPA under TSCA against the New York State Department of Transportation. The Transportation Department had sought and received a temporary EPA approval to dispose of the dredged material. The approval was granted, but the Department failed to live up to its terms, as well as the terms of a later administrative consent order reached with EPA. The complaint filed in this case cited the Department for violations of EPA's PCB regulations as well as of the TSCA approval and the administrative consent order. An injunctive order will ensure that the Department properly maintains two disposal sites for PCB-contaminated material dredged from the Hudson River.

In the Matter of New York State Department of Mental Health: On June 29, 1994, EPA issued an administrative complaint to the New York State Office of Mental Health citing violations of the TSCA PCB regulations and proposing a civil penalty of $215,000. The Mental Health Department owns and operates the Bronx Psychiatric Center in New York City. During an inspection of the Center EPA found that the Department had failed to compile and maintain required records and logs concerning inspections and the disposition of PCBs and had failed to dispose of PCBs in an authorized manner.

In re Corporacion Azucarera de Puerto Rico: On September 27, 1994, EPA issued an administrative complaint under TSCA against the Corporacion Azucarera de Puerto Rico (Sugar Corporation of Puerto Rico). The complaint cited nineteen violations of TSCA §6(e) and proposed a civil penalty of $798,000. The violations occurred at four different facilities owned and operated by the Respondent in Aguada, Arecibo, Guanica and Mercedita, Puerto Rico. Inspections of these facilities revealed that Respondent had numerous violations of inspection, record keeping, disposal, marking and registration requirements concerning PCB Transformers.

In re Edgewater Associates: On September 30, 1994, EPA issued an administrative complaint under TSCA against Edgewater Associates for 8 violations of PCB regulations at its facility in Edgewater, NJ. The complaint proposes a civil penalty of $222,000. EPA conducted an inspection of the facility in December 1993, to determine whether Respondent was in compliance. The inspection was conducted because EPA had become aware that Respondent had been engaged in PCB waste handling activities and storing PCB contaminated oil at its facility.

TSCA §8 Inventory Update Enforcement Initiative: In June 1994, EPA issued eight administrative complaints as part of a nationwide initiative targeting TSCA §8 Inventory Update Rule violators. The cases were filed against: Alnor Chemical, Inc., Valley Stream, NY, with a proposed penalty of $85,000; Browning Chemical Corp., White Plains, NY, $136,000; Capelle, Inc., Scarsdale, NY, $12,000; Coastal Eagle Point Oil Co., Westville, NJ, $374,000; Kyowa Hakko USA, Inc., New York, NY, $6,000; Magna-Kron Corp., Jackson, NJ, $17,000; Nippon Paint (America) Corp., New York, NY, $18,000; and White Cross Corp., Rye, NY, $51,000. The violations alleged involve either failure to submit inventory update forms or late submission of forms to EPA for chemicals these companies manufactured or imported.

In the Matter of Ciba-Geigy Corporation: On December 17, 1993, EPA entered into an administrative consent order with Ciba-Geigy Corporation of Ardsley, NY. The order required the company to pay a civil penalty of $182,550 for violations of TSCA §§ 5, 8, and 13. The complaint, which was the consequence of a voluntary disclosure of the TSCA violations by Ciba-Geigy, was issued on November 24, 1993.

In the Matter of OCG Microelectronics Materials, Inc.: On December 30, 1993, EPA entered into an administrative consent order with OCG Microelectronics Materials, Inc. of West Paterson, NJ. The order required OCG to pay a civil penalty of $162,900 for violations of TSCA §§ 5 and 13. The complaint, resulting from a voluntary disclosure of the TSCA violations by OCG, was issued on September 29, 1993.

EPCRA

In the Matter of Mobil Oil Corp.: On September 29, 1994, EPA's Environmental Appeals Board (EAB) rejected an appeal by Mobil Oil from decisions by two EPA Administrative Law Judges (ALJs). In December 1993, Senior ALJ Gerald Harwood ruled for EPA in this EPCRA action. Judge Harwood determined that Mobil had unreasonably delayed in notifying the Local Emergency Planning Commission (LEPC) of a reportable release of sulfur dioxide; that Mobil could have notified the LEPC at least 3 days earlier than it did; and, accordingly, that Mobil should pay a penalty for each of the 3 days during which noncompliance continued. This was the first time EPA had sought and been awarded a multiple-day penalty assessment in an EPCRA case.

In the Matter of Agway Petroleum Corporation: On August 4, 1994, EPA issued an administrative complaint against Agway Petroleum Corporation for violations of the regulations promulgated pursuant to §312 of EPCRA. The complaint cited violations of EPCRA and assessed a proposed civil penalty of $1,926,600. Agway Petroleum owns and operates numerous facilities throughout New York and New Jersey. The complaint cites Agway for its failure to submit Tier One or Tier Two Forms for at least one of five possible petroleum-related hazardous chemicals found at each of 164 of the company's facilities. The violations were with respect to the 1990 and 1991 reporting years.

In the Matter of Rich Products Corp.: On November 12, 1993, EPA executed an administrative consent agreement and consent order (CACO) with Rich Products Corp. The settlement resolved an action commenced in July 1992 citing the company for five violations of the EPCRA reporting requirements relating to the chemicals phosphoric acid and sodium hydroxide "otherwise used" at the company's Buffalo, NY, facility for the 1987 through 1989 reporting years. Pursuant to the settlement, Rich Products will pay a penalty of $34,425 and, in addition, will undertake an SEP in the form of the design, installation and startup of a Modified Clean-In-Place system. This system, which will cost the company about $64,000, will serve to reduce phosphoric acid usage at the facility; the project was required to be completed by November 30, 1994.

In the Matter of NTU Circuits, Inc.: In February 1994, EPA issued an administrative consent order to NTU Circuits, Inc. requiring the company to pay a civil penalty of $97,500 for its violations of

EPCRA §§ 311, 312, and 313. NTU had stored and "otherwise used" sulfuric acid and ammonia in quantities exceeding the reporting thresholds at its facility in Bayshore, NY, since 1986. NTU had failed to submit MSDSs and emergency and hazardous chemical inventory forms (Tier I or Tier II forms) to the appropriate local and state agencies. NTU also had failed to submit toxic chemical release forms (Form R) to EPA and the State of New York for four out of 5 years from 1988 to 1992.

In the Matter of R&F Alloy Wires, Inc.: In March 1994, an EPA Administrative Law Judge issued an order granting EPA's Motion for Partial Accelerated Decision on the question of liability in an EPCRA enforcement action against R&F Alloy Wires, Inc. The company was held liable for eleven violations of EPCRA. The complaint, filed in 1993, assessed a civil penalty of $79,000. The violations at R&F involved its failure to file a Form R in a timely manner for chemicals manufactured, processed or otherwise used in amounts exceeding the threshold reporting requirements. R&F failed to submit Forms R in a timely manner for ammonia, copper, and 1,1,1-trichloroethane in 1988, 1989, 1990 and 1991. The case was settled in September 1994 for a cash penalty of $25,000 plus a commitment by R&F to implement a substantial SEP, valued at over $55,000.

In the Matter of Silverton Marine Corporation: On June 20, 1994 EPA issued an administrative complaint against Silverton Marine Corporation for violations of the regulations promulgated pursuant to §313 of EPCRA. The complaint cited six violations of EPCRA and assessed a proposed civil penalty of $129,441. Silverton Marine owns and operates a facility in Millvile, NJ. The complaint cites Silverton for failure to submit Toxic Chemical Release Inventory Reporting Forms to EPA and the State of New Jersey for styrene and acetone which were manufactured, imported, processed, or otherwise used at the facility in quantities exceeding the applicable thresholds. The violations were with respect to the 1989, 1990, and 1991 reporting years.

In re Rexon Technology Corp.: On September 15, 1994, EPA issued a complaint proposing a penalty of $102,000 Dollars against Rexon Technology Corp., Wayne, NJ, for violations of EPCRA §313. Specifically, the complaint alleged that the corporation had failed to submit to EPA, as required by EPCRA, Toxic Chemical Release Inventory Reporting Forms (Forms R) for Methyl Chloroform and Freon 113 for the 1990 through 1992 reporting years.

In re Goodyear Tire & Rubber Co.: On September 30, 1994, EPA II issued an administrative complaint to The Goodyear Tire & Rubber Company for violations of CERCLA §103(a) and EPCRA §304. Goodyear failed to immediately notify the appropriate officials after releases of vinyl chloride on three occasions from its facility in Niagara Falls, NY. EPA is seeking $165,900 in penalties for these violations. The company did not notify the NRC, SERC, and LEPC of vinyl chloride releases on August 17, 1992, July 26, 1993, and August 2, 1993 until about 7-31 hours after the releases occurred. Further, the releases contained from 2-19 times the reportable quantities for vinyl chloride.

Cataño EPCRA Enforcement Settlements: On September 30, 1994, EPA executed a settlement resolving five administrative enforcement actions brought against facilities operating in the Cataño region of Puerto Rico. These cases were part of EPA's Cataño geographic initiative carried out over the previous 2 years. The complaints in those five cases alleged violations of EPCRA §§ 311, 312, and 313. The settlement provides for the five companies to jointly pay a civil penalty of $90,000. Under the settlement they will also implement SEPs valued at $210,000 in the form of training and education programs for both the regulated and the local community; and provide $100,000 worth of emergency response equipment to the Catano Health Center. The five companies are: American Chemical, Inc.; Easton, Inc.; Goya de Puerto Rico, Inc.; Island Can Corp.; and Water Treatment Specialists, Inc.

In the Matter of National Can Puerto Rico, Inc.: In August 1994, EPA issued an administrative

complaint against National Can for violations of the regulations promulgated pursuant to §312 of EPCRA. The complaint cited twelve violations of EPCRA and assessed a proposed penalty of $300,000. National Can owns and operates a can manufacturing plant in the Cataño area of Puerto Rico. The complaint cites National Can for failure to submit Tier I or Tier II forms to the fire department, LEPC and SERC for the extremely hazardous substance, sulfuric acid, which was present at the facility in amounts equal to or greater than the reporting threshold in the years 1990 through 1993.

In the Matter of Petroleum Chemical Corp.: In June 1994, EPA issued an administrative complaint against Petroleum Chemical Corporation for violations of the regulations promulgated pursuant to EPCRA §§ 312 and 313. The complaint cited nine violations of EPCRA §312, four violations of §313 of EPCRA and assessed a total proposed penalty of $245,000. Petroleum Chemical owns and operates a facility in the Cataño area of Puerto Rico. The complaint cites Petroleum Chemical for failure to submit Tier I or Tier II forms to the local fire department, LEPC and SERC for the extremely hazardous substance, phosphorus pentoxide, and the hazardous chemicals asbestos, kerosene asphalt and aluminum paste, which were present at the facility in amounts equal to or greater than the reporting thresholds in the years 1987 through 1992. In addition, the complaint cites Petroleum Chemical for failure to submit Toxic Chemical Release Inventory Forms to EPA and the Commonwealth of Puerto Rico for friable asbestos which was processed at the facility in quantities exceeding applicable thresholds for the years 1988 through 1992.

In re Hess Oil Virgin Islands: On June 21, 1994, EPA issued an eleven-count administrative complaint against Hess Oil Virgin Islands Corporation citing EPCRA violations. The complaint alleges that Hess failed to submit in a timely manner the required Form R for each of five chemicals; and alleges that Hess failed to report a reasonable estimate of its fugitive air emissions for another. The complaint alleges these violations for calendar years 1988 through 1990 and seeks a civil penalty of $252,000. This complaint arose out of an earlier consolidated multimedia: inspection at the facility.

In re Statewide Refrigerated Services, Inc.: On September 30, 1994, EPA issued an administrative complaint to Statewide Refrigerated Services, Inc. for violations of CERCLA §103(a) and EPCRA §§ 304, 311, and 312. Statewide failed to immediately notify the appropriate officials of a release that occurred at its Rochester, NY, facility. EPA is seeking $147,120 in penalties for these violations. The company did not notify the NRC, SERC, and LEPC of an ammonia release that occurred on November 12, 1993 until about 94 hours after the release occurred. Further, the company had failed to submit a MSDS and annual Tier I/II forms as required by EPCRA §§ 311 and 312.

In the Matter of Freeman Industries, Inc.: On September 29, 1994, EPA issued an administrative complaint proposing a penalty of $108,900 against Freeman Industries, Inc. of Tuckahoe, NY, for violations of EPCRA §§ 311 and 312. Specifically, the complaint alleges that Freeman failed to submit the MSOSs, for bromine, an extremely hazardous substance, to the SERC for New York, the LEPC for Westchester County, and the Fire Department for the Town of Eastchester, as it was required to do by January of 1991. In addition Freeman failed to submit the Emergency and Hazardous Chemical Inventory Forms to these agencies from 1991 through 1994.

In re E.I. DuPont de Nemours and Co.: On May 17, 1994, EPA issued a seven-count civil administrative complaint against DuPont's Chambers Works, Deepwater, NJ, facility, alleging violations of EPCRA §313. The complaint was the result of an EPCRA §313 Data Quality Assurance inspection conducted at the facility on July 21, 1993 as part of a Regional multi-media investigation. It alleged that DuPont failed to submit in a timely manner Forms R for nitrobenzene for the years 1988, 1989, 1990, 1991, and 1992, and for formaldehyde for 1991. The complaint sought penalties of $142,000.

CERCLA

The Lipari Site: On March 16, 1994, the U.S. lodged a proposed consent decree in partial resolution of *U.S., et al. v. Rohm & Haas, et al.*, an injunctive relief and cost recovery case arising out of EPA's work at the Lipari Landfill site, which is the number one site on the NPL. Under the decree, Rohm & Haas, one of the primary responsible parties at the site, which is located in Mantua Township, NJ, agreed to perform the ROD III remedy at the Site. The site received hazardous industrial wastes from 1958 through early 1971. Rohm & Haas was the largest contributor of wastes to the Site.

On April 15, 1994, the court entered a separate consent decree in this case, which resolved the liability of Rohm & Haas and two other PRPs, Owens-Illinois and ManorCare, for ROD I, ROD II, and two additional components of ROD III at the Lipari site. Because the portion of the remedy settled in this decree had been essentially completed by EPA, the three defendants agreed to cash-out payments to EPA and the State of New Jersey valued at $52,939,375. In September 1994, EPA signed a settlement with Mr. Nick Lipari, the owner of the Lipari Site, resolving his liability. Under this proposed settlement, Mr. Lipari, through his insurers, has agreed to pay to the United States and the State a total of $1.3 million.

***U.S. v. CDMG Realty Co., et al.* (D. N.J.)**: On December 2, 1994, the court entered a consent decree, in partial resolution of this CERCLA action concerning the Sharkey's Landfill Superfund site, located in the Townships of Parsipanny-Troy Hills and East Hanover, NJ. The decree involves various settling parties, including two owner parties, twenty-nine non-owner parties and twelve *de minimis* parties. The decree requires that the settling parties design and construct the remedy and perform the necessary operation and maintenance. This work has an estimated present value of approximately $42 million. The settlement also provides that parties reimburse EPA $1.75 million of its past costs and up to $250,000 of its Supervisory Costs and reimburse the State of New Jersey $300,000 of its past costs. The *de minimis* Settling Parties have agreed to pay $1,390,034 to the other settling parties towards the cost of implementing the remedial action.

***U.S. v. Vineland Chemical Company, et al.* (D. N.J.)**: In March 1994, the U.S. entered a consent decree pursuant to CERCLA and RCRA, resolving litigation between the United States and Vineland Chemical Company and its owners/operators, Miriam Schwerdtle and the Estate of Arthur Schwerdtle. In the consent decree the defendants confessed liability for $76 million under CERCLA and agreed to surrender all but certain specified assets to the United States for payment of an earlier RCRA penalty judgment and for costs incurred and to be incurred by the United States in performing all response actions pursuant to CERCLA. The settlement included agreement by the defendants to bring money back from two overseas trusts which the United States alleged had been established to prevent EPA from recovering its CERCLA costs.

***U.S. v. The Carborundum Company, et al.* (D. N.J.)**: On March 30, 1994, a consent decree was lodged in the court which partially settles EPA's cost recovery claims relating to the Caldwell Trucking Company Superfund Site in Fairfield Township, NJ. The nine settling defendants agreed to pay $2.46 million for EPA's past and future costs and also agreed to perform all scheduled remedial and natural resource restoration work at the site, valued at an additional $32 million. Under the decree, the State of New Jersey will also receive its first natural resource damage payment under CERCLA and the U.S. Department of the Interior will receive compensation for its assessment and monitoring costs.

In the Matter of the Frontier Chemical Superfund Site: On July 5, 1994, EPA issued an administrative consent order for the removal of all wastes contained in tanks at the Frontier Chemical Superfund site located in Niagara Falls, NY. There are approximately 45 tanks at the Site containing over 360,000 gallons of waste. The

order was issued to 31 PRPs; the work is expected to cost about $3.6 million.

***U.S. v. Ciba-Geigy Corp* (D. N.Y.)**: On April 21, 1994, the court entered a consent decree settling EPA's CERCLA claims against Ciba-Geigy Corporation. The settlement provides for the performance, by Ciba-Geigy, of the remedial design, the remedial action, operation & maintenance and post-remediation monitoring for the first operable unit (groundwater) at the Ciba-Geigy Superfund Site in Toms River, NJ. The estimated cost of the work is approximately $60 million. In addition to providing that Ciba-Geigy undertake the response work, the decree calls for the company to reimburse the United States for $8.4 million in past response costs incurred by the U.S. with respect to the Site, and future response costs, including costs to be incurred by EPA with respect to overseeing the work to be performed by Ciba-Geigy.

In the Matter of Diamond Alkali Superfund Site: On April 20, 1994, EPA issued an administrative consent order pursuant to which Occidental Chemical Company agrees to undertake the RI/FS for the Passaic River Study Area portion of the Diamond Alkali Superfund Site in Newark, NJ. Remedial action on the property where the facility was located has been undertaken by Occidental pursuant to a judicial consent decree. Because of the presence of dioxin in the sediments of the Passaic River, EPA determined that a RI/FS should be undertaken for areas in the River adjacent to the site. The Passaic River Study Area identified in the RI/FS is a six-mile area up-River from the confluence of the Passaic and Hackensack Rivers. The study is expected to cost $10 million.

In the Matter of Liberty Industrial Finishing Site: On August 30, 1994, EPA issued an administrative consent order to 9 PRPs for the removal of, *inter alia*, soils contaminated with PCBs at the Liberty Industrial Finishing Site, Village of Farmingdale, NY. At the same time, a second administrative order was issued unilaterally to six non-settling PRPs requiring them to perform the same removal action and participate and coordinate with the recipients of the consent order. The recipients of the consent order include two federal agencies, the Department of Defense and the General Services Administration. All the PRPs are current or former owners or operators of the facility. The work is expected to cost about $500,000.

In re ENRX and Buffalo Warehousing Superfund Sites: On September 30, 1994, EPA entered into an administrative settlement to recover over $1 million from more than 90 PRPs at these two sites, pursuant to §122(h) of CERCLA. Beginning in September 1989 and concluding in March 1992, EPA performed a removal action at the ENRX Site which included such activities as the securing, segregating, sampling, transporting and off-site disposal of 400 drums and containers, and the treatment and disposal of materials found in various tanks. Starting in July 1991 and concluding in April 1992, EPA also performed a removal action at the Buffalo Warehousing Site. The removal action at this site consisted of the securing, segregating, sampling, transporting and off-site disposal of approximately 66 drums and containers. The settling PRPs are parties who generated waste which was disposed of at the two sites.

In re York Oil Company Superfund Site: On September 30, 1994, EPA issued a unilateral administrative order in connection with the York Oil Company Superfund Site in the Town of Moira, NY. The order requires respondent Aluminum Company of America (Alcoa), a generator PRP, to undertake certain removal activities there. Because of the deteriorated and/or unstable condition of the tanks and drums at this site, EPA issued the order to Alcoa requiring the company to undertake a removal action at the Site pursuant to CERCLA. This removal action includes the characterization, removal, disposal and/or treatment of on-Site tanks and drums and their contents, and is expected to cost about $200,000.

In re A&Y Realty Corp.: On September 29, 1994, EPA reached an administrative settlement with the A&Y Realty Corporation mandating the sale of

real property that constitutes part of the Radium Chemical Company (RCC) Superfund Site located in New York City. The proceeds of the sale (after satisfaction of prior tax obligations and the expenses of sale) will be reimbursed to the Superfund. The settlement agreement specifies the terms upon which the real property is to be sold. Contemporaneously with the administrative settlement, the Site is being noticed in the *Federal Register* for intended deletion from the National Priorities List, since Site remediation has been completed. In December 1994 the property was sold under the agreement, realizing some $250,000 for the Superfund, and resulting in the return of the property to full commercial use.

In re PVO International, Inc.: On September 30, 1994, EPA issued an administrative order on consent to PVO International Inc. requiring performance of a removal action at its site in Boonton Township, NJ. Under the order PVO has agreed to sample and dispose of several thousand containers, drums, vats and tanks off-site. The estimated cost of the work is $350,000. PVO also has agreed to pay EPA approximately $63,000 in past response costs, plus interest. PVO's payment obligation will be secured by an EPA lien on the Site, which will continue until the payment obligation is fully satisfied.

Quanta/New Jersey Non-Complier Case Settlements: On March 24, 1994, the U.S. District Court for the District of New Jersey entered seven consent decrees settling EPA's claims against 8 PRPs at the Quanta Resources Site in Edgewater, NJ. The settlements provide for reimbursement of past response costs totaling $940,000, civil penalties and punitive damages in an amount of $800,000, and placement of $785,000 into an escrow account to finance future removal activities at the Site, resulting in a total settlement value of $2,525,000. The Settling Defendants are: Estate of James Frola, co-owner of the property; Albert Von Dohln, co-owner of the property; Republic Environmental Systems (New York), Inc. (formerly Chemical Management, Inc.); Petroleum Tank Cleaners; Snyder Enterprises; Texaco, Inc.; and Total Recovery, Inc.

In re Niagara County Refuse Superfund Site: On September 23, 1994, EPA signed an administrative order on consent with 11 *de minimis* parties to settle their liability with respect to the Niagara County Refuse Superfund in New York pursuant to §122(g) of CERCLA. A ROD was signed in September 1993 selecting a cap and related measures as the remedy for the Site, with a cost presently estimated at about $20 million. The *de minimis* settling parties each contributed less than one percent of the total wastes disposed of at the Site. These *de minimis* parties have agreed to pay $793,866 to the Superfund. This settlement was reached in conjunction with a major party consent decree, which has been signed by the PRPs and by EPA, and is awaiting lodging with the court. Taken together, the *de minimis* settlement and the major party settlement would require the settling parties to undertake the full performance of the RD/RA; the payment of EPA's future response costs; and the payment of $866,280 of EPA's past response costs (out of total past response costs of $1,030,000).

In re Muratti Environmental Site: On September 30, 1994, EPA entered into an administrative cost recovery agreement with 12 PRPs pursuant to §122(h)(1) of CERCLA, regarding the Muratti Environmental Site (Site), located in Penuelas, Puerto Rico. Under the agreement the settling PRPs will pay EPA $525,000 in reimbursement of 95 percent of EPA's unreimbursed past costs for a removal action at the site. The settling PRPs are the generators of hazardous substances that were disposed of at the site, which consists of an abandoned, approximately 2-acre former industrial waste disposal facility.

U.S. v. Signo Trading International, Ltd., et al.: On December 10, 1993, the court signed two partial consent decrees and a default judgment in connection with the Signo Trading Superfund Site in Mt. Vernon, NY. These court orders resolve an action brought in 1987 on behalf of EPA, seeking recovery of response costs incurred by EPA in the performance of a removal action at the Site, and seeking treble damages against certain defendants for noncompliance with an EPA administrative cleanup order issued in 1984. Under the decrees,

defendants Jack and Charles Colbert and the "Colbert Companies" (Signo Trading International, Ltd., SCI Equipment and Technology, Ltd., Mount Vernon Trade Group, Ltd., Northeast By-Products Recycling Corp.) agreed to pay $22,500 as a penalty for failure to comply with the order. Defendants Arnold Schwartz, Arnold Fader, New Island Investors and Lynric Associates, Inc., agreed to pay $71,000 in past response costs. Finally, a default judgment was entered by the court against defendant 11 Hartford Avenue, Inc. in the amount of $311,658.54, for costs incurred by EPA in connection with the Site.

***U.S. v. Zaklama* (D. N.J.)**: On April 25, 1994, the District Court of New Jersey ordered the owner of a residential property within the Montclair/West Orange Superfund Site to grant access to EPA for the purpose of conducting additional sampling and performing remedial construction on the property. Esmat Zaklama, the absentee owner of a residential property at the site, refused to grant EPA access to remediate his property because the government had refused his demand that it buy the property or compensate him because he could not lease out the contaminated property.

***U.S. v. Thiokol Corp.* (D. N.J.)**: On October 26, 1994, the court entered a judicial consent decree between the United States and Thiokol Corp. Under the settlement, which had earlier been lodged with the court, Thiokol agreed to conduct remedial action, operation and maintenance and post-remediation monitoring for a portion of the Rockaway Borough Site in New Jersey, and reimburse the U.S. for all associated oversight costs. Thiokol also agreed to fund the future operation and maintenance of Rockaway Borough's water treatment system, which treats contaminated groundwater from the site. The decree also provides for recovery of approximately half of the $2 million in total costs incurred by the United States at the Site, resulting in a total settlement value of approximately $13 million.

***U.S. v. Town of North Hempstead* (E.D. N.Y.)**: On September 18, 1994, a consent decree in this case was lodged with the U.S. District Court for the Eastern District of New York. The decree would settle ongoing litigation against the Town of North Hempstead for recovery of some $2.64 million in past EPA cleanup costs incurred at the Port Washington Landfill. The Town is already undertaking the remedial work at the landfill, at an estimated cost of $45 million.

In the Matter of Aero Haven Airport Site: During FY94, EPA entered into two administrative orders on consent pursuant to which Owens-Corning Fiberglas Corp. will perform and fund private removal actions to permanently close an asbestos containing material (ACM) landfill at the Aero Haven Airport Site. The first order was signed on June 27, 1994, and the second order was signed on September 30, 1994. In the first order Owens-Corning agreed to fund and perform an emergency removal action to stabilize the Site by: (1) installing high visibility fencing around portions of the Site, (2) covering exposed areas of ACM with clean fill or soil, and (3) posting warning signs. The second order was signed on September 30, 1994, pursuant to which Owens-Corning has agreed to properly and permanently close the site by: (1) consolidating the current 18.5 acres of ACM and satellite piles of ACM into a fill area (or approximately 122,000 cubic yards of ACM), (2) placing a cover over the ACM, and (3) installing vegetation and erosion and run-off system. The total cost of the work required under both orders is in excess of $1.2 million.

***U.S. v. Wheaton Industries, Inc.* (D. N.J.)**: The court entered a consent decree settling EPA's complaint brought under §107 of CERCLA against Wheaton Industries, Inc. The consent decree requires Wheaton to pay $4 million in full settlement of the litigation. The complaint sought recovery of past and future response costs incurred by the United States at the Williams Property Superfund site, located in Cape May County, NJ. The State of New Jersey joined in this lawsuit to recover state funds expended on this Site.

MULTIMEDIA CASES

In the Matter of Brookhaven National Laboratories and Associated Universities, Inc.:

During 1994 Region II settled a number of actions involving this Federal research facility on Long Island, New York, and the private contractor which operates it for the U.S. Department of Energy. On March 29, 1994, Region II executed an administrative consent order with Associated Universities which resolved the TSCA enforcement action. The TSCA settlement provided for a penalty of $31,875, and included injunctive provisions to insure compliance with applicable TSCA requirements. On May 10, 1994 Region II and the U.S. DOE also signed a Federal Facility Compliance Agreement which resolved a Notice of Noncompliance issued under TSCA, relating to some of the same violations as those for which Associated Universities was penalized.

On April 23, 1994 Region II entered a consent order with DOE and Associated Universities resolving alleged RCRA violations set forth in a Notice of Violation issued to DOE and an administrative complaint issued to Associated. These actions were merged into a single settlement document due to the enactment of the Federal Facilities Compliance Act and because of DOE's indemnification agreement. Subsequent Federal violations referred to EPA by the New York State Department of Environmental Conservation, were also merged into this action. The settlement included a penalty of $63,250 and requires compliance with the RCRA provisions, violations of which were cited in the action. In addition, DOE and Associated Universities agreed to implement two supplemental environmental projects jointly valued at $170,000. The Respondents will perform a wildlife management survey and, if necessary, implement a subsequent management plan for the wetland and forested areas at the Long Island, New York facility. Should these projects not be timely completed, Associated Universities will be required to pay an additional penalty of $85,000.

In re American Cyanamid Company: In April, 1994 Region II issued two administrative complaints to the American Cyanamid Company of Wayne, New Jersey for violations of the EPCRA and TSCA. The complaints seek to assess a combined civil penalty of $27,000 for violations at the Lederle Laboratories facility in Bound Brook, New Jersey. The EPCRA violations include the failure to file a Form R in a timely manner for Ammonia otherwise used in amounts exceeding the threshold reporting requirements; and TSCA violations include failure to compile and maintain annual documents concerning the disposition of PCBs and PCB Items. The complaints cover violations at the facility for the years 1989 through 1992. The TSCA matter was settled in May, 1994, with a penalty payment of $10,000. The EPCRA matter resulted in a consent order issued in September, and assessment of a $9,000 penalty.

In re Broomer Research, Inc.: On June 24, 1994, Region II issued an administrative order on consent to Broomer Research, Inc. and 3 Beech Realty under the "emergency" authorities of §7003 of RCRA and §1431 of SDWA. EPA found that these companies' handling of hazardous and radioactive wastes at their facility in Islip, New York may present an "imminent and substantial endangerment" to the health and environment. This is the first time the Region has used its emergency authority under §1431 of SWDA. The order requires Broomer immediately to post signs and restrict unauthorized access to the facility and prohibits it from treating, disposing or removing hazardous waste from the facility without prior EPA approval of such action. Broomer was required to submit, within 20 days after the order, a workplan for the Investigation of Releases at the facility, including the implementation of a sampling plan and medical monitoring program. After Broomer completes the Investigation, it is required by this order to submit its findings to EPA, and submit a workplan for the Remediation of Releases, which it must then implement starting within ten days after EPA approval.

In re Abbott Laboratories: On May 18, 1994 EPA initiated a multi-media action against Abbott Laboratories' facility located in Barceloneta, Puerto Rico. The action consisted of the filing of two administrative complaints. The first complaint was issued under the Clean Air Act, and alleged that Abbott violated the Puerto Rico SIP by failing to operate its air pollution control equipment at all

times. The CAA complaint seeks a proposed civil penalty of $50,000. The second complaint alleged that Abbott violated §313 of EPCRA by failing to timely submit a required Toxic Chemical and Release Inventory Reporting form. This complaint included a proposed penalty of $34,000. The violations were documented as the result of a consolidated multi-media inspection in March of 1994.

In re Picatinny Arsenal: In August, 1994 Region II initiated enforcement actions against the U.S. Army's Picatinny Arsenal, citing violations under RCRA, the Clean Air Act, TSCA and the Clean Water Act. On September 13, 1994 the Region sent to the Arsenal four enforcement actions, and a proposed Federal Facility Compliance Agreement (FFCA) to address these violations. The enforcement actions were: 1) an administrative complaint citing RCRA storage and disposal violations, proposing a penalty of $60,150, 2) a RCRA Notice of Violation citing certain additional storage and land disposal violations, 3) a compliance order under the Clean Air Act arising out of violations of New Source Performance Standards for steam generating units, and 4) a Notice of Violation under the Clean Air Act for constructing equipment and control devices without first obtaining the necessary State permit to construct.

Port Authority of New York and New Jersey: In April, 1992 Region II conducted a major consolidated multi-media inspection of Kennedy International Airport in New York City, which is operated by the Port Authority of New York and New Jersey. A number of violations were documented, both at facilities operated by the Port Authority itself, as well as at some facilities operated by airline or service companies. In Fiscal Year 1993 a complaint was issued to the Port Authority citing it for TSCA violations and proposing a penalty of $289,000. On June 28, 1994, Region II issued three additional administrative complaints to Ogden Aviation Services, Inc., citing that company for violations of the Federal underground storage tank regulations, and proposing penalties totalling $109,125.

Safety Kleen: In Fiscal Year 1994 Region II carried out inspections at a number of facilities operated by Safety Kleen, Inc., a waste oil and chemical recycling and disposal firm. Region II documented violations at several Safety Kleen facilities. An administrative complaint under §309(g) of the Clean Water Act was issued on June 30 in connection with the company's Manati, Puerto Rico facility, seeking $125,000 in penalties for NPDES violations. Another complaint was issued on March 31, 1994, citing RCRA violations at the company's Linden, New Jersey facility. That case was settled in September with the company's agreement to pay a penalty of $35,075.

REGION III

CLEAN AIR ACT

Ohio Power Company (N.D. W.Va.): On November 15, 1994, the U.S. Department of Justice filed a CAA complaint with the court alleging that Ohio Power Company violated federal sulfur dioxide emission limitations at the Kammer Power Plant in Moundsville, WV. On the same date, the Department lodged a partial consent decree resolving the United States' civil claims for injunctive relief relating to these violations. The partial decree requires the Defendant to operate the Kammer plant in compliance with applicable provisions of the CAA, including a 2.7 lbs/mm BTU hourly SO_2 emission standard. Ohio Power is also required to install and maintain a Continuous Emission Monitoring System (CEMS), which will enable EPA to monitor Defendant's compliance with the interim and final emission limitations, and to submit quarterly reports documenting Defendant's compliance status.

Bethlehem Steel Corporation (E.D. Penn.): On July 5, 1994, the court entered a consent decree which resolved the United State's claims in *U.S. v. Bethlehem Steel Corporation* (Civil Action No. 92-5213, a civil action filed against Bethlehem Steel Corporation (BSC), for violations of CAA and NESHAP regulating benzene emission from coke by-product recovery plants, 40 C.F.R. Part 61, Subpart L, at the company's coke works facilities in Bethlehem, PA, and Sparrows Point, MD. BSC failed to meet compliance deadlines set forth in the NESHAP, as a result of which BSC continued to operate sources of benzene in violation of the NESHAP. BSC also failed to submit interim and final reports required by the NESHAP. The decree required BSC to pay a civil penalty of $650,000 and to comply with the requirements of the NESHAP with respect to any and all operations at these two facilities.

***U.S. v. Coors* (D. Va.)**: On January 31, 1994, the court entered a consent decree with the Coors Brewing Company (Coors) which required Coors to pay a civil penalty of $245,000 and to not construct a brewery at its facility in the Shenandoah Valley in Elkton, VA (Facility) without a permit authorizing such construction. The consent decree resolved violations of the Prevention of Significant Deterioration (PSD) regulations. Coors had initiated the construction of the facility without undergoing new BACT and modeling review, and without obtaining a revised PSD permit to include the new emissions sources, in violation of §165(a) of the Clean Air Act and the Commonwealth of Virginia's State Implementation Plan.

Florida Marina and Boat Sales: On January 26, 1994, EPA issued an administrative complaint against Florida Marina and Boat Sales, Inc. (Respondent) for violations of §610(b) of the CAA and the Nonessential Products Rule.

Respondent, a retailer of new and used boats and marine supplies, is alleged to have sold at least six (6) noise horns propelled by a CFC, in violation of the Rule and the CAA. Respondent agreed to pay a civil penalty of $3,000.

Hussey Copper: On April 28, 1994, EPA settled an administrative CAA complaint with Hussey Copper for violations of the Pennsylvania SIP. Hussey Copper engages in the smelting and production of secondary copper. Specifically, EPA's complaint alleged that Hussey violated Article XX of the Pennslylvania SIP which established mass and visible emissions limitations for fugitive particulate matter (PM-10). In settlement, Hussey agreed to pay a civil penalty in the amount of $135,000.

Manny, Moe, and Jack, Inc.- The Pep Boys: On March 15, 1994, EPA filed an administrative penalty action against the Pep Boys - Manny, Moe, and Jack, Inc. for violations of §609 of the CAA and the regulations at 40 C.F.R. Part 82. Those provisions, among other things, prohibit the sale of small containers of CFC-12 unless the sale is to a certified technician or to a person intending

to resell the containers. The complaint alleged that PEP Boys sold such containers in violation of the regulations on numerous occasions, and sought a penalty of $8,726.

***U.S. v. Sun Oil, Philadelphia* (E.D. Penn.)**: On July 27, 1994, the court entered a consent decree between EPA, Sun Company, Inc. (R&M), and Atlantic Refining and Marketing Corporation resolving many violations of the CAA at Defendants' refinery located in South Philadelphia. The violations included the expansion of the fluid catalytic cracking unit at the refinery, resulting in increased emissions of nitrogen oxides and sulfur dioxide. This expansion triggered the permitting and technology review requirements of the prevention of significant deterioration (PSD) rule, which protects air quality in areas where the air is cleaner than mandated by national air standards for certain pollutants. Defendants also violated limits on visible emissions and failed to meet the deadline for conducting a performance evaluation on a continuous emission monitor. Additionally, Defendants committed many violations of work practice rules designed to minimize emissions of VOCs at the Refinery.

In addition to injunctive relief that will reduce emissions and prevent future violations, Defendants paid a civil penalty of $1.4 million plus interest.

***U.S. v. Sun Oil, Marcus Hook* (E.D. Penn.)**: During FY94, EPA and Sun Oil negotiated a consent decree requiring Sun Company, Inc. (R&M) ("Sun") to pay a civil penalty of $160,230 and to operate its petroleum refinery in Marcus Hook, PA ("Facility") in compliance with EPA's Benzene Transfer NESHAP. EPA alleged that Sun violated the Benzene Transfer NESHAP when it failed to meet the requirements of 40 C.F.R. §§ 61.302, 61.304, and 61.305 by the February 28, 1992 deadline that was imposed under the waiver of compliance that was granted to Sun and in that it failed to meet certain deadlines required by the waiver.

LTV (W. D. Pa): On April 11, 1994, the United States lodged a consent decree between the United States, Allegheny County and the Commonwealth of Pennsylvania, Plaintiffs, and LTV Steel Company (LTV), Defendant, in response to violations of the Clean Air Act by LTV at its Pittsburgh, Pennsylvania coke production facility. The violations alleged in the initial complaint pertained to the doors, lids, charging, offtakes, pushing and combustion stacks emission standards. The decree requires LTV to pay a civil penalty of nine hundred thousand dollars ($ 900,000). The amount to be paid in settlement takes into account payments of over $ 150,000 previously made to Allegheny County for violations alleged in the complaints. The decree requires LTV to make significant improvements, at a cost of over $3 million, and implement, and make available to the Plaintiffs and the public, the results of two studies of coke oven door back pressure.

***U.S. v. Sun Company, Inc.* (E.D. Penn.)**: On May 26, 1994, EPA, lodged a consent decree in the court resolving many violations of the CAA at the Sun Company refinery in South Philadelphia. The most environmentally significant violations were for increased emissions of nitrogen oxides and sulfur dioxide. As part of the settlement, the defendants will restrict their emissions at the cracking unit and will apply advanced control technology to reduce their emissions, thereby contributing a benefit to the environment.

CLEAN WATER ACT

***U.S. v. Sun Oil, Marcus Hook* (E.D. Penn.)**: On June 6, 1994 Defendant Sun Oil (R&M) signed a proposed consent decree that resolves a civil judicial action for Sun's pretreatment violations of the CWA occurring at Sun's Marcus Hook, PA, Refinery. EPA brought the case against Sun for incidents of "pass through" by which the Marcus Hook Refinery discharged oil and grease to the receiving POTW, DELCORA in Chester, PA, causing DELCORA to violate its NPDES limits for oil and grease. The case also focused on Sun's numerous violations of national and local pretreatment standards applicable to the Refinery discharge, including oil and grease, ammonia, phenols, pH, benzene and other pollutants. Under the proposed settlement, Sun would pay the United

States a penalty of $1.058 million plus interest. For injunctive relief, Sun would upgrade its wastewater treatment, conveyance and operational practices to prevent further violations of pretreatment standards and incidents of pass through.

Sun Oil, Philadelphia (E.D. Penn.): On June 6, 1994 Defendants Sun Oil (R&M) and Atlantic Refining & Marketing Corp. signed a proposed consent decree that settles a civil judicial action to resolve violations of the CWA and NPDES permit occurring at Defendants' Philadelphia, PA, oil refinery. On numerous occasions Defendants' Philadelphia Refinery discharged pollutants (including oil and grease, total suspended solids, BOD, ammonia, pH and phenols) into the Schuylkill River in amounts exceeding the limitations set in their NPDES permit. Defendants also violated NPDES requirements for monitoring, sampling, reporting and bypassing. Under the proposed settlement, Sun would pay the United States a penalty of $1.25 million with interest. For injunctive relief, Defendants would upgrade their Philadelphia Refinery wastewater treatment, stormwater conveyance and operational practices to prevent further violations of the NPDES permit.

Sun Company (Pennsylvania): On September 7, 1994, EPA and the Department of Justice announced the settlement of two CWA lawsuits against Sun Company, Inc., at its Marcus Hook and Passyunk Avenue Refineries, respectively. The settlement levied penalties exceeding $2.3 million, and will also require the improvement of poor environmental practices at both facilities. Sun was alleged to have violated numerous parameters of its NPDES permit at the Passyunk Avenue Refinery, including illegal discharges of oil and grease, chromium, ammonia-nitrogen, and zinc. In addition, the refinery illegally discharged untreated wastewater on 14 separate occasions to the Schuykill River between 1991 and 1994. The Marcus Hook facility illegally discharged excessive amounts of oil and grease, which caused the Delaware County Regional Water Authority's (DELCORA) sewer system to violate its NPDES permit. The improper discharges from both of these refineries added to the overall degradation of the Schuykill and Delaware Rivers.

Ocean Builders Supply: On July 6, 1994, EPA issued a proposed $125,000 administrative penalty to Ocean Builders Supply and Mr. Leonard Jester for filling a high quality wetland on Chincoteague Island, VA, despite the fact that a permit for the action had previously been denied.

Despite being denied a permit, Mr. Jester acquired a local building permit in June 1992 and subsequently built the structures on land owned by his company, Ocean Builders Supply. Similar unauthorized activities have taken place on two adjacent lots to Mr. Jester's but have not yet resulted in irreversible impacts.

DELCORA (E.D. Pa): On July 28, 1994, a consent decree was entered in the United States District Court for the Eastern District of Pennsylvania in the case of *United States and Commonwealth of Pennsylvania v. Delaware County Regional Water Quality Control Authority (DELCORA)*. The consent decree required DELCORA to construct an additional secondary clarifier at its wastewater treatment plant at a cost of approximately $3.5 million dollars to be completed by May 1, 1997, and to pay a civil penalty of $350,000 plus interest. The decree also provided for stipulated penalties for NPDES effluent violations and failure to meet construction milestone deadlines. This facility is located in Chester, Pa., a community of mostly poor and minority residents.

City of Philadelphia (E.D. Pa.): On January, 27, 1994, the Court entered a consent decree requiring the City of Philadelphia to pay $225,000 in civil penalties to the U.S. and Pennsylvania, and perform injunctive relief necessary to prevent future violations. The complaint filed May 21, 1992, charged that on 19 occasions, the City responded to backups of sewage at the House of Corrections and the Detention Center by intentionally pumping raw sewage into the Pennypack Creek, a tributary of the Delaware River. The U.S. and the Commonwealth each received 50% of the civil penalty. The City has

completed the projects necessary to prevent further violations at an expenditure of over $1 million.

Eastern Energy Investments: On March 24, 1994, the Office of Surface Mining (OSM) listed the first EPA case, Eastern Energy Investments, Inc., of Pinch, West Virginia, onto its Applicant Violator System (AVS). Section 510(c) of SMCRA requires OSM to deny new mining permits to an entity or its "owners or controllers" when any Federal agency notifies OSM of an unresolved air or water violation resulting from surface mining by that entity. OSM will not issue a new mining permit until the violator demonstrates to EPA's satisfaction that the violation has been or is being corrected. This "permit block," through OSM's ownership and control rules, reaches not only Eastern Energy Investments, Inc., but other mining entities with which Eastern's corporate officers, board members, and stockholders with greater than a 10% interest are associated. On January 12, 1994, EPA, Region III, issued an administrative order (AO) to Eastern Energy for outstanding pH and metals violations, including discharges in violation of a permit and, after the NPDES permit had expired, discharges without a permit. This AO formed the basis for the AVS listing.

SDWA

Consolidated Gas Transmission Corporation (1311): On September 26, 1994, EPA issued an administrative penalty action against Consolidated for violating the conditions of its permit for the operation of a brine disposal well in Potter County, PA. Specifically, EPA found that they had operated the well without mechanical integrity, and numerous other provisions of the permit, in violation of 40 CFR Part 144. The action required Consolidated to pay a penalty of $10,000 and perform corrective action to ensure the integrity of the well.

Jiffy Lube (7538): On October 4, 1993, Region III issued an administrative penalty action against Jiffy Lube for the operation of a shallow injection well which could cause the migration of petroleum and other harmful chemicals into underground sources of drinking water. The settlement required Jiffy Lube to inventory all of the faciliies operated in the region and determine if there were additional wells in operation. Jiffy Lube identified a total of eight facilities operating similar disposal wells. Jiffy Lube was required to remediate each of the locations and institute recycling and best management practices at each facility, and pay a penalty of $3,200. This administrative action was coordinated with the State of Maryland where several wells were located. Maryland issued its own administrative action, modeled after the regional action.

RCRA

Bethlehem Steel Corporation Steelton Plant: On January 21, 1994, EPA and Bethlehem Steel Corporation (BSC) signed an Addendum to a March 2, 1992, RCRA §3008(h) Corrective Measures Study consent order for the implementation of final corrective measures at BSC's Steelton, PA, facility. BSC will install a concrete cap inside its steel manufacturing building, modify manufacturing procedures to limit worker exposure to lead contaminated electric arc furnace dust and use institutional controls to further limit possible exposure.

Medusa Cement: On February 23, 1994, EPA signed a consent order resolving an administrative penalty action against Medusa Cement Company for violations of regulations regarding the burning of hazardous wastes in boilers and industrial furnaces. The complaint alleged that Medusa failed to submit a revised certification of precompliance and failed to reduce feed rates as required under 40 C.F.R. §266.103. Medusa agreed to pay a civil penalty of $200,000 in settlement of the action.

***U.S. v. National Rolling Mills* (E.D. Penn.)**: On July 11, 1994, National Rolling Mills (NRM) agreed to pay a civil penalty of $300,000 for RCRA violations. The civil charges included the storage of land disposal restricted (LDR) waste for over a year, shipment of LDR waste for disposal to off-site facilities without notifying those facilities whether the waste met applicable

treatment standards, and various other violations of RCRA.

Osram Sylvania Glass, Wellsboro, Pennsylvania: OSRAM Sylvania signed a 3008(h) consent order on October 22, 1993. OSRAM submitted the RFI Workplan on January 25, 1994. EPA approved the RFI Workplan for a Phase I investigation of the Osram facility on September 29, 1994. The Workplan outlines the schedule and activities for the investigation of soils and groundwater at the facility. The RFI will focus on the chromium contamination of the groundwater and the identification of potential human and ecological receptors.

Action Manufacturing Company, Atglen, Pennsylvania: On September 23, 1994, Action signed an RCRA §3008(h) consent order. The order was effective September 29, 1994. It requires Action to conduct an RCRA Facility Investigation (RFI) to define the extent of environmental contamination, and a Corrective Measure Study to evaluate clean-up alternatives. Action is an explosives manufacturing facility with a history of land-based disposal activities.

Quaker State Corporation, Newell, West Virginia: On December 30, 1993 a unilateral order was issued to the Quaker State Congo Plant in Newell, WV. This order required Quaker State to perform Interim Measures (IM), an RCRA RFI, and a Corrective Measures Study (CMS). EPA has approved Quaker State's IM Work Plan. The IM Work Plan requires Quaker State to recover free floating petroleum product from a series of wells installed in a portion of their facility.

Ravenswood Aluminum Corporation, Ravenswood, West Virginia: On September 30, 1994 an RCRA §3008(h) consent order was issued to Ravenswood Aluminum Corporation. This order required Ravenswood to perform IM, an RFI, and a CMS. EPA has received Ravenswood's IM Work Plan and is reviewing it for technical adequacy and completeness. The IM Work Plan requires Ravenswood to install and operate a network of recovery wells to recover petroleum contaminated groundwater.

AT&T, Richmond, Virginia: On June 20, 1994, EPA issued an Initial RCRA §3008(h) unilateral order to AT&T to implement corrective measures at its Richmond, VA, Facility. The unilateral order was issued after AT&T failed to negotiate a consent order in good faith. The unilateral order required AT&T to submit a work plan within 30 days to pump and treat chlorinated organic contamination in the groundwater. AT&T appealed EPA's issuance of the order. As a result of the appeal, EPA and AT&T resumed negotiations to resolve the appeal. A settlement was reached between the parties and a joint stipulation was submitted to the presiding officer for approval.

Johnson Controls Battery Group, Inc., Middletown, Delaware: On March 8, 1994, an RCRA §3013 consent order was issued to the Johnson Controls Battery Group. The order required Johnson Controls to conduct an RFI to determine the extent of contamination that has resulted from activities at the facility. Johnson Controls submitted its RFI Work Plan in a timely manner.

ITT Corporation, Roanoke, Virginia: On May 19, 1994, EPA issued an RCRA §3008(h) administrative order on consent to the ITT Corporation. This order required ITT to perform an RFI to determine the extent of contamination and to conduct a CMS to evaluate potential remedial alternatives that might be used to mitigate releases of hazardous wastes or constituents from their Roanoke, VA facility.

TSCA

Allied Colloids: Allied Colloids, Inc. paid $398,000 in stipulated penalties as a result of an audit of its operations. The audit revealed violations of TSCA §§ 5 and 13 involving a variety of chemicals. This audit payment is in addition to payments totalling $900,000, plus interest, made by Allied Colloids in settlement of TSCA violations alleged by EPA in an underlying enforcement proceeding.

Bethlehem Steel Corporation: EPA issued a complaint against Bethlehem Steel Corporation for violations of the PCB Rule at its facility in Sparrows Point, Maryland. The complaint alleged that Bethlehem Steel: (1) improperly disposed of PCBs by allowing spills onto the ground, (2) failed to maintain adequate records of inspection and maintenance history for leaking PCB Transformers, (3) failed to conduct daily inspections after a leak was discovered in numerous PCB transformers, and (4) failed to repair the source of the leak and to remediate the contaminated area within 48 hours. EPA sought a total penalty of $145,500 for these violations.

Reading Tube Corporation: On January 21, 1994, EPA and Reading Tube Corporation (RTC) settled an administrative penalty action for alleged violations of the PCB Rule at RTC's Leesport, PA, facility. RTC, a manufacturer of copper tubing, agreed to pay a cash penalty of $75,000 and to undertake an SEP involving the replacement of 7 PCB Transformers and 74 PCB Capacitors with new non-PCB Equipment, at an estimated cost of $313,500.

Anzon, Inc.: On June 1, 1994, EPA and Anzon, Inc, a manufacturer of lead products, settled a TSCA administrative complaint involving violations of the Inventory Update Rule (IUR). Anzon failed to submit IUR reports on four chemicals manufactured at its Philadelphia, PA, plant. Anzon agreed to pay a $57,000 civil penalty, $43,620 of which may be remitted by EPA upon completion of SEPs to be performed in Anzon's Philadelphia, PA, and Laredo, TX, facilities. The Philadelphia project involves the early removal and disposal of four PCB transformers. The Laredo project requires increased controls for the capture of antimony oxide emissions from the facility. These projects have a combined estimated cost of $198,800.

Columbia Gas: On September 23, 1994, Columbia Gas Transmission Corporation agreed to pay a civil penalty of $4,916,472 in settlement of violations of the TSCA dating to 1989. The settlement involved TSCA violations in Regions III, IV, and V. Following issuance of a 1992 subpoena, Columbia offered to enter into an expedited process to clean up the pipeline and settle TSCA civil penalties. This settlement, along with a CERCLA administrative order on consent, resulted from that process. The administrative complaint alleged three broad classes of violations: unauthorized use of PCBs in air compressors at 29 compressor stations spread over much of the 19,000-mile length of the pipeline system; regular improper disposal of PCBs to the environment as a result of liquid blowdowns from these air compressors; and additional improper disposals (that are not the result of air compressor blowdown) of PCB-contaminated liquids from pipeline and air compressors to soils and sediments at these stations.

VA Dept of Emergency Services: On December 27, 1993, EPA filed a consent order settling a TSCA administrative penalty complaint against the Virginia Department of Emergency Services. Under the terms of the settlement, the Commonwealth of Virginia agreed to pay a civil penalty and to perform underground storage tank upgrade (UST) projects, at an estimated cost of $100,000. The UST upgrades will significantly reduce the risk of underground storage tank contamination at Commonwealth facilities, which was the major focus of EPA's concern about the Cheatham Annex site.

EPCRA

T.L. Diamond, Spelter, West Virginia: On June 3, 1994, EPA settled an administrative enforcement action brought against T.L. Diamond & Company for violation of §313 of the EPCRA. T.L. Diamond and Company violated §313 by failing to file a toxic chemical inventory release form for zinc dust and zinc oxide in calendar years 1990 though 1992 for its operations at its Spelter, WV, plant. The settlement provided for a cash penalty payment of $41,477, the penalty amount proposed in the complaint.

Premium Beverage Packers, Wyomissing, Pennsylvania: On August 1, 1994, EPA executed a consent order with Premium Beverage Packers, Inc. settling violations of EPCRA §§ 311 and 312.

The violations involved the presence of two hazardous chemicals at the facility in excess of threshold reporting levels (ammonia and carbon dioxide) for the years 1988 and 1989. Under the terms of the consent order, Premium Beverage Packers, Inc. agreed to pay a penalty of $73,011.

Steel Processing, Inc., Pottstown, Pennsylvania: On August 14, 1994 EPA signed a CACO settling an administrative enforcement action brought against Steel Processing, Inc., located in Pottstown, PA, for violations of EPCRA §§ 311 and 312. Steel Processing, a carbon steel sheet manufacturer, failed to submit an MSDS or list for hydrochloric acid to the LEPC, SERC, and the local fire department, in violation of §311 of EPCRA and failed to submit an Emergency and Hazardous Chemical Inventory Form for the calendar years 1988, 1989, and 1990, in violation of §312 of EPCRA. An inspection of the Steel Processing facility revealed that Steel Processing utilized as much as 617,000 pounds of hydrochloric acid during those years. The settlement provided for the payment of a $7,500 penalty.

Messer Greisheim Industries, Inc., Philadelphia, Pennsylvania: On September 6, 1994 EPA signed a CACO negotiated in settlement of a nine count administrative complaint issued against Messer Griesheim Industries, Inc., d/b/a M.G. Industries, Inc., a Philadelphia welding supply business, for violating the Emergency Planning and Community Right to Know Act (EPCRA). M.G. Industries failed to report to the State Emergency Response Commission, the Local Emergency Planning Committee, and the Local Fire Department for reporting years 1991 and 1992, in violation of EPCRA §§ 311 and 312. M.G. Industries agreed to pay a $100,000 civil penalty. At the time, this penalty was the fifth largest ever obtained for EPCRA §§ 311/312 violations.

Diversey Corporation, East Stroudsburg, Pennsylvania: A Pennsylvania Corp with 63 employees, Diversey is a manufacturer of industrial cleaning compounds. On April 27, 1992 there was a non-permitted release of chorine and the facility failed to notify the NRC, the Pennsylvania SERC, or the Monroe County LEPC. EPA and Diversey Corporation settled the case with an assessed penalty of $43,750, and an agreement that Diversey would undertake a SEP with a projected cost of $10,974. The SEP involved the donation of computer, software, and other equipment to the LEPC.

Homer Laughlin China: On December 9, 1993 EPA executed a CACO, with an associated Settlement Conditions Document, settling an EPCRA administrative action filed against the Homer Laughlin China Company for violations of §313 of that Act. The settlement included a substantial SEP, exceeding $9 million in cost, in which Laughlin converted their entire china dinner-ware production system to a lead free process.

Action Manufacturing: On September 28, 1994, EPA settled a penalty complaint against Action Manufacturing in which the company agreed to pay an administrative penalty of $37,658. The settlement also included a SEP which required the company to spend at least $93,000 to replace its current 1,1,1-TCA parts-washing system with an aqueous-based parts washing system. The new parts washing system will allow Action to significantly reduce its use of 1,1,1-TCA and Trichloroethylene (TCE) at its Philadelphia facility.

FIFRA

DuPont: On September 29, 1994, EPA and E.I. DuPont de Nemours (DuPont), Platte Chemical Company (Platte) and Lesco, Inc. (Lesco) settled an administrative FIFRA penalty action involving the distribution of Benlate, a fungicide, which had been contaminated with atrazine, an herbicide. The consent order required DuPont and Platte to pay a total of $1 million in civil penalties.

CERCLA

Columbia Gas: On September 23, 1994, EPA entered into a multi-regional CERCLA consent order with Columbia Gas Transmission Corporation under which the company will

characterize contamination and perform CERCLA removal actions selected by EPA at compressor stations and other locations along the Columbia pipeline system. Columbia estimates that this project will require expenditures of between $15 to 20 million a year for approximately 12 years.

Greenwood Chemical: On June 30, 1994 EPA issued an order pursuant to §106 of CERCLA to the Greenwood Chemical Company and the High Point Chemical Corporation to implement EPA's Remedial Design for the excavation, treatment (where necessary), and offsite disposal of contaminated soils at the Greenwood Chemical Site, located approximately 20 miles from Charlottesville, VA.

Recticon/Allied Steel Site: On March 24, 1994, EPA issued an order pursuant to §106 of CERCLA to Highview Gardens, Inc.; Allied Steel Products Corporation; Allied Steel Products Corporation of Pennsylvania; and Rockwell International Corporation for the Recticon Allied Steel Site, located in Parker Ford, Chester County, PA. This order requires the performance of Remedial Design and Remedial Action as called for in EPA's June 30, 1993 Record of Decision for the Site.

Sackville Mills Company: On June 17, 1994, Sackville Mills Company, the present and former owner/operator of a closed textile mill in Wallingford, PA, entered into an administrative order by consent (Order) with EPA to conduct removal response activities at the former textile mills facility. The order also prohibited the PRP from disturbing or excavating areas on the Site which are suspected to contain anthrax bacteria allegedly disposed of during the textile operations; required measures to be taken to identify potential anthrax contamination in soils; and required removal of anthrax from a part of an on-Site building.

United Chemical Technologies: On June 27, 1994, EPA issued a unilateral removal CERCLA §106 order directing United Chemical Technologies, Inc. ("United"), the operator of a chemical manufacturing facility in Bristol, PA, to stabilize and clean up hazardous substances at a site which was the scene of a massive explosion and fire on June 21. The order provided a comprehensive framework for establishing site security, site stabilization, and identification and proper handling and disposal of hazardous substances on site.

***U.S. v. Lord Corporation* (W.D. Penn.)**: On March 15, 1994, the court entered a consent decree, settling the United States' claims under CERCLA §§ 106 and 107 for injunctive relief and reimbursement of costs related to the Lord Corporation Property portion of the Saegertown Industrial Area Superfund Site ("Site"). The consent decree required Lord Corporation to implement the selected remedy for the Lord Corporation Property portion of the Site, a remedy estimated to cost $3.4 million. The consent decree also required Lord Corporation to pay $21,928 in past response costs incurred by the United States, and to pay certain categories of the United States' future response costs associated with the consent decree and Site.

***U.S. v. Chromatex* (3rd Cir.)**: On September 29, 1994, the Third Circuit Court of Appeals ruled in favor of the United States' interpretation of the statute of limitations provision of CERCLA. The court affirmed the district court's February 9, 1994, summary judgment ruling under §107(a) of CERCLA finding the defendant's liable for $682,002 in Agency response costs incurred during a removal action at the site. On appeal, the defendants argued that EPA had let more than 3 years pass since completion of the removal action, at the Valmont Superfund Site and consequently was barred by the statute of limitations. The Third Circuit rejected this argument, applying a broad standard to determine when a removal action was completed. As a result, the court found that the United States had brought suit for removal costs within the 3 years of completing the removal action.

REGION IV

CLEAN AIR ACT

U.S. v. Rohm and Haas, Inc. (W.D. Ky.): On August 2, 1994, a stipulation, settlement agreement and order (Stipulation) was entered by the court concluding a 1992 CAA Pre-Referral judicial enforcement action against Rohm & Haas Kentucky, Inc. and provided for the payment of a $32,500 civil penalty to the United States. Rohm and Haas operates a specialty chemical CAA processing plant in Louisville, KY. Rohm and Haas violated §111(e) of the act and its implementing regulations codified at 40 C.F.R. Part 60 Subparts A and D when it failed to monitor and measure emissions of nitrogen oxides from a natural gas boiler located at its plant from July 1989 to June 1991.

U.S. v. Olin Corporation (E.D. Tenn.): On June 9, 1994, the court entered a consent decree to resolve violations of the mercury standards under the CAA NESHAP by Olin's Chattanooga facility. The penalty amount was $1 million.

EPA filed a civil complaint alleging violations of the work practice standards for mercury NESHAP, and issued an agreed order for decontamination of the workers' homes under §106 of CERCLA. A second amended complaint in January 1992 alleged additional NESHAP mercury violations, and added a count for failing to notify the NRC of the mercury release, a violation of CERCLA §103.

U.S .v. Crown, Cork & Seal, Inc. (N.D. Miss.): On January 3, 1994, the court entered a consent decree which settled Crown, Cork & Seal Inc.'s (CC&S's) alleged violations of the CAA's PSD requirements and New Source Performance Standards (NSPS). The CACO required the payment of a civil penalty of $343,000 and required CC&S to perform three SEPs valued at more than $2 million after tax. During June 1987, Crown commenced operations of a new two-piece can coating facility in Batesville, MS, without first obtaining a PSD permit, or testing and reporting commencement pursuant to requirements under NSPS.

CLEAN WATER ACT/SDWA

U.S. v. Metro-Dade County, et al.: Concerns regarding the structural integrity of a sewage pipeline (cross-bay line) under Biscayne Bay prompted Region IV to initiate a civil enforcement action in June 1993. Rupture of the cross-bay line would have caused catastrophic environmental damage to Biscayne Bay and surrounding waterbodies. In December, 1993, the government and Metro-Dade County entered into a partial consent decree addressing the emergency claim, contingency plans and short term measures. Under this First Partial consent decree, the County has completed construction of the new cross-bay line (a year ahead of schedule) and the line is now operational.

In an action filed in the United States District Court for the Southern District of Florida on June 10, 1993, the Region sought emergency relief from the court based on the deteriorated condition of the cross-bay line. Metro-Dade had experienced some very large sewer spills due to breaks in lines that were of a similar age and type as the line under the bay and it was therefore feared that the cross-bay line could break at any time. Janet Reno, then the State Attorney, convened a special grand jury to investigate pollution in the Miami River and the grand jury concluded that the aged and corroded sewer system, and the cross-bay line in particular, presented the greatest threat to the health of the river.

The action also contains four claims addressing system-wide unpermitted discharges, improper operation and maintenance, and reporting violations. The Second and Final Partial consent decree, which addresses all other injunctive relief and penalty, is in the last stages of finalization.

***United States v. IMC-Agrico Company* (M.D. Florida)**: On April 1, 1994, Region IV submitted a referral to the Department of Justice asking that a civil judicial action be filed against IMC-Agrico (IMC) for the company's alleged violations of Section 301(a) of the CWA. EPA alleged IMC exceeded its permit effluent limits for a variety of parameters as well as non-reporting and stormwater violations. IMC owns and operates phosphate rock mines and associated processing facilities in Florida and Louisiana. Eight of its mineral extraction operations and its Port Sutton Phosphate Terminal were the subject of this referral action. The subject IMC facilities had over 1,500 permit violations since 1988. On October 17, 1994, IMC submitted a signed consent decree resolving this multi-facility civil referral. The settlement provides for an up-front payment of $835,000 and a $265,000 Supplemental Environmental Project (SEP). The SEP will involve conversion IMC's scrubber discharge and intake water systems into a closed loop system (greatly reducing pollution loading at the Port Sutton facility).

***U.S. v. Perdue-Davidson Oil Company* (E.D. Kentucky)**: On May 6, 1994, the U.S. District Court for the Eastern District of Kentucky required Perdue-Davidson and Charles Perdue to pay EPA stipulated penalties, calculated at $3.8 million, and compliance with all requested injunctive relief. Perdue-Davidson is an oil production company which produces crude oil from two stripper-well fields in eastern Kentucky. As a result of Perdue-Davidson's repeated violations of a prior UIC administrative order on consent, as well as statutory and regulatory environmental requirements, EPA filed this multi-media civil referral pursuant to § 301 of the CWA, § 311 of the CWA, § 1423 of the SDWA (UIC) and § 311 of the EPCRA.

On March 10, 1994, the government filed a motion for partial summary judgement on five of the ten claims for relief in the complaint. In addition, the government requested injunctive relief and that the Defendants pay stipulated penalties due to violations of a UIC AOC. This represents an important court decision requiring payment of stipulated penalties for violation of a UIC administrative order on consent, as well as for corporate officer civil liability for company and corporate officer violations of §§ 301 and 311 (SPCC) of the CWA.

In the Matter of Manatee County, FL:: On February 1, 1994, the Regional Administrator ratified the negotiated settlement in this action, which provided for payment of a $60,000 penalty. In September 27, 1993, EPA initiated a CWA Class II administrative penalty action against Manatee County under Section 309(g) alleging violations of Section 301(a) of the CWA by exceeding the no-discharge requirements of its NPDES permit. The County had periodically discharging from its wastewater treatment plant into the receiving stream during the period of June through October 1992. Based on consideration of the factors identified at Section 309(g)(3), EPA, and following settlement discussions, the parties reached a negotiated settlement of $60,000.

In the Matter of IMC-Fertilizer, Bartow FL: On February 17, 994, the Regional Administrator ratified the negotiated settlement in this action, which provided for a $40,000 penalty. In March 1993, EPA initiated a CWA Class II Administrative Penalty Action against IMC Fertilizer under Section 309(g) alleging violations of Section 301(a) of the CWA by exceeding the permit effluent limits for Dissolved Oxygen, Total Suspended Solids, Fixed Suspended Solids, Unionized Ammonia, and pH during the period of March 1988 through February 1991 at its Haynsworth mining facility. Based on consideration of the factors identified at Section 309(g)(3), and following settlement discussions, the parties reached a negotiated settlement with penalty of $40,000.

In the Matter of Jacksonville Beach, FL: On May 6, 1994, the signed consent agreement was ratified by the Regional Administrator. This case was the first regional action against a facility for failure to comply with the new stormwater permit application requirements. In December 1993, EPA initiated a Class I administrative penalty action against the City of Jacksonville Beach under

Section 309(g) of the CWA alleging violations of Sections 301(a) and 308 of the CWA through failure to submit a timely and complete stormwater permit application for the City's municipal stormwater system. Based on consideration of the factors identified at Section 309(g)(3), and following settlement discussions, EPA and the Jacksonville Beach reached a negotiated settlement with a penalty of $3,500.

Oil Pollution Act Enforcement Initiative: In a concerted drive against contamination of the nation's waters, Region IV participated in a government enforcement action announced on May 26, 1994. This action was filed against 28 commercial polluters who discharged oil and other hazardous substances into water and adjoining shorelines. These actions reinforce the clear Congressional intent to punish violators of Clean Water Act provisions prohibiting of oil and hazardous substance spills and requiring preventative measure against such spills.

Region IV filed five administrative cases against two individuals and three corporate commercial entities:

Alamco Inc., (Complaint seeks penalty of $123,942) located in Clairfield, TN, is an oil and gas exploration and producing company. It spilled at least 7,300 gallons of crude oil affecting the Clearfork and the Hickory Creeks and failed to prepare an SPCC plan.

Cumberland Lake Shell, Inc., (Complaint seeks penalty of $92,387) located in Somerset, Kentucky, is a distributor of gasoline and petroleum products to service stations; it spilled at least 200 gallons of diesel affecting Sinking Creek. Cumberland also failed to prepare an SPCC plan.

Texfi Industries, Inc., (Complaint seeks penalty of $24,672) located in Jefferson, Georgia, is a fabric manufacturer. It spilled at least 1,900 gallons of diesel affecting an unnamed tributary of the Oconee River and failed to prepare an SPCC plan.

Wesley Griffith, (Complaint seeks penalty of $78,287) an independent oil producer, spilled at least 11,130 gallons of oil affecting South Fork of Coles Creek and failed to prepare an SPCC plan.

John D. Herlihy, (Complaint seeks penalty of $37,425) an independent oil producer, spilled at least 2,100 gallons of oil affecting Cameron and Middle Fork Creeks. Herlihy also failed to implement an SPCC plan.

U.S. Environmental Protection Agency v. Polk County: A consent agreement and order assessing administrative penalties was signed by the Regional Administrator on February 24, 1994, settling this case for a penalty of $100,000. Region IV issued a Class II administrative penalty order complaint against Polk County, Florida, on September 30 1991. The complaint assessed penalties in the amount of $125,000 for alleged discharged without a valid NPDES permit from the Wilson Acres waste water treatment plant since at least September 30, 1986. EPA alleged the facility had been continuously discharging since at least March 20, 1983. The agreement provided that up to $15,000 in penalties to be paid the State of Florida would be credited toward the penalty in this case, conditioned on the connection of the Wilson Acres WWTP to the City of Auburndale collection system. That connection has been completed and all discharges from Wilson Acres WWTP have stopped.

United States v. City of Port St. Joe, Florida; et al.: On August 13, 1994, the U.S. District Court for the Northern District of Florida entered a consent decree settling litigation between the United States and the City of Port St. Joe, Florida; the St. Joe Forest Products Company; and the State of Florida. The consent decree provides for the payment of a $25,000 civil penalty by the City and a $325,000 civil penalty by the Company, for a total civil penalty of $350,000. This case, filed as part of the National Pulp and Papermill Enforcement Initiative, alleged that the City and the County violated the federal Clean Water Act. The City operates a municipal wastewater treatment facility which discharges treated wastewater into the waters of the United States,

under a permit issued pursuant to the National Pollutant Discharge Elimination System (NPDES) program. EPA alleged that, since November 1988, the City repeatedly violated the discharge parameters set in its NPDES permit. EPA alleged the Company violated the pretreatment prohibitions of the Clean Water Act by contributing pollutants in excessive quantities, which caused interference and pass through of the City facility and caused the City to violate its NPDES permit.

RCRA

Holnam, Inc.: A CACO was entered on September 30, 1994, resolving an RCRA action filed against Holnam, Inc. addressing violations of the BIF Rule found in routine EPA inspections in 1992 and 1993 at two cement kilns operated in Holly Hill, SC. The company had failed to make a hazardous waste/Bevill determination on its cement kiln dust, failed to submit a complete and accurate Certificate of Compliance for one kiln, and failed to submit an adequate Waste Analysis Plan. In the CACO, Holnam agreed to pay a penalty of $670,000, to make required submissions, and to conduct additional groundwater monitoring.

Arizona Chemical Company: On September 28, 1994, a CACO was entered settling an RCRA action filed against Arizona Chemical Company for violations of the BIF Rule. The violations were identified by a joint EPA and state inspection at the facility located in Panama City, FL. The facility had failed to operate within limits contained in its Certification of Pre-compliance and Certification of Compliance; failed to develop an inspection schedule, an adequate waste analysis plan, and a closure plan for one boiler; and failed to conduct required air emissions monitoring. In settlement, the company agreed to pay a civil penalty of $79,000 and to make required submissions.

Giant Cement Company: On February 15, 1994, a CACO was entered settling an RCRA administrative action filed against Giant Cement Company. The complaint was based on violations found during an EPA inspection of Giant's Harleyville, SC, Portland Cement manufacturing facility. The violations included BIF Rule violations, as well the facility's failure to make a Hazardous Waste/Bevill determination for cement kiln dust. The CACO required Giant to pay a civil penalty of $520,000 and to implement a cement kiln dust sampling and analysis protocol approved by the Agency.

Todhunter International, Inc., d/b/a Florida Distillers: A CACO was entered on September 30, 1994, settling an action filed in 1993 that found numerous RCRA violations at facilities in Lake Alfred and Auburndale, FL, where the Respondent manufactures beverage alcohol products. The CACO settles this case for $400,000, $100,000 in cash, with up to a $300,000 reduction in the penalty for implementation of a specified SEP. The SEP, which will cost more than $1 million, involves installation of cooling tower equipment, significantly reducing cooling water withdrawal from the Floridan aquifer, and the upgrade of a waste water treatment plant to significantly reduce the loading of nutrients and BOD.

***U.S. v. Gulf States Steel, Inc.* (N.D. Ala.)**: On September 27, 1994, the U.S. District Court entered a civil consent decree that requires Gulf States Steel Corporation to pay a civil penalty in the amount of $1.1 million. The consent decree also provides for a possible reduction in the penalty of up to $300,000 for SEPs to be proposed for EPA approval, as well as extensive injunctive relief, including corrective action. This settlement was reached in pre-filing negotiations pursuant to Exec. Order No. 12778, which requires that the government make reasonable efforts to settle prior to litigation.

Laidlaw Environmental Services (TOC), Inc.: On September 30, 1994, EPA entered into an RCRA §3013 order on consent with Laidlaw Environmental Services (TOC), Inc., addressing TOC's commercial hazardous waste incinerator in Roebuck, SC. The order requires TOC to conduct a systems design and quality control evaluation of the computer control system which monitors and

controls the incinerator's emissions; and to gather information to enable EPA to conduct a site-specific multi-pathway risk assessment. In addition to agreeing to perform the work required under the consent order, TOC has agreed to pay penalties in the amount of $500,000.

Florida Department of Transportation: A CACO was entered on September 20, 1994, settling an administrative action filed against the Florida Department of Transportation for violations of RCRA at the Fairbanks Disposal Pit Site in Fairbanks, FL. Under the CACO, FDOT has agreed to pay a civil penalty of $2,407,550, of which $170,000 will be paid in cash and the remainder of which may be satisfied through performance of 3 SEPs. Under the SEPs, FDOT will discontinue the application of lead and high VOC content (or solvent-borne) pavement marking paints and thermoplastics on all roads constructed and maintained by FDOT throughout the State. The CACO also requires FDOT to submit and implement an adequate closure/post-closure plan.

TSCA

Tennessee Gas Pipeline Company/Tenneco, Inc.: In FY 94, Region 4 negotiated two separate settlement agreements relating to the Tenneco natural gas pipeline system that stretches 16,000 miles from Texas and Louisiana to different parts of the Northeast. On August 10, 1994, 1994, EPA executed a consent agreement and consent order (CACO) under the Toxic Substances Control Act (TSCA) with respondents Tennessee Gas Pipeline Company and Tenneco, Inc. The CACO settled an administrative penalty action that alleged TSCA violations at 42 compressor stations along the pipeline. the multi-Regional, multi-state settlement required the two companies to pay a civil penalty of $6.4 million for violations relating to use and disposal of polychlorinated biphenyls (PCBs) dating back to 1979. The $6.4 million penalty is the largest administrative penalty ever recovered by the Agency for TSCA violations.

On the same day, the Region also executed an administrative order on consent (AOC) under CERCLA with the two companies for study and cleanup of PCB contamination along most of the pipeline. (State agencies in New York and Pennsylvania are independently addressing contamination at compressor stations within their respective borders, although the stations in Pennsylvania may be added to the AOC if the respondents do not conduct the work appropriately.) The value of this settlement is not certain since it will ultimately depend on the amount of contamination that is identified. EPA expects, however, that the response action will likely cost more than $240 million, thus making this the largest administrative settlement in CERCLA history.

The multi-media settlements reflect the Agency's first coordinated use of CERCLA authority for cleanup with TSCa authority for administrative penalties. Shortly after the announcement of these two settlements, Region 3 announced the successful negotiation of two similar settlements for the Columbia Natural Gas Pipeline.

General Electric Company: On November 1, 1993, the Environmental Appeals Board (EAB) issued its Final Decision in EPA's 1989 TSCA PCB case against General Electric Company (GE). The Final Decision upheld EPA's position that PCB solvent distillation systems used in disposing of PCB transformers are subject to PCB disposal regulations. The decision also clarified that once PCBs are in a state of disposal, those PCBs are governed only by the PCB disposal regulations and cannot be simultaneously subject to PCB use regulations. Based upon its findings, the EAB assessed a $25,000 penalty against GE for its PCB disposal violations. The EAB's Final Decision was appealed by GE and is currently pending in U.S. District Court.

EPCRA

Gro-Tec, Inc.: On April 1, 1994, a CACO was filed for the payment by Gro-Tec, Inc. of a $12,750 penalty and the performance of two SEPs. The SEP calls for Gro-Tec, Inc., to donate at least $21,000 worth of equipment to the Eatonton-Putnam County Emergency Management Agency. Additionally, it requires the company to undertake

certain construction activities at its facility, designed to accomplish pollution reduction. The projected costs of these activities will equal or exceed $60,000. The complaint, filed April 1, 1994 alleged that Gro-Tec, Inc., a producer of agricultural products, was in violation of EPCRA §§ 311 and 312 and charged the company with failure to submit an MSDS, and complete emergency and hazardous chemical inventory forms. The complaint proposed an $85,000 penalty.

Everwood Treatment Company, Inc.: On August 29, 1994, a CACO was filed resolving Everwood Treatment Company, Inc.'s (Everwood's) violations of §103 of CERCLA and §304 of EPCRA. The CACO settled this action for $54,500 and required the Respondent to pay $32,000 (plus interest) in cash in four installments within 1 year of the effective date of the CACO. In addition, the CACO calls for Everwood to implement a SEP which requires it to expend approximately $225,000 to construct a new wood treatment plant that is built specifically for the use of a wood preservative that is not a hazardous waste.

A complaint was filed against Everwood on January 5, 1994, pursuant to §103 of CERCLA and §304 of EPCRA alleging that Everwood failed to immediately notify the NRC of a release of arsenic acid, failed to immediately notify the SERC of a release of arsenic acid, and failed to provide a written follow-up emergency notice of the release to the SERC and the LEPC. Everwood is located in Irvington, AL, and is in the business of treating wood with a copper, chromate, arsenate solution.

North American Royalties, Inc., d/b/a Wheland Foundry: On December 20, 1993, a CACO was filed which settled an EPCRA administrative enforcement action against North American Royalties, Inc. d/b/a Wheland Foundry (Wheland). The CACO required that Wheland pay a civil penalty of $25,724. In addition, the CACO provided that Wheland undertake, as a SEP, the purchase of an emergency response vehicle to be donated to the Hamilton County (Tennessee) LEPC. The SEP expenditure was estimated at $102,880.

Ashland Petroleum Company: On May 10, 1994, a CACO was filed which settled alleged reporting violations under §304 of the EPCRA. The CACO provided for a $1.56 million penalty, for which Ashland agreed to pay $312,000 in cash to EPA, with the remainder of the penalty to be provided in SEPs valued at over $1,248,000 in after tax value. In addition to the $312,000 cash penalty to the government, Ashland will pay $45,000 to the Cabell-Wayne (WV) LEPC for its use, and will pay $48,500 to the Kentucky SERC for computer hardware for the SERC and for various projects benefitting the Boyd (KY) LEPC. The SEPs performed in-house at Ashland's Catlettsburg refinery will total $2,382,500 in actual cost, and include reducing hydrocarbon emissions from storage tanks, routing relief valve discharges to a flare, and performing asbestos abatement projects on site.

FIFRA

Courtaulds Coatings, Inc.: On November 11, 1993, EPA filed a CACO in settlement of FIFRA violations alleged against Courtaulds Coatings Inc. (Courtaulds), located in Louisville, KY. The settlement required Courtaulds to pay a $38,640 penalty and comply with FIFRA and the pesticidal regulations.

In November 1992, EPA filed an administrative complaint against Courtauld's for selling unregistered pesticidal products. Eight Porter Paint products in the PorterSept product line were cited for making pesticidal claims. PorterSept products contain Intersept, an antimicrobial. The labels and advertising on this product inferred that PorterSept products had antimicrobial properties. As part of the settlement, Courtaulds agreed to disconcontinue the violative advertising, correct the labels, and pay a penalty of $38,640.

CERCLA

Kerr-McGee Chemical Corporation: On March 14, 1994, a CACO was filed to settle an

administrative enforcement action against Kerr-McGee Chemical Corporation (Kerr-McGee) for violations of CERCLA 103(a). The CACO required the payment of a $32,940 penalty and the performance of a SEP. Under the SEP, Kerr-McGee is required to undertake certain environmental improvements at its Hamilton, MS, facility which will reduce the potential for titanium tetrachloride emissions from its control equipment. The project will be performed at an estimated cost of $280,000.

Parramore Fertilizer Site in Tifton, Georgia: On December 16, 1993, EPA issued a UAO for removal response activities to Atlantic Steel Industries, Inc., Florida Steel Corporation, Georgetown Steel Corporation, Owen Electric Steel Company of South Carolina, Inc., and U.S. Foundry & Manufacturing Corporation. The UAO requires these steel companies to take over clean up of the Parramore Fertilizer Site in Tifton, GA. The Site is contaminated with emissions control dust (EC Dust) from electric arc furnaces, a RCRA listed hazardous waste (K061), which was generated by the steel companies.

Distler Farm and Distler Brickyard Superfund Sites in Kentucky: On January 3, 1994, EPA forwarded a signed consent decree to the Department of Justice for lodging, reflecting the settlement of cost recovery actions arising out of the Distler Brickyard and Distler Farm Superfund Sites in Hardin and Jefferson Counties, KY.

Under the terms of the consent decree, four groups of defendants and the owner of the Brickyard Site will pay $6,355,000 for past costs incurred by the United States and the Commonwealth of Kentucky, as well as all additional costs which EPA and the Commonwealth incur in performing remedial actions at the Sites. A core group of generator defendants will be responsible for paying the costs of the remedial action as they are incurred. The three other groups and the owner of the Brickyard will contribute fixed sums in varying amounts.

Jadco/Hughes Site, Gaston County, North Carolina: On November 1, 1993, EPA executed two consent decrees, one of which was previously executed by each member of the Jadco/Hughes Site Steering Committee, the other being previously signed by AKZO Coatings, Inc., (AKZO) and Jadco, Inc., (Jadco), both of which are late-settling parties. The Steering Committee's decree provides that its members will reimburse EPA past costs in the amount of $555,000, and the AKZO and Jadco decree provides for reimbursement of $75,534.04 (by AKZO) and $151,919.16 (by Jadco).

T.H. Agriculture & Nutrition Co. Site in Albany, Georgia: On October 22, 1993, four PRPs which were named as Respondents in a UAO for Remedial Action/Remedial Design (RD/RA) for Operable Unit 1 at the T.H. Agriculture & Nutrition Co., Site (the Site) provided notice to EPA that they intended to comply with the UAO.

UAOs were issued to five PRPs at the Site after no PRP submitted a good faith offer in response to a special notice letter. One of the PRPs, T.H. Agriculture & Nutrition Co., Inc., (THAN) has indicated that it will comply with the UAO and will undertake the work required to implement the Record of Decision for Operable Unit 1 at the Site. Three other PRPs which received UAOs have indicated that they will propose a level of participation to THAN and enter into negotiations with THAN to reach agreement about an appropriate level of participation in the RD/RA, as required by participate and cooperative provisions of the UAO. A fourth PRP, Phillips Electronics North America Corporation, the parent company of THAN which exercises pervasive control over THAN, has indicated that it will not comply with the UAO because it does not believe that it is liable under CERCLA.

Helena Chemical Company for Fairfax, South Carolina Site: On Thursday, May 26, 1994, EPA issued a unilateral order for the performance of Remedial Design and Remedial Action to Helena Chemical Company ordering Helena to begin remediation at the above-referenced Site.

Rochester Property Site in Travelers Rest, South Carolina: On May 17, 1994, EPA issued

a unilateral administrative order for Remedial design/remedial action to Colonial Heights Packaging, Incorporated, to conduct groundwater remediation at the Rochester Property Superfund Site located in Travelers Rest, Greenville County, SC. According to the most recent cost documentation, EPA has expended a total of $303,446.50 through September 30, 1993. EPA will seek to recover all past response costs and will seek a commitment from Colonial Heights to pay all future response costs.

Jones Tire and Battery Site in Birmingham, Alabama: On May 3, 1994, EPA formally requested DOJ to concur in a *de miminis* Settlement with 79 small quantity generators at the Jones Tire & Battery Site in Birmingham, AL. Cleanup is underway at the Site and is being conducted by large quantity generators under a UAO. The *de miminis* Settlement offer was initially made to 219 PRPs, of which 79 indicated their desire to accept the settlement.

Townsend Saw Chain Superfund Site in Pontiac, Richland County, North Carolina: EPA issued a unilateral administrative order to Textron, Inc., to conduct an Interim Action Remedial Action to contain and control chromium contaminated groundwater at the Site. The UAO was signed on May 4, 1994, and was issued to Textron, Inc., the owner of the Homelite-Textron chainsaw chain manufacturing facility at the Site.

Because unrestricted migration of the contaminated groundwater at the Site may pose a possible threat to private water-well users living near the Site, EPA determined that an Interim Action Remedial Action was necessary to control and contain the contaminated groundwater plume. Due to the time-critical nature of the proposed action, EPA and Textron, Inc., determined that a unilateral administrative order, instead of a traditional consent decree, would be more appropriate as the enforcement document used to implement the Interim Action Remedial Action.

Yellow Water Road Superfund Site, Baldwin, Duval County, Florida: On April 21, 1994, EPA notified 102 desettlors that the *de minimis* settlement for the Yellow Water Road Site was finalized. The public comment period for this administrative settlement expired on April 11, 1994, and no public comments were received which caused EPA to seek modification of or to withdraw from the settlement. The settlement will recover approximately $300,000 in EPA's response costs, which currently total over $1,897,000. In addition, the settlement will recover approximately $1.3 million in future response costs and premium money.

Smith's Farm Site in Bullitt County, Kentucky: On April 22, 1994, EPA issued unilateral administrative orders, requiring 10 PRPs for the Smith's Farm Superfund Site to conduct the Remedial Design/Remedial Action for Operable Unit Two. On October 28, 1993, special notice letters were sent to 41 PRPs for Operable Unit Two Remedial Design/Remedial Action at the Smith's Farm Superfund Site. These letters envisioned a global settlement including the remediation of both operable units at the Site and the payment of past costs, which are currently the subject of ongoing cost recovery litigation. Based upon the PRPs failure to present an acceptable final offer for settlement of the case, unilateral administrative orders were issued to all PRPs who did not qualify for a *de minimis* settlement at the Site.

Cedartown Battery Superfund Site in Polk County, Georgia: On March 31, 1994, EPA referred to the Department of Justice an action against nine (9) potential owner/operator/generator Defendants to recover approximately $1.5 million in removal response costs for a Fund-lead removal action at the Cedartown Battery Superfund Site (Site).

The referral requests that DOJ file suit against AmSouth Bank, N.A., the current owner and operator at the time the disposal occurred, together with one (1) operator and seven (7) generators who supplied batteries to the Site.

Enterprise Recovery Systems Site in Byhalia, Mississippi: On March 23, 1994, EPA executed an administrative order on consent for *de miminis*

settlement with 275 small quantity generators, regarding liability for an ongoing removal action at the Enterprise Recovery Systems Site in Byhalia, Marshall County, MS. The settling parties included 271 private Respondents and 4 settling Federal Agencies. The proposed settlement provides a release from liability and contribution protection for the settling parties while raising over $500,000 to assist major generators in performing the removal action projected to cost approximately $1.3 million.

The City of Cedartown, Polk County, Georgia: On March 25, 1994, EPA issued a unilateral administrative order to the City of Cedartown, Polk County, and 12 private companies for remedial response activities at the Cedartown Municipal Landfill Site in Cedartown, GA, some 60 miles northwest of Atlanta. The UAO requires the Respondents to maintain the existing landfill cover, repair seeps, maintain institutional controls including a ban on new drinking water wells in the area, and monitor groundwater quality through sampling and analysis.

Bypass 601 Groundwater Contamination Site, Cabarrus County, Concord, North Carolina: In accordance with the recent Superfund Administrative Improvements Initiatives, EPA has signed a consent decree at the Bypass 601 Groundwater Contamination Site, Cabarrus County, Concord, NC. Entering into a precedent setting settlement which embodies $10.1 million of Preauthorization Mixed Funding, a separate *de minimis* settlement, and a unique *de micromis* settlement included within the consent decree.

Through detailed records and ledgers, approximately 4,000 PRPs were identified at the Site, including approximately 2,400 *de micromis* Parties. Of the non-*de micromis* parties, only approximately 500 PRPs were located, approximately 150 of which will be treated as *de minimis*, and each of these parties received Special Notice Letters in August 1993. The remedy selected for the Site includes soil solidification and stabilization, as well as an aggressive pump-and-treat system. The remedy is expected to cost approximately $40 million, but could escalate to as much as $100 million, depending on the soil quantities to be treated. Additionally, past costs at the Site currently total approximately $4 million.

EPA has entered into a consent decree with the Steering Committee at the Site which provides for Preauthorization Mixed Funding of approximately $10.1 million under the newly promulgated regulations at 40 C.F.R. Part 307, because of the large orphan share at the Site. As part of the settlement, EPA will recover 100 percent of its outstanding past costs. Additionally, EPA has negotiated a unique *de micromis* settlement within the consent decree, which provides for a covenant by the Settling Defendants not to sue *de micromis* parties at the Site. This approach achieves the policy goal of protecting small parties from contribution suits and unnecessary transactional costs with a relatively low administrative burden on the Agency.

This settlement also includes a separate traditional *de miminis* settlement. The *de miminis* settlement will be embodied in a separate AOC, and will follow the new HQ guidance and matrix approach. The *de miminis* settlement will also include the same covenant language in the consent decree regarding *de micromis* parties, thus affording these parties greater protection.

Stoller Chemical Company Site in Jericho, South Carolina: On January 21, 1994, UAOs were sent to approximately 60 PRPs at the Stoller Chemical Company Site in Jericho, SC, requiring the implementation of a removal action. EPA documented the release of hazardous substances from the facility during a Site Assessment in June 1992 and determined that a removal action was necessary.

Firestone Tire & Rubber Co. Site in Albany, Dougherty County, Georgia: The U.S. District Court for the Middle District of Georgia, Albany Division, entered the Remedial Design (RD)/ Remedial Action (RA) consent decree for the above-referenced Site on August 10, 1994. Pursuant to the consent decree, Defendant Bridgestone/Firestone, Inc., will perform soil and groundwater remediation estimated to cost $2

million. In addition, the Defendant agrees to reimburse EPA for all of its past costs totalling $348,333 and for all of its future oversight costs.

Woolfolk Chemical Works NPL Site, Fort Valley, Georgia: On May 23, 1994, EPA issued a CERCLA §106 UAO to three PRPs at the Woolfolk Chemical Works Site. The order requires the PRPs to implement the RD/RA for Operable Unit 1, which will address groundwater contamination at the Site.

One PRP, Canadyne-Georgia Corporation (CGC), is the former owner/operator of a pesticide formulation plant at the Site and current owner of a portion of the Site. The other two PRPs are the first and second-level parent corporations of CGC.

CGC has submitted a notice of its intent to comply with the UAO, which will cost approximately $4 million. Canadyne Corporation and Reichold, Limited have indicated that they will not comply with the UAO.

Hercules 009 Landfill Site, Brunswick, Glynn County, Georgia: On November 29, 1993, the U.S. District Court for the Southern District of Georgia entered a consent decree executed by Hercules, Incorporated, (Hercules), the EPA, and the Department of Justice. Under the terms of the consent decree, Hercules will conduct the final remedial design and remedial action, and reimburse the government for all past and future costs associated with the Site. Under the terms of the consent decree entered by the Court on November 29, 1993, Hercules will perform the remedial action enumerated in the Record of Decision designated OU#1. The remedial action will consist of a removal action to consolidate soils, and a treatability study followed by in-situ stabilization of toxaphene-contaminated soil. The remedy is expected to cost about $10 million; the settlement also requires Hercules to reimburse the government for all past costs ($544,199) as well as 100 percent of all future response and oversight costs.

***U.S. v. Otto Skipper* (E.D., N.C.)**: On October 21, 1993, the court entered a CERCLA consent decree resolving the liability of the McLambs and Investors Management Corporation (IMC) with respect to the Potter's Pits Site. EPA's past costs total $1,822,477, while projected future costs total $10 million. Within 30 days of entry of the decree, the McLambs, who are also the sole representatives of the now defunct IMC, will pay a lump sum of $230,000 to resolve their liability and the liability of IMC.

National Southwire Aluminum Superfund Site in Kentucky: On April 19, 1994, the U.S. District Court for the Western District of Kentucky entered a consent decree for performance of an interim remedial action at the National Southwire Aluminum (NSA) site in Hawesville, KY. Under the terms of the settlement, NSA will perform interim cleanup actions and reimburse EPA $407,544 in past response costs.

Prairie Metals and Chemical Company Site (Prairie, Mississippi): On September 28, 1994, EPA referred to the Department of Justice an action against two potential owner Defendants to recover approximately $1.4 million in costs for a Fund-lead removal action conducted at the Prairie Metals and Chemical Company Site (Site) in Prairie, MS. Beginning in 1973 and continuing until February 1977, the Site was operated as a chromium metal production facility. Operations at the Site resulted in serious levels of chromium in the Site soils and surface water. Between 1989 and 1991, EPA conducted a Fund-lead removal action at the Site expanding approximately $1.4 million.

REGION V

REGION V's CONTEMPT INITIATIVE

As part of an effort to crack down on violators of Federal consent decrees and orders, Region V and DOJ took eight enforcement actions in the Midwest during FY94. In addition, Illinois EPA, the Illinois Office of the Attorney General, Ohio EPA, and the Ohio Office of the Attorney General also recently took separate actions to enforce State decrees and orders. The following are summaries of the FY94 Regional cases.

Anthony Chambers (Midland, MI): Anthony Chambers operated two underground-injection wells in Midland County without the permits required under the Safe Drinking Water Act. He failed to comply with an administrative order requiring that he pay a 48,650 civil penalty and either demonstrate the mechanical integrity of his wells or plug and abandon them. The United States filed an enforcement action on June 7, 1994 against Mr. Chambers in U.S. District Court, Eastern District of Michigan. Through this action, EPA seeks to enforce the terms of the order and to collect penalties for noncompliance with the order and the Act.

Big D Campground/Rodebaughs (Ashtabula, OH): Joseph and Glenna Rodebaugh failed to comply with a March 1994 access agreement at the Big D Campground Superfund site. The Rodebaughs refused to allow EPA access to their 170-acre property, where EPA plans to install four groundwater-extraction wells to intercept contaminated groundwater leaching from the campground. After EPA referred this matter to DOJ, the Rodebaughs agreed to provide access to their property at the campground site. No penalties were sought in the agreement.

Petoskey Site (Petoskey, MI): The PRP at this Superfund site, Petoskey Manufacturing Co. (PMC), filed for protection under bankruptcy laws. PMC agreed in bankruptcy court to reimburse EPA for some of the costs the Agency incurred at the Petoskey Superfund site, but was delinquent in its payments. On May 19, 1994, the United States filed a motion for conversion or dismissal in the Bankruptcy Court for the Western District of Michigan.

Copperweld Steel (Mahoning, OH): Copperweld Steel Co. uses an electric arc furnace process to manufacture steel and steel alloys. This process generates furnace dust (a hazardous waste). This waste is disposed of in a landfill at the site. In 1986, a complaint was filed in the U.S. District Court, Northern District of Ohio, against Copperweld for failing to obtain either interim status or a permit under RCRA as well as for other RCRA violations. A May 1990 consent decree with Copperweld required numerous compliance activities including closure and post-closure care of the landfill. On November 22, 1993, Copperweld filed a Chapter 11 petition for bankruptcy. In a proof of claim filed on April 20, 1994, with the U.S. Bankruptcy Court, Northern District of Ohio, the United States is seeking to enforce the terms of the 1990 decree. Specifically, EPA is seeking the payments that Copperweld committed to make to the site's post-closure trust fund.

Midwestern Drum Services (Venice, IL): In November 1989, EPA filed an administrative complaint against Midwestern Drum Services, Inc., for RCRA violations. A December 1990 administrative agreement resolved the complaint and required that $112,125 in civil penalties be paid in six installments. Midwestern Drum failed to make full, timely payments for the last four installments. It now owes approximately $74,000 (not including interest and late payment charges). On September 13, 1993, the company filed for Chapter 11 reorganization in the U.S. Bankruptcy Court of the Southern District of Illinois. On February 4, 1994, DOJ, on behalf of EPA, filed a proof-of-claim with the bankruptcy court seeking payment of the amount owed under the administrative agreement and additional penalties for noncompliance.

Silvertone Plating Company (Ypsilanti, MI): Silvertone generates spent stripping and cleaning bath solutions containing chromic acid and cyanide, along with other hazardous wastes. On October 15, 1992, the United States filed a complaint against the company for its repeated failure to fulfill its obligations under an April 1988 administrative agreement with EPA. Specifically, Silvertone failed to submit and carry out a closure plan for its facility, remove all hazardous waste in 90 days, and comply with applicable hazardous waste regulations. Silvertone had agreed in a May 1993 consent decree to comply with these obligations, to submit and carry out a closure plan and to pay a $1,000 civil penalty.

GTE North (Belvedere, IL): Under a March 19, 1993 consent decree, GTE North was required to reimburse EPA for $575,000 in costs related to cleanup activities at the Belvedere Municipal Landfill Superfund site. Although the decree required GTE North to pay by April 1993, EPA did not receive payments until late July 1993. The decree carried a proviso that GTE North would pay stipulated penalties of $1,000 a day for each day of violation. In response to EPA's demand, GTE North has tentatively agreed to pay $30,000 in stipulated penalties, in addition to another $10,500 in interest payments.

Bethlehem Steel Corporation (Burns Harbor, IN): This matter arose from U.S. EPA's discovery that Bethlehem Steel Corp. was in violation of a May 1991 partial consent decree. The violations involved visible emissions from a coke oven battery. On December 30, 1993, EPA advised Bethlehem of the violations and assessed stipulated penalties of $255,750. Bethlehem quickly responded by paying in full the entire stipulated penalty, and the matter was resolved without litigation.

ILLINOIS CASES

Illinois EPA took action against two violators for contempt: Robert Krilich d/b/a Lakemoor Building Associates (Lakemoor, IL) and Enamelors & Japanners of Chicago.

OHIO CASE

The State of Ohio took a contempt action against Union Cheese Co. of Holmes County.

CLEAN AIR ACT

FY94 was a highly successful year for Region V's air enforcement program, marked by record levels of initiated actions and administrative resolutions. Increasingly, these accomplishments flow from efforts to target Federal enforcement activity. In 1994, the Region targeted sources located in specific geographic areas that have high concentrations of industry, a history of environmental insults, and are often significant for environmental justice reasons. Also targeted were sources that are subject to the many new regulatory requirements of the Clean Air Act, and industrial categories which are technically complex.

B&W Investment Properties, Inc., and Louis Wolf: On October 24, 1994, the U.S. Court of Appeals for the Seventh Circuit upheld a February 17, 1994, District Court's decision that B&W Investment Properties Inc., (B&W), Chicago, and Louis Wolf should pay a civil penalty of $1.675 million. The Appellate Court also upheld the District Court's September 30, 1992, decision to grant the Government's motion for summary judgment on liability.

The case involved an improper asbestos removal project which took place in August 1990, at a former factory complex in Cicero, Illinois. The property was owned by Mr. Louis Wolf and managed by B&W. Asbestos removal operations began at the site without the prior notice required by U.S. EPA's asbestos NESHAP regulations. The work practices used in the removal also violated the NESHAP regulations. In late August 1990, EPA issued an administrative order requiring compliance with the NESHAP regulations at the site. The buildings, at that time, were unsecured and located adjacent to the terminal of a Chicago Transit Authority commuter rail line. Transients occasionally used the buildings in the complex for shelter.

Louis Wolf and B&W argued that they were never given a notice of violation prior to the filing of the complaint. B&W and Louis Wolf also argued that they were not owners or operators as those terms are defined in the regulations. They also argued that they had no prior knowledge of the renovation project. Both the District Court and the Court of Appeals found the arguments irrelevant or unpersuasive. B&W and Louis Wolf challenged the size of the penalty awarded by the District Court after a trial on the penalty.

The Court assessed fines of $1,675,000 against both defendants, but reduced Mr. Wolf's liability to $1,500,000 based on his inability to pay a higher penalty. The penalties were assessed only for the work practice violations of the asbestos regulations. No penalty was assessed for failing to provide EPA prior notice of the project because, in part, Mr. Wolf was in the hospital at the time of the violation and the penalty already imposed for the work practice violations had exhausted his ability to pay additional penalties. (SIC/N/A)

New Boston Coke Corp. (S.D. Ohio): In October 1993, more than 3 years after the government filed a motion in Federal Court (S.D. Ohio) to compel New Boston Coke Corp. (New Boston) to comply with a 1986 consent order at its New Boston, OH, a major modification to the consent decree was entered with the court. In the settlement, New Boston agreed to maintain compliance at its coke oven battery, rebuild a major portion of the rest of the plant, and install equipment to control the emission of hazardous benzene. As a result of the rebuild, numerous leaking process vessels and storage tanks were to be replaced, eliminating wastewater discharges to the Ohio River. In addition, wastewater treatment equipment is to be installed to treat other coke plant wastewater, which had been discharged to the atmosphere as steam. The agreement also assesses a $250,000 civil penalty. (SIC/3312)

***U.S. v. Consolidated Papers, Inc.* (Wisconsin Rapids, WI)**: An October 19, 1993, consent decree (U.S. District Court, Western District of Wisconsin) settles the Clean Air Act case against Consolidated Papers, Inc. (CPI). CPI must achieve, demonstrate and maintain compliance with the Federal Prevention of Significant Deterioration (PSD) regulations and pay a $510,000 civil penalty. The case arose from CPI's violation of the particulate limits contained in the PSD permit for its lime kiln. The case was filed in September 1992 (after a notice of violation) as part of the Agency's pulp and paper industry initiative. (SIC/2611)

Monitor Sugar Co. (E.D. Mich.): Monitor Sugar Co. has agreed to pay $1.06 million to the State of Michigan and the Federal Government after reaching a settlement with the DOJ. The agreement ends the court case against Monitor Sugar brought by EPA for violations of a 1987 consent judgment. Specifically, on January 7, 1993, the District Court for the Eastern District for Michigan held Monitor Sugar in contempt for failing to comply with the judgment and ordered the company to pay $478,500 in stipulated penalties. Following the court decision, Monitor agreed to settle two outstanding issues for $581,500 and forego appealing the decision. In the past year, Monitor Sugar replaced its three coal-fired boilers with three new natural gas-fired boilers. This change alone is expected to eliminate the ongoing opacity violations of the old boilers. (SIC/2063)

Stern Enterprises, Inc., et al. (U.S. District Court for the Northern District of Ohio/Eastern Division): Under this July 18, 1994, consent decree with Stern Enterprises, Inc., Elie Wrecking Co., Obie Elie, Herbert Sugarman and the executors of the Estate of Ernest Stern must pay a $205,000 civil penalty for asbestos violations at a Cleveland facility. Additionally, the consent decree requires the owners to do what citizens, city officials and local judges unsuccessfully demanded for years--abate all the asbestos at the facility. The settlement was especially significant because it obtained relief for minority and low-income persons who are disproportionately affected by the environmental hazards posed by asbestos.

This case was unique because it was the first time the Government has alleged in a Clean Air Act

judicial complaint that the stripping activities conducted by vandals in a vacant building constitute a "renovation," as defined in the regulations thus subjecting the owners of the facility to a civil judicial penalty. After vigorous opposition, the defendant finally agreed to pay the Region's second largest civil penalty for an asbestos NESHAP case for a judicial case. Furthermore, the defendants have agreed to remove all remaining asbestos in the facility at a cost of $1 million. (SIC/N/A)

CLEAN WATER ACT

LTV Steel (East Chicago, IN): On February 1, 1994, EPA approved LTV's court-ordered, sediment remediation and disposal plan. It outlines the removal of all of the oil-contaminated sediment (approximately 110,000 cubic yards) from LTV's No. 2 intake flume, located off Lake Michigan. The remediation project which began in July 1994 consists of removing sediment (via diver-assisted vacuuming of the sediment) and de-oiling/de-watering it (via coagulation/flocculation in conjunction with final sand-filtering of the discharge and belt filter pressing of the sludges). The de-oiled/de-watered solids are being disposed of in a special-waste landfill in Wyatt, IN. Oils from the sediment are being recycled back into the facility's waste oil reclamation system. The final discharge of any waters from the remediation project are sent through an NPDES-permitted outfall. LTV's estimated $3 million remediation is part of the Region's Northwest Indiana initiative. (SIC/3312/blast furnace/steel works/ rolling.)

JMB Urban Development Company (Columbus, OH): A January 1994 consent decree (U.S. District Court in Columbus, OH) resolved all Clean Water Act allegations against JMB Urban Development Co., Chicago. EPA alleged that the JMB violated Sections 301 and 404 of the Act by discharging dredge and fill materials into approximately 37 acres of wetlands adjacent to Olentangy River during the initial development of a shopping mall. JMB must mitigate the violation by constructing an 80-acre wetland to be donated as an educational facility to the local school district. The total injunctive relief in excess of $1 million, includes a civil penalty of $200,000 also paid by the defendant. (SIC/1542/general contractor, non-residential buildings.)

City of Middletown (OH): A February 1994 consent decree (U.S. District Court for the Southern District of Ohio/Eastern Division) resolves the combined NPDES, pretreatment, and wetlands case against the City of Middletown. The City's wastewater treatment plant was cited for past NPDES effluent limit violations (total suspended solids, fecal coliform, and ammonia), failure to adequately carry out its approved pretreatment program, and filling in a river channel of the Great Miami River to expand a City park. The City contracted for professional services to administer its pretreatment program and made plant improvements costing $209,000. A total civil penalty of $288,000 was assessed—$188,000 for CWA §402 violations, and $100,000 for CWA §404 violations. (SIC/4952/ sewerage systems).

Wayne County-Wyandotte (MI) Wastewater Treatment Plant: A May 1994 consent decree (U.S. District Court, Eastern District of Michigan/ Southern Division) resolved Wayne County's water violations at the Wyandotte wastewater treatment plant and tributary sewer systems. In 1987, the Government filed suit against Wayne County and 13 tributary communities for illegally discharging untreated wastewater into the Detroit River and Lake Erie. The defendants paid a $413,000 civil penalty (equally divided between the United States and the State of Michigan). Injunctive relief will consist of sewer system rehabilitation, plant improvements, and construction of a tunnel storage system for overflows. The estimated $230 million project will take about 6 years to complete. This case is located within the Southeast Michigan Initiative area. (SIC/4952/sewerage systems).

IBP, Inc. (Joslin, IL): A July 26, 1994, consent decree (U.S. District Court in Rock Island, IL) resolved all outstanding violations alleged by U.S. EPA and Illinois EPA in their respective complaints against IBP, Inc. of Joslin, IL. The

Agencies alleged that IBP had repeatedly violated the effluent limits of its NPDES permit for ammonia-nitrogen, total suspended solids, and fecal coliform. IBP must pay civil penalties of $250,000 to the United States and $30,000 to the State, expand its current wastewater treatment system and install equipment to treat ammonia-nitrogen. The case is significant because IBP was unsuccessful in its attempt shield itself from enforcement by adjudicating its NPDES permit limits. (SIC/2011/meat packing plants and 3111/ leather tanning & finishing.)

Appleton Papers (Appleton, WI): A July 1994 consent decree with Appleton Papers, Inc. (U.S. District Court in the Eastern District of Wisconsin) resolved this 1992 pretreatment case. EPA had cited the facility for violating bypass provisions and local limits for aluminum, copper, zinc and pH. Injunctive relief was not required because the company has maintained consistent compliance since it installed the necessary treatment plant and pretreatment equipment. The civil penalty assessed was $670,000, plus interest from the date of lodging. (SIC/2671/coated and laminated packaging.)

Commonwealth Edison Company, Inc. (Chicago, IL): EPA's August 1994 consent order to Commonwealth Edison Co. (ComEd), Chicago, resolved this case involving Section 301 and 404 violations. ComEd had discharged dredge and fill materials into 2 acres of wetlands in South Chicago. The consent agreement requires ComEd to pay a $10,000 civil penalty and to contribute a minimum of $90,000 to the Nature Conservancy for the purchase and preservation of the Indian Boundary Prairie in Markham, IL. (SIC/4911/electrical services).

MULTIMEDIA CASES

Taracorp Industries (Granite City, IL): On September 19, 1994, the U.S. Southern District Court of Illinois' decision resolved a multimedia civil action filed against Taracorp Industries, Inc., of Granite City, IL. EPA had alleged that Taracorp violated the Clean Water Act (excessive discharges of lead and antimony to Granite City's wastewater treatment plant) and RCRA (financial assurance violation). The Court awarded a cash civil penalty of $201,850 and $199,500 for the RCRA and CWA violations, respectively. No injunctive relief was necessary since Taracorp completed installing the required pretreatment system before the trial.

Importantly, the Court rejected Taracorp's argument that its delay in installing the treatment system caused economic detriment (rather than benefit) due to inflation, higher fees and equipment costs. As the Court ruled these higher costs resulted directly from defendant's noncompliance and deemed it "inappropriate to view as mitigation a cost that the defendant incurred only because it did not comply with the Clean Water Act." On September 30, 1994, Taracorp filed a motion to amend the conclusions of law and judgment on the CWA count. Region V filed a motion in opposition in October 1994. To date, the Court has not ruled on EPA's motion. This case is located within the Gateway (East St. Louis) Initiative area. (SIC/3356/roll, draw & extruded nonferrous).

Glidden Company (Strongsville, OH): In December 1993, Region V settled enforcement actions under TSCA and FIFRA against Glidden Co. for importing and distributing an unregistered pesticide. Glidden had made a series of self disclosures to EPA regarding violations of TSCA §§ 5, 8, 12, and 13. This case marks the first time that Region V has taken simultaneous actions for violations of both TSCA and FIFRA. Glidden paid a total penalty of $290,100. (SIC/2851)

EPCRA

Vie De France (Bensenville, IL): On February 14, 1994, The Region filed an administrative complaint seeking a $247,140 penalty against Vie De France, Bensenville, IL, for failing to report to authorities both its release of anhydrous ammonia and its storage of ammonia. The complaint addresses Vie De France's May 1991 release of about 4,000 pounds of anhydrous ammonia due to a broken pipe in the refrigeration system. Employees were evacuated and the doors of the

plant were opened to vent the ammonia. Vie De France notified the National Response Center and the State Emergency Response Commission (SERC) 26 days after the release but never notified the Local Emergency Planning Committee (LEPC). The company submitted a written follow-up report to the SERC 43 days after the release, but never a written follow-up report to the LEPC.

The maximum quantity of ammonia stored at the facility during each of the calendar years 1989-1991 was 5,000 pounds. Ammonia is an extremely hazardous substance with a threshold planning quantity of 500 pounds. The facility has never submitted Material Safety Data Sheets under Section 311 of EPCRA and has never filed a Tier report under Section 312 of EPCRA to the SERC, LEPC, or local fire department. (SIC/2051)

HRR Enterprises, Inc. (Chicago, IL): On March 28, 1994, the Region filed an administrative complaint seeking a $186,450 penalty against HRR Enterprises, Inc. (a division of Kane-Miller Corp. Chicago) for failing to immediately report a toxic release. In July 1992, HRR Enterprises had released 200 to 300 pounds of anhydrous ammonia but failed to notify Federal, State and Local emergency-response officials for more than 24 hours. EPA further alleges that HRR Enterprises failed to file a Material Safety Data Sheet for anhydrous ammonia. HRR Enterprises did not file an Emergency and Hazardous Chemical Inventory Form from 1987-1990 and filed late reports 1991. (SIC/2079)

Shell Oil Company's Wood River Manufacturing Complex (Roxana, IL): The $431,312 penalty required by this September 1994 consent agreement with Shell Oil Co.'s Wood River Manufacturing Complex, Roxana, IL, is the highest to date for violations of CERCLA 103(a) and EPCRA 304. In a 1992 compliant, EPA had alleged that 57 separate violations arose from Shell's failure to immediately notify the proper Federal, State and local emergency authorities about a number of separate releases at various locations. EPA cited Shell for air releases of benzene, hydrogen sulfide, methyl mercaptan and sulfur dioxide, and a sulfuric acid release to the ground. The Region also cited Shell for failing to provide emergency follow-up notices after each release.

Shell Oil's answer to EPA's complaint claimed that many of the releases were Federally permitted. The company interpreted CERCLA 101 (10)H to mean that having a permit or being subject to a control regulation exempted it from CERCLA 103(a) emergency notification requirements. The company also claimed that the hazardous substances released were fractions of petroleum and thus exempt under CERCLA. EPA contended that individual chemicals were released. (SIC/2911, 4612, 5541,1311,2821, and 1221)

Consumers Power Co. (West Olive, MI): A September 1994 consent agreement resolved EPA's administrative complaint against Consumers Power Co., West Olive, MI, for EPCRA violations. The company agreed to carry out three supplemental environmental projects (SEP's) at a total estimated cost of $247,741.50. The projects are: (1) convert heat exchangers from ethylene glycol to propylene glycol which is 300 times less toxic; (2) send information on EPCRA requirements (via mail) to an estimated 3,000 facilities in Ingham, Kalamazoo, and Ottawa Counties; and (3) conduct an outreach program on the EPCRA 302 notification requirement to the rural community in Ingham and Ottawa Counties. The company must also certify its compliance with EPCRA. In its complaint, EPA alleged that the company failed to notify Federal, State and local authorities about an accidental release of 1,400 pounds of sodium hypochlorite. The total cash penalty and estimated cost of the SEPs equals $255,769.50 or 2.5 times EPA's proposed penalty of $100,000. The settlement requires a $7,828 cash penalty to be paid to a Superfund account. (SIC/4911)

Karmazin Products Corp. (Wyandotte, MI): EPA's May 1994 consent agreement with Karmazin Products, Corp., Wyandotte, MI, required a $195,560 penalty to resolve a 1993 complaint alleging that Karmazin failed to notify the proper authorities that it stored large quantities of hazardous chemicals. This violation contributed

to the injury of 3 Karmazin employees, 12 firefighters, and 8 police officers who responded when an employee was overcome by vapors when using trichloroethylene to clean an underground, sludge-filled pit. That employee later died from exposure to trichloroethylene. (SIC/3443/3585/3531)

TSCA

University of Illinois (Champaign-Urbana, IL): A January 1994 consent agreement with the University of Illinois called for a $74,500 supplemental environmental project and a $1,000 fine to resolve PCB violations. EPA cited the university improperly storing six 55-gallon drums of PCB's and 524 large PCB capacitors. These drums and capacitors were moved from one building to another for storage, awaiting disposal. During the move, PCB's were spilled or leaked at several places between the buildings. Under Federal regulations, leaks and spills constitute illegal disposal. The stringent agreement calls for the university to remove and dispose of the PCB items from the Environmental Engineering Research Laboratory and the Aeronomy Field as partial settlement.

Wayne State University (Detroit, MI): EPA's March 1994 consent agreement with Wayne State University included a $631,000 supplemental environmental project as well as a $7,150 fine. The university was cited for violating Federal rules on PCB use and recordkeeping. As part of the agreement, the university did asbestos abatement work at several buildings on campus. Removing friable asbestos from Wayne State's buildings prevents its potential release into the environment.

U.S. Graphite, Inc. (Saginaw, MI): EPA's March 1994 consent agreement with U.S. Graphite, Inc., to resolve PCB includes a $10,000 fine and removal of more than 500 PCB-contaminated transformers and capacitors at an estimated cost of $195,000. Earlier the company had spent $32,025 to remove two PCB-contaminated transformers and 16 PCB capacitors. EPA had cited U.S. Graphite for improper use, disposal, marking, storage, and recordkeeping of PCB equipment. This outstanding settlement moves Region V closer to the goal of totally eliminating all PCB's.

RCRA/UST

BASF Corp. North Works (Wyandotte, MI): EPA's March 1994 consent order with BASF Corp. called for an investigation into hazardous waste at its Wyandotte site. BASF agreed to evaluate the effectiveness of a groundwater cleanup project already proceeding under State consent orders and to investigate the nature and extent of present soil and groundwater contamination at the facility. In its order, EPA specified that the company must perform appropriate cleanup if the investigation shows additional dangerous contamination.

BASF's North Works facility is a 230-acre site on the Trenton Channel of the Detroit River. The facility has been a source of hazardous waste releases to the river in the past. EPA is concerned that hazardous wastes from the facility may still be migrating into the river. While owned and operated by BASF, the North Works has been used as a manufacturing, research, and pilot projects site for industrial organic chemicals, polyether polyol resins, polyurethane plastics and castings, vitamins A and E. The site was used for the manufacture of soda and coke in the late 1800s.

Hilton Davis Co. (Cincinnati, OH): EPA's July 1994 administrative order to Hilton Davis Co. proposed a $1.6 million penalty for hazardous waste violations at its Cincinnati, OH, plant. EPA alleges that the company failed to: conduct adequate waste analysis; properly monitor and record operating parameters; develop a closure plan; establish financial assurance for closure; monitor equipment leaks; submit accurate precompliance certification, and comply with emissions standards for ash, chlorine, arsenic, chromium and lead.

The Hilton Davis plant makes organic chemicals including dyes, food colors, organic pigments, and optical brighteners. It also generates, treats, stores,

and deposes of hazardous wastes. Until August 1992, the plant operated a boiler using hazardous waste from as many as 60 different processes as fuel. As a result, it had to comply with EPA regulations for boilers and industrial furnaces, known as the BIF rule which became effective in August 1991.

Greater Cleveland Regional Transit Authority (Cleveland, OH): In August 1993, Region V filed an administrative complaint against the Greater Cleveland Regional Transit Authority (GCRTA) for alleged violations of underground storage tank (UST) regulations at three of its facilities. EPA alleged that GCRTA failed to meet construction, notification, release detection, and closure requirements at its Brooklyn, Triskett, and Hagden facilities. Violations were uncovered during an April 1992 inspection, and a complaint was issued when a March 1993 follow-up inspection revealed repeated and uncorrected violations.

On August 12, 1994, after less than a year of negotiations, the Region and GCTRA reached a verbal agreement that was formalized in a September CAFO. GCRTA corrected all past violations and paid $174,718 in penalties.

Northwest Airlines, Inc. (Saint Paul, MN): In February 1993, Region V filed an administrative complaint against Northwest Airlines for alleged violations of UST regulations at its Minneapolis/St. Paul airport facility. The complaint proposed a $115,710 penalty and alleged that Northwest failed to meet tank notification and release detection requirements. A February CAFO requiring a $54,989 and compliance resolved this case.

***U.S. v. Bethlehem Steel Corp.* (7th Cir. 1994)**: On September 26, 1994, the court affirmed in part and vacated in part the district court's grant of summary judgment in this action. The Seventh Circuit upheld the district court's rejection of impossibility as a defense to allegations that Bethlehem Steel failed to comply with the corrective action requirements of its IUC permit. The corrective action claim accounted for $4.2 million of the district court's 1993 $6 million judgment in this case. The vacated portions of the decision involved the government's claims that Bethlehem Steel had illegally disposed of F006 waste (wastewater treatment sludge from electroplating operations, which can contain such hazardous constituents as hexavalent chromium and cyanide).

***U.S. v. Ekco Housewares, Inc.* (Massillon, Ohio)**: On January 28, 1994, the court issued a $4.6 million judgment for the government based on Ekco's failure to maintain financial assurance for closure, financial assurance for post-closure, and liability coverage. This case arose because Ekco generated waste products at its Massillon, OH, facility which it discharged to an on-site surface impoundment. In its complaint, the United States cited violations of both a 1987 Partial Content Agreement and Order (PCAO), and RCRA rules (including financial assurance and liability insurance provisions. Ekco appealed the penalty assessment to the U.S. Court of Appeals for the Seventh Circuit.

U.S. v. Laclede Steel Company: Laclede Steel entered into a consent decree settling this civil judicial action for violation of RCRA's land disposal restrictions (LDR) rules. In the complaint, the United States alleged, among other things, that Laclede had illegally land disposed of tons of lead-bearing K061 electric arc furnace baghouse dust. The consent decree requires Laclede to pay a $300,000 civil penalty, complete an environmental audit, and remediate its illegal waste piles, in accordance with the State of Illinois-approved closure plan, using a new, $25 million High Temperature Metals Recovery (HTMR) unit.

City of Columbus, Ohio and the Solid Waste Authority of Central Ohio: An RCRA §7003 administrative order was issued on September 9, 1994, by EPA to the City of Columbus (owner) and the Solid Waste Authority of Central Ohio (SWACO) (operator). The order required the respondents to conduct measures to abate the potentially imminent threat to public health and the environment posed by the past and present

emissions of dioxins. The incinerator, which burns approximately 1,700 tons of trash daily, was determined by a stack test in 1992 to have among the highest MWC dioxin emissions in the nation (*i.e.*, an average concentrations of 13,000 ng/dscm, with highest concentrations at nearly 18,000 ng/dscm).

SDWA

Total Petroleum (Alma, MI): A May 1994 consent order resolved EPA's case against Total Petroleum for failing to: maintain the annulus pressure differential in an on-site injection well, report the violation and, sign the monitoring report. Class I wells are the most likely to endanger drinking water. The pressure differential is a safeguard necessary to ensure even leaks will not stop the waste from flowing to its intended zone, not to an underground source of drinking water. (SIC/2911/petroleum refining).

George Perry (Oceana County, MI): EPA's December 1993 consent order resolved the case against Perry for failing to plug and abandon a Class II injection well that was in disuse for more than 2 years. Not only did Perry plug the injection well, he agreed to a SEP to plug three oil production wells also in disuse. EPA does not regulate oil production wells. Perry's actions will eliminate four potential sources of contamination to underground sources of drinking water. (SIC/1311.)

JPT Petroleum Production Corp. (Gibson County, IN): On February 1, 1994, the Indiana Department of Natural Resources and JPT signed an administrative agreement regarding missed deadlines for demonstrating mechanical integrity of three Class II wells. The agreement also addressed minor violations associated with nine oil and gas wells in Gibson County. These violations were discovered through file reviews and routine inspections conducted in 1992. JPT agreed to pay a $3,000 penalty. This action will prevent contamination of underground sources of drinking water. (SIC/1311/crude petroleum & natural gas.)

Gahanna Water Department (Gahanna, OH): A June 1994 consent order resolved EPA's case against the Gahanna Water Department for violating public notice requirements. Gahanna has agreed to notify the public of its failure to complete monitoring on time. In addition, Gahanna completed a second round of lead and copper monitoring in June 1994, sampling twice the number of homes as required by SDWA regulations. Gahanna also sent an educational notice on how to avoid the hazards of lead in drinking water to selected residences. The additional monitoring and educational notice were considered a SEP and thus the final penalty was reduced by $2,300. Gahanna paid a $1,000 penalty.

CERCLA

Circle Smelting (Beckmeyer, IL): On March 22, 1994 the Region issued a unilateral administrative order for a time critical removal to potentially responsible parties (PRPs) ASARCO, Inc., Federated Metals Corporation, and Circle Smelting Corporation at the Circle Smelting Site in Beckmeyer, Illinois. The UAO directs the PRPs to perform an estimated $710,000 time critical removal of lead-contaminated materials along a water main route in residential areas of the Village of Beckmeyer.

Since the operation of the secondary zinc smelter began in the early 1900's lead-contaminated material from the smelt operations was used extensively as fill throughout the Village of Beckmeyer. On March 17, 1994 the Region issued an action memorandum for the time critical removal of lead-contaminated material in the path of a water main replacement project in the residential areas of the village. There was concern that trenching through the contaminated material (lead concentrations ranged as high as 31,000ppm) might expose residents to the lead-contaminated material. ASARCO, Inc. agreed to comply with the UAO and the removal action was completed in August 1994. This case demonstrated that an expediated cleanup can be achieved at an NPL-caliber SACM site by using accelerated investigations and coordination techniques.

Core Craft (Northern Township, MN): On March 1, 1994, a consent decree was entered with the U.S. District Court of Minnesota between the U.S. and Core Craft, Inc. The consent decree provides for payments by the defendants of a total amount of approximately $5 million as reimbursement for response costs incurred and to be incurred by the U.S. EPA at the Kummer Sanitary Landfill Superfund Site. Additionally, the decree provides for the payment by the defendants of $22,000 to the U.S. Fish and Wildlife Service as reimbursement for damages to natural resources at the site.

Kummer Sanitary Landfill was licensed to accept "mixed municipal waste" from 1971-1984, at which time groundwater contamination was detected in private wells downgradient from the facility. The site was placed on the NPL in 1986. Because the largest contributor of waste at the site was a municipality which demonstrated an inability to pay, and because the evidence against the other defendants presented difficult liability issues, the Agency agreed to this mixed-funding cash-out settlement despite the lack of other viable PRPs from whom to seek full recovery.

Kerr-McGee Site (Chicago, IL): Region V, with DOJ and OECA consultation, negotiated for the conduct of removal actions at the West Chicago Residential Areas NPL site, which involves radioactive contamination of possibly hundreds of residential properties at a potential cost of $100,000,000. On October 31, Kerr-McGee refused EPA's final offer. EPA issued a unilateral order to Kerr-McGee on November 18, 1994.

Lockhart Construction (Akron, OH): On February 24, 1994, Region V executed an administrative order on consent with Lockhart Construction for a removal at its facility. In the order, Lockhart agreed to complete a removal at the site and pay $8.6 million for costs.

The Lockhart Construction site is located in Akron, Ohio. In May of 1992, during an inspection by the Army Corp of Engineers, it was discovered that illegal fill activities had taken place at the facility, and that wetlands along the Ohio Canal had been filled in. A subsequent delineation of the wetland indicated that approximately five acres of wetlands had been filled in by Lockhart. Later inspections discovered that several leachate seeps were flowing toward the Ohio Canal and these leachate seeps had pH levels greater than 13 as well as phenol contamination.

National Presto (Eau Claire, WI): On October 14, 1993 U.S. EPA issued an administrative order on consent pursuant to which National Presto Industries, Inc. (NPI) agreed to conduct a removal action at the NPI Superfund Site in Eau Claire, Wisconsin. NPI will spend approximately $2.2 million pumping VOC contaminated sludges from a large lagoon on the NPI property. The sludges will be transported off-site and burned as a secondary fuel at a RCRA permitted cement kiln.

The NPI site was listed on the NPL in 1986. Until 1980, the NPI facility produced 8-inch and 105-mm shells for the Department of the Army. The fogging operation at the facility pumped into on-site lagoons. Lagoon No. 1, the subject of this removal action, contains approximately 13,000 gallons of floating oil and over one million gallons of sludge. U.S. EPA has determined that the oil and sludge present a potential imminent and substantial endangerment to groundwater as well as to migratory birds and fowl.

Olin Corporation (Ashtabula, OH): On March 3, 1994, a consent decree was lodged in the U.S. District Court for the Northern District of Ohio. Under the terms of this consent decree, Olin Corporation, the sole PRP in this action, has agreed to pay $1,542,540.82 to the U.S. EPA for past response costs incurred plus interest through September 1992, at the Big D Campground Facility. As a result of the consent decree, U.S. EPA will be recovering approximately 98% of its past costs. Olin is also agreeing to pay the Agency's future oversight costs, which are anticipated to be between $500,000 and $600,000. The total consent decree is worth over $2 million.

The Big D Campground Superfund site is located in Kingsville, Ohio, and consists of a former 1.5

acre quarry used as a landfill. The facility was a sand and gravel quarry from 1964 to 1976. Olin delivered and disposed of hazardous materials at the quarry during its operations. U.S. EPA placed the facility on the National Priorities List in early 1983. Olin is currently complying with a unilateral administrative order for the Remedial Design/Remedial Action work.

Wedzeb (Lebanon, IN): During May through July 1994, the Southern District of Indiana, Indianapolis Division, entered five separate consent decrees resolving outstanding claims by the U.S. EPA against Wedzeb, its owner, William Daniels, its successor, USA Manufacturing, and various manufacturer defendants. The United States recovered a total of $2.14 million to offset the costs of the removal action. In addition, a penalty of $100,000 was assessed against William Daniels and Wedzeb for violation of a Section 106 CERCLA order and a penalty of $50,000 was assessed against USA Manufacturing for violations of Section 104(e) of CERCLA.

Jackson Drop Forge (Jackson, MI): The Region's January 1994, administrative consent order required two Jackson/Innova Corp. and Mercer Forge Corp. to remove several thousand drums of hazardous substances and contaminants from the Jackson Drop Forge Site and reimburse EPA for the Agency's past costs. This site, located in a mixed industrial and residential area, was used as both a forge and a dump for several years. Adjacent to the Grand River, the site is in a flood plain. The Region's December removal action memorandum approved spending about $2 million to address conditions at the Site.

Spickler Landfill Site (Marathon County, WI): The Region's January 1994 unilateral order directs all the PRP's to carry out an estimated $4.9 million remedy for the first operable unit at the Spickler landfill in Marathon County, WI, The remedy involves constructing an impermeable cap over the mercury brine pit and a solid waste cap over the rest of the landfill. In addition, the PRP's must pump and treat contaminated leachate, install a system to collect landfill gases, and monitor groundwater.

REGION VI

CLEAN AIR ACT

***U.S. v. Enpro Contractors, Inc.; Train Property, Inc.; and Jimmy Patton Contractor, Inc.* (E.D. Ark.)**: On October 3, 1994, a civil consent decree was entered by the court in which the above defendants agreed to pay $20,000, $12,270, and $10,000, respectively. The Government had settled in FY93 with a fourth Defendant, Missouri Pacific Employees' Hospital Association (MPEHA), for $62,000, bringing the total settlement amount to $104,270. These actions arose from violation of the CAA and the NESHAP promulgated thereunder. In particular, the Defendants failed to keep friable asbestos materials adequately wetted until collected for disposal as required by the NESHAP during demolition of the Missouri Pacific Hospital in Little Rock, AR.

In the Matter of Herd Enterprises, d/b/a Broward Factory Service: EPA issued an administrative penalty order (APO) on December 28, 1993, to Herd Enterprises for a violation which occurred in Richardson, TX. Technicians for the company were observed (one case was video taped) venting refrigerant during service/repair of residential air conditioning units. The source of the information came from the people at whose homes the violations occurred; in both cases the home owners themselves were knowledgeable about both the regulations and air conditioning work. In one instance a video tape was provided of the actions of the technician. The penalty assessed in the final order was $20,650.

CLEAN WATER ACT

***U.S. v. City of Kenner and the State of Louisiana* (E.D. La.)**: On January 4, 1994, a consent decree was entered by the court settling the Government's claim that the City of Kenner, LA, had violated the CWA and assessing a civil penalty of $215,000. The complaint alleged that the City had violated certain conditions of its NPDES permit, including failure to adequately implement its approved pretreatment program and causing the unpermitted discharge of pollutants to waters of the United States.

***U.S. v. City of Bossier City, and the State of Louisiana* (W.D. La.)**: A SEP which had been included in a consent decree under the CWA with Bossier City, LA, filed on February 4, 1993, was substantially completed in 1994. In lieu of EPA's proposed settlement amount of $325,000, Bossier City agreed to pay a civil penalty of $200,000 and to conduct the SEP. The project cost of the SEP was approximately $375,000. The complaint filed in U.S. District Court alleged that Bossier City had violated the CWA by failing to properly operate and maintain its POTW, failing to comply with effluent limitations in its NPDES permit, and failing to fully implement its industrial pretreatment program.

***U.S. v. E.I. DuPont De Nemours and Company* (E.D. Tex.)**: A pollution prevention SEP was contained in the consent decree filed on August 15, 1994, in U.S. District Court in settlement of claims against DuPont for violations of its NPDES Permit and §301 of the CWA. Under the consent decree, DuPont agreed to pay a civil penalty in the amount of $516,430 and to perform a SEP costing an estimated $3.2 million. The SEP requires replacement of existing steam-powered vacuum jets in their adiponitrile process units with mechanical vacuum pumps. The steam, contaminated with waste materials from the adiponitrile process, was condensed as water and became a waste stream.

Vulcan Chemical: EPA received information in correspondence from Vulcan regarding NPDES permit violations involving zinc and issued an administrative order under the CWA to Vulcan establishing a schedule to reduce zinc from the company's wastewater discharges. In response, Vulcan devised and implemented an alternative treatment technology which resulted in a reduction of pollution created at the facility with only a minimal delay in the compliance schedule.

In the Matter of Albert Kramer III d/b/a Kramer Development Corporation: On January 21, 1994, a consent agreement/final order was issued in which Mr. Kramer agreed to pay $6,005 to resolve an administrative penalty action. Development of the case, which was referred to EPA from the U.S. Army Corps of Engineers, included an original proposed penalty of $10,000. Kramer had initiated construction of a series of roads in wetlands as part of an unspecified future development project. No permit had been obtained under CWA §404, for the discharge of fill material into wetlands.

Citgo Pipeline Company: An administrative Class II complaint was issued to Citgo Pipeline Company, Tulsa, Oklahoma, on March 4, 1994, with a proposed penalty of $124,900 for violations of §311(b)(6)(B)(ii) of the CWA. The corporation's facility discharged 200 barrels of crude oil from its onshore pipeline in Claiborne Parish, LA, and 250 barrels of crude oil from an onshore pipeline in Gregg County, TX. Information on the discharge was received from the report made by Citgo to the NRC. The discharged oil entered navigable waters of the United States in quantities determined to be harmful under 40 C.F.R. §110.3.

Hamner Inc.: An administrative Class I complaint was issued to Hamner, Inc., Corpus Christi, TX, on May 24, 1994, with a proposed penalty of $9,108 for violations of §311(b)(6)(B)(ii) of the CWA. The corporation's tanker truck overturned, discharging approximately 24 barrels of petroleum naphtha. The petroleum naphtha entered navigable waters of the United States in quantities determined to be harmful under 40 C.F.R. §110.3.

Jayhawk Pipeline Corporation: A consent agreement and final order was signed July 11, 1994, concerning Jayhawk Pipeline Corporation's discharge of 20 barrels of crude oil from an onshore pipeline in Kay County, Oklahoma. The spill was reported to the NRC by the responsible party and EPA responded to the spill. Jayhawk paid a penalty of $3,825 to the Oil Spill Liability Trust Fund.

Petrolite Corporation: A consent agreement and final order was signed July 11, 1994, concerning the corporation's violation of §311(b)(6)(B)(ii) of the CWA. Petrolite Polymer Division discharged 200 barrels of wax from its facility located in Kilgore, Gregg County, TX. The oil entered the stormwater drainage and migrated off-site into drainage areas and Rabbit Creek. The discharge was reported to the NRC and EPA responded to the spill. Petrolite paid a penalty of $5,500 to the Oil Spill Liability Trust Fund.

Red River Entertainment Group: On May 19, 1994, a consent agreement/final order was issued in which Red River Entertainment agreed to pay $3,000 to resolve an administrative penalty action. Development of the case, which was referred to EPA from the Corps of Engineers, included an original proposed penalty of $5,000. Red River had applied for a CWA, §404, permit to build a bulkhead associated with casino development on the Red River in Shreveport, LA, but initiated construction work in waters of the U.S. prior to issuance of the permit. The impacts of the violation were corrected, and the permit was eventually issued by the Corps of Engineers.

RCRA

In the Matter of Micro Chemical Company: An RCRA administrative CAO on consent was issued to Micro Chemical Co. on September 30, 1994. The order followed from a citizen's complaint of releases from the facility. The order first requires the facility to stabilize a ground water plume of pesticides, located 3,000 feet upgradient from the city's drinking water wells. The order then requires clean up of the soil on the remainder of the site. Thus, the site requires ground water and soil remediation measures. The study phase for both media may cost $1.4 million. The ground water remediation will be carried out over a great deal of time (10 to 20 years) which will involve substantial yearly costs. The soil remediation will require a much shorter period of time to reach a conclusion but will require a greater amount of money. A rough estimate of the total cost of remediation of the site would be in the area of $4 to 10 million.

In the Matter of Dow Chemical: Violations found at this facility in Plaquemine, LA, related to RCRA BIF requirements. They included failure to maintain the prescribed scrubber blow down rate and liquid-to-gas ratio and failure to maintain the operating controls and end points for automatic waste feed cut off established in the Certification of Compliance. The case was settled with a consent agreement and final order, filed September 9, 1994, in which the assessed penalty was $26,000.

In the Matter of Chemical Waste Management: This facility operates a hazardous waste incinerator in Port Arthur, TX, permitted under both the RCRA (for hazardous waste) and the TSCA (for polychlorinated biphenyls, PCBs). The facility commingled the listed hazardous waste F039 (leachate from landfills) with PCB's from capacitors and transformers during incineration. The resulting ash failed to meet the RCRA land disposal restriction (LDR) treatment standards for PCBs in F039. Although the PCB concentrations in the ash were probably derived from the PCBs in the electrical equipment, not the F039, the Mixture Rule requires that the ash meet LDR standards for F039. The facility failed to make an adequate waste determination and shipped the ash to a disposal facility without notifying the disposal facility that the ash did not meet LDR treatment standards. The ash was subsequently placed on the land without having met LDR treatment standards for PCB's in F039. (The receiving facility, Chemical Waste Management, Carlyss, LA, also received a penalty.) Shipments occurred on several occasions during 1993. The company self-reported the violations. An order assessing a civil penalty of $15,000 was issued on April 8, 1994.

In the Matter of Chemical Waste Management: This facility is a hazardous waste treatment, storage, and disposal facility in Carlyss, LA. Violations found at this facility related to disposal on the land of hazardous wastes which may be land disposed only if they meet LDR treatment standards. The facility in Port Arthur, TX, commingled the listed hazardous waste F039 (leachate from landfills) with polychlorinated biphenyls (PCBs) from capacitors and transformers during incineration and failed to notify the receiving facility that the resulting ash failed to meet the RCRA land disposal restriction (LDR) treatment standards for PCBs in F039. (The Port Arthur facility also received a penalty.)

In the Matter of Texas Industries: This facility is a cement plant in Midlothian, TX, which burns hazardous waste as a part of its fuel. Violations found at this facility related to RCRA BIF requirements. The facility violated these requirements by its failure to operate the kiln within feed rate limits established in the Certification of Precompliance, failure to make an adequate Bevil exclusion determination, and failure to maintain unit inspection records. An order assessing a civil penalty of $26,000 was issued on June 23, 1994.

In the Matter of Aristech: Violations found at this chemical plant in Pasadena, TX, related to RCRA BIF requirements. They included exceedances of waste storage accumulation times, failure to conduct unit integrity testing, failure to label waste storage tank, failure to maintain unit inspection records, failure to update waste analysis and contingency plan, and failure to prepare unit closure plan. A civil penalty of $21,500 was assessed in an order issued on August 8, 1994.

In the Matter of Rexene: Violations found at this chemical plant in Odessa, TX, related to RCRA BIF requirements. They included failure to establish appropriate Certification of Compliance operating limits, failure to comply with prescribed feed rates, failure to amend waste analysis plan, inspection schedule and contingency plan, and failure to prepare unit closure plan. A penalty of $33,750 was assessed in an order issued September 15, 1994.

In the Matter of Chapparal Steel: This steel manufacturing company in Midlothian, TX, exports emission control dust and sludge from the primary production of steel in its electric arc furnaces, listed hazardous waste K061, for recovery of other metals. It failed to provide annual reports of its hazardous waste exporting

activities for 1991 and 1992 and failed to properly manifest shipments during that period. On December 23, 1993, an order was issued assessing a civil penalty of $5,000.

In the Matter of Hydrocarbon Recyclers, Inc.: This hazardous waste treatment, storage, and disposal facility in Tulsa, Oklahoma, receives hazardous waste which has been imported from another country. The case involved violations of the RCRA requirement that treatment, storage and disposal facilities submit advance notice to EPA or the authorized State agency of anticipated receipt of foreign waste. An order assessing a civil penalty of $35,000 was issued on May 4, 1994.

In the Matter of REM TEX: This case involved violations of the RCRA hazardous waste importing requirements by a manufacturer of electrical and electronic equipment in Del Rio, TX. Violations included failure to notify EPA or the authorized State agency of hazardous waste activity and failure to provide foreign generator's name on manifest. REM-TEX acts as U.S. importer of hazardous waste for its foreign maquiladora facility, located in Tamaulipas, Mexico. REM-TEX operates a U.S. facility, located in Del Rio, TX, which serves as a warehouse or transfer point for waste imported from REM-TEX's maquiladora facility destined for TSD facilities in the United States. A civil penalty of $9,000 was assessed in an order issued on May 31, 1994.

In the Matter of Jeep Collins: This case involved violations of the RCRA hazardous waste importing requirements by a jewelry manufacturer in Fredericksburg, TX. Violations included failure to notify EPA or the authorized State agency of hazardous waste activity and failure to provide foreign generator's name on manifest. Jeep Collins acts as U.S. importer of hazardous waste for its foreign maquiladora facility, located in Coahuila, Mexico. Jeep Collins operates a U.S. facility, located in Fredericksburg, TX, which serves as a warehouse or transfer point for waste imported from Jeep Collins' maquiladora facility destined for TSD facilities in the United States. A civil penalty of $6,300 was assessed in an order issued on May 31, 1994.

In the Matter of Ranco: The case involved violations by a manufacturer in Brownsville, TX, of plastic and metal parts for heating and air conditioning units of requirements for storage and manifesting of hazardous waste. The facility imports hazardous waste from its maquiladora operation in Mexico, and it used an incorrect RCRA ID number on its manifests. An order was issued on August 3, 1994, assessing a civil penalty of $19,520.

In the Matter of Citgo Refining: This petroleum refinery in Lake Charles, LA, failed to meet the regulatory deadline for retrofitting impoundments, which receive toxicity characteristic hazardous wastes, with liners and leak detection systems. Even after the statutory deadline for retrofitting impoundments or ceasing to use them, Citgo continued to place hazardous wastes in the impoundments. The violations were self reported. The facility was assessed a civil penalty of $47,500 in an order issued September 30, 1994.

In the Matter of Aquaness Chemical: Aquaness Chemical, formerly an oil field chemical blending operation in LaFayette, LA, was converting its facility to a warehouse and distribution center for oil field chemicals. The facility failed to notify EPA or the authorized State agency of its hazardous waste activity and hazardous waste storage. The company was involved in generating large quantities of various hazardous wastes (thousands of gallons a year) without notifying the authorized State or EPA about their activity. In addition, wastes were being managed in a manner that presented a potential for release to the environment because of mislabeling the waste containers and not inspecting the areas where the waste was stored on a regular basis. The facility also failed to adequately train its personnel in the management of hazardous waste. A civil penalty of $105,350 was assessed in an order issued on October 1, 1993.

In the Matter of Helena Chemical: Helena Chemical in Delhi, LA, is a pesticide distribution warehouse for northeast Louisiana. This facility failed to notify the regulatory agency of hazardous waste activity and to comply with hazardous waste

storage requirements. The facility had been storing hazardous wastes in one of its warehouses since it ceased its pesticide blending operation in 1986, without following the requirements for storing hazardous waste. A civil penalty of $71,482 was assessed in an order issued on October 1, 1993.

In the Matter of Helena Chemical: Helena Chemical in West Helena, AR, blends technical grade pesticides and herbicides for distribution to warehouse facilities in the mid-west and southern United States. The facility also does contract blending and packaging of pesticides for other companies. The facility failed to notify the regulatory agency of hazardous waste activity and failed to follow hazardous waste storage and manifesting requirements. The facility was storing 15,000 gallons of a mixed hazardous waste in a tank at the facility. The company had failed to characterize this waste as hazardous and had actually manifested similar waste from the site as non-hazardous. The company was assessed a civil penalty of $98,125 in an order issued on December 29, 1993.

***U.S. v. Marine Shale Processors, Inc.* (W.D. La.)**: On August 30, 1994, the court issued an opinion requiring Marine Shale Processors (MSP) to pay the United States and the State of Louisiana an $8 million civil penalty for violating the RCRA, the CAA, and the CWA. The court also ordered Southern Wood Piedmont (SWP), a company that sent hazardous waste to the MSP, to pay a $25,000 civil penalty for sending hazardous waste to MSP was in violation of the RCRA storage permit regulations. Finally, the court prohibited MSP from disbursing dividends, royalties, loans, debentures and other funds to company shareholders and officers, except amounts to pay their normal current salaries and MSP's local, state and federal taxes. The MSP, SWP and the government have appealed portions of these decisions to the U.S. Court of Appeals for the Fifth Circuit.

TSCA

In the Matter of Asarco, Amarillo, Texas: An administrative complaint under the TSCA was issued to Asarco, Inc., Amarillo, TX, on September 29, 1993 for failure to comply with the PCB regulations. Violations included improper disposal of PCBs, inadequate records of PCBs, and failure to notify EPA of PCB waste handling activity. The proposed penalty in this complaint was $51,500. This complaint was settled on February 8, 1994, through the issuance of a CACO with a final penalty of $51,500. In addition, the CACO required that the company conduct post-verification sampling of a PCB spill that was the subject of a count contained in the complaint.

Central Power and Light Company, Corpus Christi, Texas: An administrative complaint under the TSCA was issued to Central Power and Light on September 30, 1994, with a proposed penalty of $90,750. Among the violations found were failure to properly mark PCB containers, improper storage and disposal of PCBs, and inadequate recordkeeping. The facility failed to cleanup three spills for 82 days, 69 days, and 58 days respectively.

CERCLA

***U.S. v. David Bowen Wallace, et al.* (N.D. Tex.) Bio-Ecology Systems Superfund Site, Dallas County, Texas**: On August 1, 1994, the United States filed a Notice of Lodging of a consent decree for recovery of past and future costs, as well as operation and maintenance costs. This consent decree, if entered by the Court, would provide for recovery of $8.34 million in U.S. response costs and $1.14 million in State of Texas response costs associated with implementation of a Superfund remedy at the Bio-Ecology National Priorities List (NPL) Site. The settlement resolves the liability of 73 defendants, including 59 *de minimis* generators of hazardous substances disposed at the site.

U.S. v. American National Petroleum Company, et al. (W.D. La.) Gulf Coast Vacuum Superfund Site, Abbeville, Louisiana, and Gulf Coast Vacuum Services Superfund Site, Vermillion Parish, Louisiana: In FY94, both an administrative order on consent and a consent decree were signed for this site where both the soil and a shallow perched aquifer are contaminated with oil field wastes containing barium, arsenic, mercury, cadmium, lead, benzene, and numerous other organic compounds. About 15,000 cubic yards of sludge and 19,500 cubic yards of site soils will be remediated. On September 28, 1994, an administrative order on consent became effective after a 30-day public comment period. The order, between EPA and 54 *de minimis* parties, allowed the parties to "cash out" their liability at the site by paying a settlement based on their volumetric percentage of waste at the site. The *de minimis* settlement raised $ 3.1 million for EPA expenses and contractor oversight of clean-up activities for Operable Unit 1 at the site.

On June 14, 1994, EPA completed negotiations for a proposed consent decree with 15 major Potentially Responsible Parties (PRPs), including many large oil companies. The parties signed the proposed consent decree which calls for a change in the remedy for organic contamination specified in the 1992 Record of Decision from incineration to biological treatment to the same treatment standards as incineration. The proposed consent decree will become effective after it is lodged and entered and after an Amended Record of Decision is issued. On January 26, 1994, EPA received the final close-out report from the 15 major PRPs for their work on Operable Unit 2 (the Interim Source Action) under a December 1992 unilateral administrative order. All activities under the order were certified complete except for Operation and Maintenance prior to the initiation of Operable Unit 1 construction; therefore, the PRPs have fulfilled their obligations under the unilateral order.

***U.S. v. City of Jacksonville, Arkansas* (E.D. Ark.) Jacksonville Municipal Landfill, Lonoke County, Arkansas, and Rogers Road Municipal Landfill, Pulaski County, Arkansas**: On April 6, 1994, the U.S. District Court, Eastern District of Arkansas, lodged two consent decrees for the Jacksonville and Rogers Road Municipal Landfill Superfund Sites which were subsequently entered on June 20, 1994. Approximately 800 cubic yards of soil in the two landfills are contaminated with dioxin that was produced by a local herbicide manufacturer. The City agreed to pay $100,000 in past costs.

***U.S. v. Gulf States Utilities Company* (S.D Tex.) Industrial Transformer/Sol Lynn Site, Harris County, Texas**: The first EPA Prospective Purchaser Agreement was lodged with the court on November 18, 1993, for the Industrial Transformer/Sol Lynn Site (the Site) in Houston, TX. The Site was the location of an electrical transformer salvage and recycling operation conducted by the property owner, Sol Lynn, from approximately 1965 to 1975. Contamination at the Site resulted from the transformer salvage operations and from a chemical manufacturing and supply company which leased property from Sol Lynn. The principal contaminants of concern are PCBs and TCE. Both of these substances were released onto the ground at the Site. TCE migrated into the ground water and PCBs remained in the first two feet of soil. The Site was placed on the NPL in March 1989.

On April 9, 1991, the United States filed a complaint against the Estate of Sol Lynn seeking past and future cleanup costs pursuant to §107 of CERCLA. The settlement was achieved through two documents. First, the consent decree settled the civil liability of the defendants for cleanup costs and injunctive relief while retaining certain "reopener" rights for previously unknown site conditions. The United States received an up-front payment from sale of site property, and will receive a percentage of a future sale of other real property owned by the Estate.

Second, the Agreement and Covenant Not to Sue, requiring Department of Justice approval, between EPA and the purchaser of the Estate's interest in the site required the purchaser to establish an escrow for the purchase. The Estate's payment under the consent decree was funded through this

escrow. In consideration for funding the Estate's payment, the purchaser received a covenant not to sue for civil liability and injunctive relief related to existing contamination at the Estate property and an adjacent tract. The agreement imposes certain use restrictions on current and future owners of the Site and will give EPA, the Texas Water Commission, and their cleanup contractors irrevocable access to the property for future remediation.

***U.S. v. Vertac Chemical Corporation, et al., Arkansas Department of Pollution Control and Ecology v. Vertac Chemical Corporation, et al.* (E.D. Ark.). *In the Matter of Hercules Inc., Uniroyal Chemical Ltd., and Vertac Chemical Corporation* (Administrative) Vertac Superfund Site, Jacksonville, Arkansas**: Hercules, Inc., the principal viable PRP agreed to comply with a UAO issued in March 1994 to perform site cleanup. Under the order, Hercules will implement a $28.5 million remedy to dismantle the old manufacturing process plant, and treat residual liquids and sludges left in old tanks and vessels. The combined costs to clean up all six operable units is expected to exceed $100 million.

Additionally, in the civil enforcement action associated with this site, on October 12, 1993, the U.S. District Court granted summary judgment to the United States on the issue of Hercules' joint and several liability for past and future costs related to remediation of the Vertac Site. That summary judgment was an interim ruling as part of ongoing CERCLA cost recovery action brought by the EPA against multiple parties.

***In the Matter of Amerada Hess Corporation, et al.*, PAB Oil Superfund Site, Abbeville, Louisiana**: In September 1994, EPA issued a UAO to approximately 30 potentially responsible parties (PRPs) requiring them to clean up the abandoned site. Most PRPs subsequently agreed to comply with the order. Under the order, PRPs will undertake a $13 million effort to bioremediate hazardous organic wastes left in pits and lagoons at this site in southern Louisiana. Surface water will also be treated and discharged. In addition to the UAO, EPA offered *de minimis* settlement to a large number of small volume contributors. Most of the *de minimis* parties have signed the settlement which is now being finalized. All non-settling PRPs have been offered an opportunity for Alternate Dispute Resolution (ADR). The ADR will not interrupt the ongoing site remediation being performed under the UAO, but will afford the PRPs an opportunity to resolve allocation issues that could not be resolved prior to the deadline for a "good faith offer" to settle.

In the Matter of Waste Management of Oklahoma, Inc., Mosley Road Sanitary Landfill Superfund Site, Oklahoma City, Oklahoma: A UAO was issued to Waste Management of Oklahoma (WMO) on January 28, 1994. The UAO requires WMO to conduct the Remedial Design and Remedial Action at the site. The site was contaminated with liquid industrial wastes which were hazardous substances and which had been disposed of in a solid waste landfill under state permit. The remedy selected in the Record of Decision was the capping of the landfill, construction of a gas recovery system, and remediation of the contaminated ground water. A settlement in the form of an administrative order on consent was reached with 19 *de minimis* parties on March 24, 1994, for $1.2 million. This settlement was included in the national *de minimis* initiative. The *de minimis* settling parties included 18 generators and a transporter.

In the Matter of Aluminum Company of America, Alcoa/Lavaca Bay Superfund Site, Point Comfort, Texas: The site includes the Aluminum Company of America's (ALCOA) Point Comfort Operations Plant which covers approximately 3,500 acres and Lavaca Bay which is approximately 68 square miles in size.

In May 1993 EPA proposed the Site for listing on the National Priorities List (NPL), and the listing became final on April 23, 1994. In January of 1994, EPA's site negotiation team set a goal of 45 days to reach agreement with ALCOA on a scope of work for a comprehensive remedial investigation and feasibility study (RI/FS). This deadline was established so as to try and meet

NOAA's and the State's statute of limitations. The result was an administrative order on consent.

In the Matter of National Zinc Site, Bartlesville, Oklahoma; Salomon, Inc., Cyprus Amax Minerals Company, and Kerramerican, Inc., National Zinc Company Superfund Site, Bartlesville, Oklahoma: On February 2, 1994, EPA issued a UAO for removal action at the National Zinc Site in Bartlesville, Oklahoma. During operation of the National Zinc smelter, lead and cadmium were deposited through air releases on surface soils within three miles of the facility. The UAO required PRPs, Salomon, Incorporated, and Cyprus-Amax, to remove lead contaminated soil from residential properties in the area contaminated by the smelter. In addition, this two-pronged process provided for state oversight in a separate agreement by the Oklahoma Department of Environmental Quality (ODEQ) with the PRPs to perform a RI/FS to address a long term remedy for the site. The RI/FS was carried out by the PRPs with a state Record of Decision targeted for late in calendar 1994.

Marco of Iota: An Alternative Dispute Resolution (ADR) process has been initiated to assist in reaching a cost recovery agreement at the Marco of Iota Superfund site in Iota, LA. Marco of Iota was a fuels blending and recycling facility located in Iota, LA. The Louisiana Department of Environmental Quality had repeatedly cited the facility operators for operational violations. In January 1992, the Louisiana State Police in conjunction with LDEQ closed down the facility and initiated a criminal investigation. At closure the operators abandoned a large volume of hazardous substances on the site. WPA identified over 600 potentially responsible parties (PRPs) and offered them the opportunity to conduct the cleanup. The PRPs declined the opportunity and EPA began a Fund removal action in July 1992. The removal was completed in June 1994, at a cost of $4.5 million.

Pab Oil: In 1994, EPA initiated an Alternative Dispute Resolution (ADR) process to help resolve allocation issues among Potentially Responsible Parties (PRPs) at the PAB Oil NPL site in Abbeville, LA. The site includes impoundments which were used to hold hazardous substances from oil field truck discharges. EPA has identified in excess of 30 PRPs. While the ADR process is not complete, most PRPs agreed to participate in the process and early signs are encouraging. The offer of ADR appears to have convinced PRPs to comply with the UAO for RD/RA and will hopefully lead to a cost recovery agreement based on the final allocation of liability.

South 8th Street: In 1994, EPA also initiated an ADR process to help resolve allocation issues among PRPs at the South 8th Street NPL site in West Memphis, AR. EPA has identified in excess of 30 PRPs. While the ADR process is not complete, most PRPs agreed to participate in the process and early signs are encouraging and EPA is hopeful that the effort will lead to an allocation which will facilitate a settlement agreement.

B.P. Chemical: This petrochemical plant in Port Lavaca, TX, had a release to the environment of ammonia in an amount just above the reportable quantity. A consent agreement and final order was signed October 6, 1993, concerning B.P. Chemical's late reporting of the release to the NRC under CERCLA §103. B.P., located in Port Lavaca, TX, agreed to perform certain SEPs to mitigate the penalty, which was reduced to zero because of uncertainty regarding the amount released. In return for the penalty reduction, B.P. provided the LEPC in Calhoun County with funding to purchase a weather radar for environmental determination. Additionally, B.P. purchased and installed a pump on the ammonia blow down stream to reduce pressure problems on the production unit. The projected cost of the two SEPs is $49,000. SIC code 2869.

Miles Inc: A consent agreement and final order was signed August 29, 1994, concerning Miles Inc.'s late reporting to the NRC of a release of dichlorodifluoromethane. This petrochemical plant should have reported the release immediately, as required by CERCLA §103. A penalty of $1,000 was agreed to by both parties. Miles, located in Baytown, TX, agreed to perform certain SEPs to

mitigate the penalty. The projected cost of the SEPs is $13,000.

REGION VII

CLEAN AIR ACT

***U.S. v. Archer Daniels Midland* (S.D. Ia.)**: In 1989, EPA began documentation of CAA violations at the Archer Daniels Midland (ADM) Cedar Rapids and Des Moines, Iowa, facilities resulting in establishment of 88 violations of PSD permit conditions, state-issued PSD permit conditions, and NSPS violations. The case was concluded with a consent decree, which required ADM to hire a contractor to conduct a company-wide environmental management audit, to document and recommend practices and procedures to ensure compliance with federal, state, and local environmental laws. The consent decree also requires payment of a civil penalty of $700,000.

***U.S. v. Hunt Midwest Mining, Inc.* (W.D. Mo.)**: A consent decree was entered on June 30, 1994, resolving notification, testing, and emission violations of NSPS Subpart OOO at two Hunt Midwest Mining, Inc. facilities. Hunt will pay a civil penalty of $134,800. Hunt owns two plants in Missouri, one in Kansas City and one in Randolph. Hunt Midwest Mining installed a new primary crusher and a new bin with loadout at the Kansas City, MO, plant, and replaced the Randolph, MO, plant in its entirety after the Subpart OOO applicability date of August 31, 1983. Hunt failed to give the required notifications, failed to conduct the required performance tests at the Kansas City plant, and was 30 months late performing these same requirements at the Randolph plant. There were also emissions violations at the Randolph plant.

In the Matter of Holnam, Inc.: EPA issued a 3008(a) complaint in July 1993, as part of the BIF regulations initiative against Holnam, Inc., which owns and operates a cement kiln in Clarksville, MO, manufactures Portland cement, and burns hazardous waste as fuel. The facility was unable to certify compliance with certain emissions standards by August 21, 1992, as required under the BIF regulations. The violations alleged in the complaint included failure to obtain a detailed analysis of hazardous waste before burning, inadequate waste analysis plan, and failure to minimize releases of hazardous waste. The consent agreement/consent order has been executed by all parties resolving the violations contained in the July 1993 BIF complaint. Holnam is to pay $100,874 in penalties, and must adjust their closure cost estimates and financial assurance for closure.

CLEAN WATER ACT

In the Matter of the Boeing Company: The Boeing Company filled approximately 1.4 acres of the Arkansas River channel with broken concrete, dirt, reinforcing bar, conduits (metal and plastic) and miscellaneous demolition debris. The administrative consent order requires the Respondents to develop, obtain approval from EPA, and implement a plan for removing the fill material and restoring the area to its full condition. The penalty paid was $30,000. EPA simultaneously filed a complaint and consent agreement against Boeing for violations of EPCRA §313 reporting requirements, conducted pre-filing negotiations, and reached settlement by which Boeing agreed to pay full penalty of $58,500.

***U.S. v. Beech Aircraft Corporation* (D. Kan.)**: On May 27, 1994, the court entered a consent decree resolving civil violations of the CWA at Beech Aircraft Corporation's Wichita, KS, facility. Under the consent decree, Beech was required to pay a civil penalty of $521,000 for its violations of federal categorical pretreatment standards for metal finishers, failure to meet the reporting requirements of the general pretreatment regulations, and failure to timely comply with an administrative order issued by EPA. In addition to paying a civil penalty of $521,000, Beech also agreed under the consent decree to perform a SEP valued at approximately $200,000 that consists of installing centrifuges or equivalent systems to remove sludge from its Wichita facility's existing water wash paint spray booths.

RCRA

In the Matter of Burlington Northern Railroad: An RCRA §7003 consent order was issued on July 8, 1994, addressing chlorinated solvent contamination in the groundwater in the northeast portion of the Hobson Yard, believed to have resulted from a leaking perchloroethylene (PCE) tank and from historical discharges of wastewater into unlined lagoons. Burlington Northern's Hobson Yard in Lincoln, NE, has a history of environmental problems. A multi-media inspection of the northeast portion of the Yard was done in the summer of 1992, and based on findings from the inspection, a UAO was issued to Burlington Northern in the spring of 1993 citing RCRA, CERCLA, CWA, and OPA authorities. The UAO required Burlington Northern to cease the discharge of oil and chlorinated solvents to surface waters, including a rare inland saline wetland located on Burlington Northern's property. The consent order requires Burlington Northern to characterize the extent of contamination, define the source(s), and develop remedial alternatives to address the same.

In the Matter of The Dexter Company: EPA Region VII issued an administrative complaint to The Dexter Company (SIC 2851) for RCRA violations at its storage facility in Fairfield, IA. The complaint charged The Dexter Company with the following RCRA violations: violation of a May 15, 1991 consent agreement/consent order Respondent previously entered into with EPA; storing hazardous wastes at its facility without having achieved interim status or having a permit for storage in violation of Section 3005 of RCRA; and failure to label or date hazardous waste containers. The total penalty proposed under this complaint was $280,537. Under the terms of the consent agreement, Respondent is to carry out a pollution prevention SEP valued at $776,131, pay a $32,125 penalty, and conduct closure at the Site. The SEP involves the Respondent changing the nature of its current painting operation to one which does not use solvents, thus ceasing its generation of this waste stream.

In the Matter of Missouri Highway Transportation Department: On September 30, 1994, Region VII issued a consent agreement/consent order requiring sampling, further clean-up if needed, and development of a plan for future handling of sandblast residue. The case involved RCRA violations resulting from sandblasting lead based paint from the Chariton River bridge and the subsequent handling of the sandblast residue. Missouri Highway Transportation Department (SIC 9621) will pay an initial penalty of $70,000. An additional $115,398 penalty will be deferred and subject to offset upon completion of SEPs estimated to cost more than $350,423.

In the Matter of Iowa Army Ammunition Plant: On March 8, 1994, EPA Region VII filed a consent agreement/consent order (CA/CO) settling a RCRA Section 3008(a) administrative enforcement case with the Iowa Army Ammunition Plant, Middletown, IA (IAAP) (SIC 9711). This was the first time the Army entered into a RCRA CA/CO that included penalties since the enactment of the Federal Facility Compliance Act on October 6, 1992. The twelve count complaint alleged violations of the groundwater monitoring requirements and of IAAP's operating permit conditions for storage and incineration of hazardous wastes. The complaint assessed an initial penalty of $201,640. During the negotiations the penalty was reduced to the amount of $138,921.75. The IAAP will initially pay $75,704 and the balance of the penalty, $63,217.75, will be deferred to allow for implementation of a SEP which is estimated to cost in excess of $300,000. If IAAP completes the SEP in two years, the deferred amount will be waived. The planned SEP will eliminate one of IAAP's NPDES permitted discharges of explosive contaminated wastewater.

In the Matter of G.E. Company: On June 30, 1993, as part of EPA's illegal operator initiative, a civil administrative action was filed against G.E. Company (SIC 3469) for its violations of RCRA at its facility in West Burlington, IA, for a proposed total penalty of $38,250. The settlement reached included the payment of $10,500, plus the

obligation to conduct a SEP, which involves the consolidation of two metal plating lines, with an estimated 35% reduction in the amount of hazardous wastes generated, and an estimated 80% reduction in the generation of plating rinse waters. The cost of the SEP totals an estimated $225,000.

In the Matter of Cuba Paint Company: On September 30, 1992, EPA issued a complaint to Cuba Paint Company, Inc. (SIC 2851), for violations of RCRA at its facility in Cuba, MO. The complaint proposed a total penalty of $257,335. On May 11, 1994, the parties reached a settlement whereby Cuba agreed to pay a mitigated penalty of $87,000, and to perform two SEP. The value of the SEPs total an estimated $417,000.

EPCRA

In the Matter of Kaw Valley, Inc.: This case arose out of an administrative complaint issued to Kaw Valley of Leavenworth, KS, by EPA alleging three counts of failure to file reporting forms as required under EPCRA §313. An Administrative Law Judge found Kaw Valley liable for failure to report. Kay Valley, however, argued that EPA's proposed penalty of $15,000 should be reduced. Kaw Valley, relying on information presented in a 1987 EPA seminar, believed it was exempt from reporting. The ALJ reduced the penalty to $12,750 on the grounds that the seminar presented a definition of "full-time employee" that differed significantly from the definition later adopted in EPA's final rule. The ALJ found that only a small reduction was warranted because, although it was informed in January 1989, by EPA officially that it was required to file, Kaw Valley submitted its Form Rs at least 6 months later, only after the EPA filed a complaint. Kaw Valley sought judicial review in the federal District of Kansas of the EPCRA §313 definition of "full-time employee" at 40 CFR §327.3, arguing that EPA lacked authority to issue the definition, and that EPA's rulemaking defining "full-time employee" failed to comply with the Administrative Procedure Act. Kaw Valley also appealed the penalty assessment. The federal district court found that EPA had authority to interpret the term "full-time employee," that EPA's interpretation was reasonable, that the rulemaking was procedurally adequate, and, alternately, that issuing such an interpretation was within the Agency's inherent authority and exempt from notice and comment requirements.

In the Matter of The Iowa Packing Company: A CACO was entered August 8, 1994, whereby the Iowa Packing Company of Des Moines, Iowa, agreed to pay $28,000 for failing to submit EPCRA §312 Tier II reports for ammonia to SERC and LEPC for 1988 and 1989, and for failing to report EPCRA §313 use of ammonia for calendar years 1987 through 1989. In addition, Respondent agreed to construct and implement a wastewater pretreatment facility for a cost of $850,000, which will significantly reduce pollutants discharged into the City of Des Moines, IA sanitary sewer system. Respondent also spent $11,500 for the installation and implementation of an ammonia diffusion system for its Des Moines, IA facility.

CERCLA

***U.S. v. Chemical Waste Management of Kansas, Inc.* (D. Kan.)**: On July 21, 1994, a cost recovery consent decree in this matter was entered with the court. The National Industrial Environmental Services Site (the Site) is a contaminated hazardous waste facility located near Furley, KS. The Site has been stabilized through remediation by Chemical Waste Management of Kansas, Inc. (CWMK) with EPA oversight. EPA continues its oversight with regular sampling and related activities. In this consent decree, CWMK has agreed to pay 90 percent of EPA's past costs ($1,561,594.24) plus 100 percent of all of EPA's oversight costs after the date of entry. In return, EPA is granting CWMK a covenant not to sue and contribution protection regarding the Site.

***U.S. v. TIC Investment Corp., et al.* (N.D. Ia.)**: On September 18, 1994, the court issued an opinion and order holding two parent corporations and a corporate officer/shareholder directly liable on summary judgment for costs of response at the White Farm Equipment Dumpsite in Charles City,

Iowa. The opinion is significant for two reasons. The decision held a parent corporation and a corporate officer directly liable under §107(a)(3) as arrangers for disposal. It also held the parent company liable on summary judgment. The court held that there must be some actual parent/officer involvement in the operations of the subsidiary, but that it is not necessary to show involvement in waste disposal activities or daily operations of the subsidiary. The opinion also contains a discussion of the policy considerations which support extending use of parent "owner/operator" liability case law to "arranger" cases.

In the Matter of the Big River Mine Tailings Site: On July 7, 1994, EPA issued an AOC requiring Doe Run Resources Corporation and St. Francis County Environmental Corporation to perform a non-time critical removal action designed to prevent any further releases of lead from the 600-acre tailings pile. The estimated cost of the work to be performed is $12 million. Under the terms of the AOC, Doe Run Resources agreed to perform extensive slope stabilization, regrading, and revegetation of the entire pile. The objective of the removal action is to prevent any further releases of lead-contaminated tailings from the site.

In the Matter of Lee Chemical Co. Superfund Site, Liberty, Missouri: A CERCLA §122(h) Agreement for Recovery of Costs filed on May 23, 1994, recovered $389,522 from the Department of Energy and Allied Signal, Inc., which was 100 percent of EPA's past response costs for the site located in Liberty, MO. The settlement was initiated as part of a cooperative EPA/state enforcement effort in which the State of Missouri took the lead for ensuring completion of the remedial action via an AOC with the site owner, a municipality, while the EPA pursued its past costs against the federal agency and government contractor parties who were the site's waste generators.

***U.S. v. Boehringer Ingelheim Animal Health, Inc.* (D. Neb.)**: This consent decree settled EPA's Superfund cost recovery case against Boehringer Ingelheim Animal Health, Inc. (BIAH) as a *de minimis* waste contributor settlement. BIAH contributed about 0.495 percent of the 1,354,801 pounds of hazardous substances processed at the Site. The total EPA costs incurred for the EPA clean-up of the Economy Products facility amounted to $3,812,461. BIAH's pro rata share of the response costs is calculated at $18,872. The $100,000 settlement includes a 400-percent premium.

In the Matter of Renner Road Shooting Park: The Renner Road Shooting Range Site is located in Shawnee, KS. It contains serious lead contamination from years of operation as a shooting park. EPA issued an Action Memorandum on March 18, 1993, for conducting a time-critical removal, which was completed in 1994. EPA incurred approximately $1 million in clean-up costs.

In September 1994, EPA issued two AOCs to the two *de minimis* parties pursuant to the authority under the *de minimis* waste contributor provisions of CERCLA §122(g)(1)(A). The *de minimis* settlements provide that the parties will pay a total of $41,250. The settlement amounts were $30,000 for one party and $11,250 for the other, based on the amount of waste each party contributed to the site (5 percent and 1.7 percent, respectively).

***U.S. v. City of Clinton, Iowa* (S.D. Ia.)**: In September 1994, EPA referred to the Department of Justice a *de minimis* landowner RD/RA consent decree that it is proposing to enter into with the City of Clinton, Iowa, pursuant to CERCLA §122(g)(1)(b). The City of Clinton has held title to the Chemplex Superfund Site since 1967 as part of an industrial development bond sale-leaseback arrangement. There is no evidence that the City has had any involvement with the Site other than as a nominal title holder who holds indicia of ownership to protect a security interest. Thus, the EPA is entering into a *de minimis* landowner settlement with the City of Clinton, Iowa. The *de minimis* settlement requires the City to provide site access to EPA and the other PRPs, and to comply with deed restrictions. In exchange, the City received a covenant not to sue and contribution protection.

***U.S. v. Midwest Asbestos Control, Inc., et al.* (D. Kan.)**: On July 25, 1994, Philip Buch, a former supervisor for Midwest Asbestos Control, Inc., and the company itself were sentenced in the District Court of Kansas after their respective guilty pleas. The pleas stemmed from the unlawful disposal of asbestos at the site of a related company, Midwest Metals, Inc.

Buch pled guilty to the CERCLA misdemeanor of failing to notify EPA of the existence of a facility at which hazardous substances had been disposed, a violation of 42 U.S.C. §9603(c). He was sentenced to 3 years probation and 100 hours of community service, and was fined $25 in Special Assessments. Midwest Asbestos Control pled guilty to the CERCLA felony charge of failing to notify the appropriate government agency of the release into the environment of a reportable quantity of a hazardous substance, a violation of 42 U.S.C. §9603(b). Midwest Asbestos was sentenced to a fine of $2,500 and a $200 special assessment.

REGION VIII

CLEAN AIR ACT

Sinclair Oil Corporation: On October 15, 1993, EPA filed a fully executed CACO for Payment of Civil Penalties, settling a §113(d) administrative penalty order issued May 20, 1992. The violations cited involved NSPS Subpart "J" CEM requirements, specifically the failure to install continuous emission monitors for all affected fuel gas combustion devices by October 2, 1991. The original administrative action sought a penalty of $105,187. The settlement reduced the penalty to $35,000 and gave credit of $70,187 in exchange for a SEP valued at about $270,000, resulting in a 3.85:1 offset ratio. The SEP required the upgrade of the existing sulfur recovery unit.

CLEAN WATER ACT

Dirt Merchant Construction/Sandra Tarr: On April 14, 1994, EPA issued an AO against Dirt Merchant Construction Company, Inc. and Sandra Tarr, a Delta, CO, landowner for violations of §404 of the CWA. The violations occurred when the company built two illegal dikes in the Gunnison River near Delta, CO, in endangered fish species habitat. The enforcement action successfully abated an imminent threat to river stability and endangered fish species. The owner of the property is now cooperating with the Corps of Engineers by seeking authorization for bank protection measures.

***Lucas Western* (Jamestown, North Dakota)**: On June 26, 1991, EPA referred the Department of Justice a case citing Lucas Western for violations of federal pretreatment regulations. Lucas Western discharges its wastewater to the Jamestown wastewater treatment plant. Lucas Western violated reporting requirements and pretreatment discharge limitations for pH and chromium and NPDES proceeded to refer the case independently. On May 4, 1992, the complaint was filed in Federal Court. In FY95, the Court entered a consent decree settling the case for $250,000, plus an environmental audit.

***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 referred the CENEX case to the Department of Justice. EPA agreed to settle this action with the Company for a penalty of $316,000.

***Burlington Northern Railroad* (W.D., Wisc.)**: The case against Burlington Northern, a registered corporation, is being jointly pursued by Regions V and VIII. It involves three incidents: [1] On June 30, 1992, several cars of a freight train operated by Burlington Northern derailed on or near a trestle over the Nemadji River in Wisconsin. Three of the cars fell from the trestle. One car, which contained a product called "aromatic concentrates," ruptured and discharged approximately 21,000 gallons of its contents into the Nemadji River. [2] On January 9, 1993, 25 cars of a freight train operated by Burlington Northern derailed on or near a track in the Wendover Canyon, adjacent to the North Platte River in Guernsey, WY. Eleven cars fell from the track. Several of these cars, which contained decant oil, ruptured and discharged at least 100,000 gallons or 2,380 barrels of oil into the North Platte River. [3] On May 6, 1993, nine cars of a freight train operated by Burlington Northern derailed from a track near Worland, Wyoming. Three of these cars, which contained clarified oil, ruptured and discharged at least 40,000 gallons or 953 barrels of oil into drainage ditches which empty into and are tributaries of the Bighorn River.

The spill into the Nemadji River released benzene, toluene, isoprene, naphthalene, and styrene in excess of their reportable quantities. The two Wyoming releases caused a film or sheen upon or discoloration of the surface of the North Platte

River, the drainage ditches of the Bighorn river or their adjoining shorelines, or caused a sludge or emulsion to be deposited beneath the surface of those bodies of water or upon their adjoining shoreline. Burlington Northern made proper notifications to EPA about the Wyoming spills.

In this civil action, brought under the CWA as amended by the Oil Pollution Act (OPA), EPA also sought $279,078 to recover costs incurred consistent with the National Contingency Plan under CERCLA and OPA, and natural resource damages totalling $250,000. The CWA penalties totaled $2.5 million.

Hub City, South Dakota: EPA issued a complaint dated December 2, 1992 charging Hub City with violations of the Clean Water Act and the General Pretreatment Regulations Reporting Requirements for failing to timely submit a BMR, a 90-day Compliance Report and Periodic Compliance Reports. EPA Region VIII and Hub City, Inc. have signed a consent agreement settling this administrative case. Hub City has agreed to pay a civil penalty of $12,500 and to undertake a SEP requiring the installation of a coolant recycling system, to recycle spent coolant from Hub City's machining process. The SEP will reduce loadings of biological oxygen demand to the City of Aberdeen, South Dakota's sewer. It is estimated that the cost of the SEP will be at least $68,000. The project will be completed by Hub City by December 31, 1994. The cash penalty amount of $12,500 recovers economic benefit and the cost of the SEP ($68,000) is more than two times the gravity which was calculated at $27,000.

City of Sioux Falls, South Dakota:: EPA Region VIII and the City of Sioux Falls, South Dakota have agreed to settle this Clean Water Act administrative case for a civil penalty of $26,250 and the undertaking by the City of a SEP. The SEP is a household hazardous waste recycling program which cost will be in the $150,000 - $200,000 range. EPA initiated this action by issuing a complaint to the City dated November 19, 1992 alleging violations of the Clean Water Act, its NPDES permit and the General Pretreatment regulations codified at 40 CFR Part 403. Most of the violations relate to the City's failure to properly implement the Industrial Pretreatment requirements of 40 CFR Part 403.

Star Circuits: EPA Region VIII and Star Circuits, Inc. have agreed to settle this Clean Water Act administrative case for a civil penalty of $17,500 and the undertaking by Star Circuits of two SEPs requiring environmental audits of both the Star Circuits facility, as well as Star Circuit's parent, Daktronics' facility, both located in Brookings, South Dakota. The second SEP is a waste minimization project for the Star Circuits facility. It is estimated that the costs of the SEPs will total approximately $30,000.

SDWA

Town of Meeteetse, Wyoming: On September 1, 1994, EPA issued an emergency administrative order to the Town of Meeteetse, Wyoming. The order was issued when tests indicated the presence of Giardia in the finished drinking water. Additional testing, performed immediately after the emergency order was issued, detected the presence of Cryptosporidium in the finished drinking water.

The emergency order required the Town to provide an alternate source of potable water; provide public notice of the presence of microbiological contaminants in the public water supply; issue a boil water notice to those served by the system; perform an evaluation of the system to determine changes necessary to bring the system into compliance with the filtration requirements for a system that uses a surface water source; and submit quarterly reports on progress made toward bringing the system into compliance with requirements for a system that uses a surface water source.

City Oil Corporation: A default judgment was entered against Christopher Martin Pedersen requiring compliance and assessing a penalty of $1.8 million. The case against City Oil Corporation resulted in the same judgment, including the $1.8 million penalty. There were numerous violations of the UIC program for 19 injection wells located on or near the Blackfeet

Indian Reservation in Northwestern Montana. Violations included: unauthorized injection, failure to maintain gauges, monitor, report perform mechanical integrity tests, plug and abandon, etc. City Oil Corporation filed for bankruptcy and the bankruptcy court ordered that the wells could be abandoned from the company's liabilities.

RCRA

Reclaim Barrel: This facility is a former barrel reconditioner located in West Jordan, Utah. Following an inspection in FY94, it was identified as an illegal storage and disposal facility. Three Regional programs (RCRA, CERCLA, and NPDES) coordinated their information requests and sampling. An initial RCRA §3008(a) complaint and order was issued on September 14, 1994. The proposed penalty is $488,749.

EPCRA

Advanced Forming Technology: In FY94, an administrative complaint was issued to Advanced Forming Technology for failure to report under EPCRA §313 for the use of 1,1,1-Trichloroethane (TCA). As a result, EPA and Advanced Forming Technology settled in FY94 for a penalty of $8,110 and a SEP costing approximately $20,000. The SEP required the facility to purchase and install Vapor Trap Freeboard Chillers and Mylar Rolling Covers on each of the two solvent degreaser baths in order to reduce the amount of TCA released to the environment. The outcome of the project resulted in a 35-percent usage reduction of TCA, while production output increased by 45 percent.

***Accurate Plastics* (now SPM/Denver)**: On March 2, 1992, an administrative complaint was issued to Accurate Plastics for failure to report under EPCRA §313 for the use of Ethyl Ketone and Toluene in 1989. EPA and Accurate Plastics settled the case in FY94 for a penalty of $2,060 and a SEP costing approximately $89,742. The facility purchased and installed a Graco-Assisted Airless Paint Spray Unit and a Fanuc Robotics Spray Unit to reduce total VOCs releases to the atmosphere by as much as 10 percent.

Denver Metal Finishing Company: In December 1991, EPA issued an administrative complaint against Denver Metal Finishing Company for failure to report under EPCRA §313 chemicals that were otherwise used. In FY94, the case was settled requiring the facility to pay a monetary penalty of $8,900 and to undertake a SEP requiring the purchasing and installation of a DSF 12 DynaSand Filter. The DynaSand Filter is a continuous backwash, upflow, deepbed granular media filter. The filter media is continuously cleaned by recycling the sand internally through an airlift pipe and sand washer. The purpose of the filter is to remove any heavy metals from waste generated during the process conducted by the facility.

Nephi Rubber Products: An EPCRA §311/312 compliance inspection was conducted at the facility in Nephi, Utah, and $49,920 in proposed penalties were assessed as a result of the inspection findings. In addition to the EPCRA violations, the State of Utah issued a NOV and CO for RCRA violations. Prior to the issuance of the complaints, the company filed a petition for bankruptcy. The company has little, if any, ability to pay a penalty.The State of Utah and EPA will negotiate with the Respondent on which the P2 project is to be undertaken by the facility as a SEP.

Thatcher Chemical Company: Over 100 pounds of sulfur dioxide was released into the environment when a hose connection failed during a transfer from rail car to fixed tank. Notification to the proper authorities was delayed—a violation of EPCRA §304. Proposed penalties in this complaint were $33,250. Negotiations with the Respondent on a SEP as partial settlement to this complaint were successful. The SEP included the construction of a building with scrubbing equipment for enclosure of vehicles while loading products to prevent future releases into the environment of hazardous chemicals.

FIFRA

Biotrol International, Inc.: EPA settled administrative actions against Biotrol and Stepan

Company (subregistrant and registrant) for making unsupported claims for the disinfectant vacusal. EPA also finalized settlement of two previous cases against Biotrol for a $21,000 penalty.

CERCLA

***Apache Energy and Minerals Co.* (D. Colo.)**: On December 15, 1993, the district court entered a consent decree in which the Denver and Rio Grande Western Railroad (D&RGW) agreed to reimburse EPA over $1,125,000 in past response costs at the site. D&RGW also agreed to conduct a feasibility study and implement remedies to be selected by EPA in the future for certain portions of the site. On August 17, 1994, the district court entered a consent decree in which Hecla Mining Company agreed to pay $516,000 for past and future response costs. The United States as defendant agreed to pay EPA $172,000 for response costs to resolve claims for its potential liability at the site. On August 26, 1994 the U.S. District Court entered a consent decree in which Asarco, Inc., Resurrection Mining Company, Newmont Mining Company and the Res-Asarco Joint Venture agreed to reimburse EPA for $7.4 million in past response costs at the site. The Settling Defendants also agreed to complete feasibility studies and perform remedial actions at a majority of the site. It is estimated that Settling Defendants commitment to perform work at the site is in excess of $60 million.

***Smuggler-Durant Mining Corporation* (D. Colo.)**: On July 6, 1994, the court entered a civil consent decree in which the Atlantic Richfield Corporation (ARCO) and the United States Department of Interior both agreed to pay $1.6 million each for past response costs incurred at the Smuggler Mountain Superfund site in Aspen, CO. The Department of Interior paid their portion of the settlement from the newly established DOJ judgment fund. In addition, EPA concluded very difficult and lengthy negotiations with both Pitkin County and MAXXAM. Two civil consent decrees were completed in late FY94. The County decree was lodged in December 1994 and the MAXXAM decree should be lodged in January 1995. The conclusion of negotiations with these parties in FY94 means that only one party of the original eleven parties that were sued by the United States in 1989 now remains in the CERCLA§107 litigation.

Clear Creek/Central City Superfund Site, Western Diversified Builders: EPA assessed stipulated penalties in the amount of $44,000 for violations of an AOC for Removal Action at the Clear Creek/Central City Superfund site. Under the order, Respondent was obligated to perform a removal action at the National Tunnel portion of the site. The action included piping of discharge from a mine and the removal and proper disposal of contaminated soils. Despite repeated notices and warnings, Respondent failed to submit status reports and was substantially behind schedule. EPA imposed penalties to ensure a return to compliance for reporting violations and to push completion of the removal action. After issuance of the penalties, Respondent returned to compliance and agreed to complete the project according to a revised schedule. EPA agreed to settle payment of the penalties for $22,000, if Respondent completed the project on schedule. Respondent completed the project on schedule and made payment of $22,000 as final resolution of the penalty action.

Whitewood Creek: EPA's Cost Recovery Program sent its annual bill for oversight costs in the amount of $681,164 to Homestake Mining Company (Homestake) on May 14, 1992, pursuant to a consent decree with Homestake. On June 9, 1992, Homestake invoked the dispute resolution and placed the $681,164 in an interest-bearing escrow account. Several letters and phone conversations occurred during the following year with no resolution. On March 2, 1993, EPA sent its second annual billing to Homestake in the amount of $238,966.23. Homestake, again, disputed this bill and placed the amount in another interest- bearing escrow account. In FY95 EPA received a check for $992,204 from Homestake Mining, the total amount in dispute. In addition to collecting $63,604 in interest that had accumulated in the Escrow Account, EPA during this period, discovered an additional $8,471 in expenditures that were omitted from original billings.

Petrochem/Ekotek Site: EPA's Cost Recovery Program billed the Ekotek site Remediation Committee (ESRC) PRPs for oversight costs pursuant to AOC (CERCLA-VIII-92-21) for a RI/FS in the amount of $416,636.39 in August of 1994. The ESRC objected to many of EPA's oversight costs, EPA's cost accounting procedures, and the level of documentation that was provided. In FY95 the ESRC paid EPA the total amount in dispute.

Petrochem/Ekotek: During FY94, EPA conducted a *de minimis* settlement project resulting in settlement proposals being offered to over 1,000 Potentially Responsible Parties (PRPs) who were believed to have sent waste materials to this Superfund site. Early projections for cleanup costs at the site had been projected at approximately $69 million. In an effort to be fair to these smaller waste contributors, EPA moved quickly, sending out hundreds of CERCLA 104(e) Information Request letters, proposing settlement offers and reviewing eligibility for *de minimis* settlement. In July, 1994, the Hazardous Waste Management Division Director signed 363 administrative orders on consent, including 16 federal entities. This expedited *de minimis* settlement is anticipated to generate $7.8 million. The funds will be placed in a special account to be used for site cleanup and EPA oversight of the selected remedial action, which is projected to occur in the Spring of 1995. EPA has also initiated proposed *de minimis* settlements with two additional groups at the site totaling 38 parties. One of these groups include parties who have successfully demonstrated to EPA their inability to pay the full settlement. EPA has offered these parties reduced settlement payments in an effort to ensure significant but fair PRP participation in the cleanup of the site. It is anticipated that when these additional settlement are finalized, total *de minimis* settlements for the site will total $8.3 million.

Colorado School of Mines Research Institute: Waste materials which resulted from work performed by CSMRI at the facility include low-level radioactive waste, lead, arsenic, and other heavy metals. Removal actions began at the Site on January 25, 1992, in response to a water main break. Negotiation for a removal AOC started almost immediately; however, these negotiations were not successful. A *de minimis* settlement was offered to 56 PRPs on June 10, 1994. The offer was accepted by 47 PRPs.

The *de minimis* AO was finalized in FY95, for a total of $1,340,584. One *de minimis* PRP was a federal facility, the Tennessee Valley Authority, and the remaining PRPs were private companies or corporations.

North American Environmental, Inc.: The North American Environmental, Inc. (NAE) Site engaged in the business of collecting, packaging, transporting, and disposing of waste oils and debris (transformers, capacitors, light ballasts, etc.) containing PCBs. Other contaminants found at the Site included solvents and cyanide. NAE began receiving wastes at the Site in September of 1986. In August of 1990, NAE submitted an application to EPA for a commercial storage permit for PCB-contaminated wastes for the Site. EPA denied NAE's application for a permit due to the failure of NAE to provide sufficient and/or complete information regarding a financial assurance mechanism required for closure. On October 5, 1990, EPA notified NAE that it should not accept any more waste at the Site, and that it should dispose of the remaining inventory within 30 days. On December 3, 1990, EPA notified NAE that it was denied final storage approval and that it should close the facility. NAE claimed financial inability to do so, and abandoned the Site.

On February 28, 1992, EPA allowed the landowner (Freeport Center Associates), to provide an opportunity for the generators of the waste stored at the Site to retrieve and dispose of their own wastes, according to EPA protocol, from March 1, 1992, through September 1, 1992. On September 2, 1992, approximately 700 drums and 26 transformers remained at the Site. In addition, four railroad tanker cars, containing varying volumes of liquid waste and one railroad boxcar containing approximately 15 drums of waste remained at the Site. EPA negotiated a removal AOC with Freeport Center Associates, the current owner of the Site, and the U.S. Defense Logistics

Agency, a generator of wastes at the Site. The AOC was issued to the two above-mentioned Respondents on October 5, 1993. The AOC required that a site inventory be completed prior to the start of the removal action.

Respondents were found to be in violation of the AOC for failure to notify EPA in writing seven days before beginning the site inventory of hazardous substances and for failure to submit daily, weekly, and monthly reports as required by the AOC. EPA assessed stipulated penalties for these violations and sent a demand letter for $12,000 to the Respondents on March 23, 1994. Payment was received on April 4, 1994. The PRP-lead removal action began on August 1, 1994 and is scheduled to be complete by the 3rd quarter of FY95.

REGION IX

CLEAN AIR ACT

***U.S. v. Shell Western E&P, Inc.* (E.D. Calif.)**: On August 11, 1994, the court entered a stipulation and order of dismissal in which Shell Western agreed to pay $337,000 in civil penalties in order to settle a civil action brought under the CAA. This action arose from Shell Western's violations of California SIP requirements applicable to oil recovery at the company's Belridge Oil Field in Kern County, CA. The civil complaint alleged violations relating to emissions of VOCs and breakdown reporting violations. An NOV was issued to Shell Western after EPA reviewed the company's responses to information requests under §114 of the CAA.

***U.S. v. TABC, Inc.* (C.D. Calif.)**: On May 26, 1994, the court entered a consent decree in which TABC agreed to pay $485,000 in civil penalties and to install and operate pollution control equipment in order to settle a civil action brought under the CAA. This action arose from TABC's violations of California SIP rule that limits the VOC content of coatings applied to automobile parts at TABC's facility in Long Beach, CA. The civil complaint alleged that TABC violated the SIP at its facility by using coatings with VOC contents that exceeded the limits imposed by the SIP rule.

***U.S. v. Minerec, Inc.* (D. Ariz.)**: On August 26, 1994, EPA issued an emergency order to Minerec Mining Chemicals, a chemical manufacturing plant located in the San Xavier District of the Tohono O'odham Nation in Arizona. EPA made a finding that operations at the Minerec facility presented an imminent and substantial endangerment to the public health or welfare or the environment and issued an order requiring that Minerec shutdown its manufacturing operations. That order was subsequently amended to allow limited production at the facility, and to require that Minerec install monitoring devices. This case involves the precedent setting use of a CAA §303 order to close down a facility based on the risk of uncontrolled releases of hazardous chemicals.

***U.S. v. All American Pipeline Company* (C.D. Calif.)**: On September 19, 1994, the court entered a civil consent decree in which All American Pipeline Company (AAP) agreed to pay $714,000 in civil penalties. AAP also agreed to perform an SEP and injunctive relief. For the SEP, AAP agreed to remove three internal combustion (IC) engines, thereby eliminating substantial NO_x emissions.

CLEAN WATER ACT

***U.S. v. American Global Line, Inc.* (N.D. Calif.)**: On September 20, 1994, the captain of an 800-passenger luxury liner and two shipping company executives pled guilty in federal court in San Francisco to illegally dumping several tons of debris into the ocean. The firm, American Global Inc., pleaded guilty to a felony violation and was fined $100,000. Lloyd R. Haugh, captain of the Independence, pleaded guilty to a misdemeanor offense for instructing his crew to illegally dump about five tons of debris into the ocean in May 1992. He was ordered to pay a $5,000 fine and placed on probation for a year. The incidents involved the dumping of renovation debris from the cruise ships Independence and Constitution during trips from Honolulu to Portland and Honolulu to San Francisco.

Two corporate officers of American Global Line, Peter Bianchi Jr., senior vice-president for operations, and Robert Elder White III, vice president of marine operations also pleaded guilty to a misdemeanor. They were each fined $5,000 and placed on probation for a year.

***U.S. v. Magma Copper Co.* (D. Ariz.)**: On November 8, 1994, the court entered a consent decree resolving a suit brought by EPA and the State of Arizona against Magma Copper Co. The suit was brought in response to violations of the CWA and related State law at three copper mining and processing facilities operated by Magma in southeastern Arizona. The decree requires Magma to pay penalties of $385,000 to the United States

and $240,000 to Arizona. The decree also requires Magma to undertake compliance measures and to complete a SEP designed to control contamination at an abandoned mine. The cost to Magma of implementing the SEP is difficult to predict prior to completion of the project planning phase, but is estimated to be $1.5 million. The decree further requires Magma to pay $50,000 to fund three additional SEPs which the U.S. Forest Service will complete to benefit the affected watersheds.

***U.S. v. City and County of Honolulu* (D. Haw.)**: On October 3, 1994, a consent decree was lodged resolving a CWA enforcement action brought by the United States and the State of Hawaii against the City and County of Honolulu. This action arose as a result of the City and County of Honolulu's poor maintenance of its sewer system, which resulted in over 300 spills of raw or partially-treated sewage into Hawaiian waters (including a spill of 50 million gallons of raw sewage into Pearl Harbor in 1991 that attracted national attention). The City and County of Honolulu also failed to implement an adequate pretreatment program to regulate the discharge of toxics from industries discharging into its sewer system.

Under the consent agreement, the City and County of Honolulu will pay a civil penalty of $1.2 million and has committed to improve the operation and maintenance of its sewer system—including the renovation of 1900 miles of sewer lines over the next 20 years and to develop and implement a pretreatment program to regulate the discharge of industrial toxic wastewater. Under the decree, the City and County of Honolulu has also committed to spend $30 million on SEPs for treating and reusing wastewater and sludge. Honolulu will recycle 10 tons of sewage sludge per day by 1998 and 10 million gallons of wastewater per day by the year 2001.

***U.S. v. Southern Pacific Transportation Corp.* (E.D. Calif.)**: On March 14, 1994, a consent decree was lodged in court resolving the remaining claims of the United States arising from the 1991 spill of metam sodium into the Sacramento River caused by a Southern Pacific train derailment on July 14, 1991.

The settlement resolves the causes of action against Southern Pacific Transportation Company, its parents and subsidiaries, against the General American Transportation Corporation and GATX Corporation (owners of the tank car), as well as against the companies that were lessors/lessees of the tank car. The settlement provides for recovery of $36 million in response costs, which provides for full payment of all EPA response costs. The decree also requires payment of a $500,000 CWA civil penalty, equivalent to the statutory maximum for the violations in question. In addition, the consent decree requires that the Settling Defendants establish a $14 million fund to be administered by the natural resource trustees, including the U.S. Fish and Wildlife Service, for use in restoration/mitigation of natural resource damages.

***U.S. v. Teledyne, Inc.* (S.D. Calif.)**: On April 12, 1994 a consent decree was entered resolving the CWA enforcement action against Teledyne, Inc. for violations at its Ryan Aeronautical facility in San Diego, CA. The decree requires Teledyne to pay a civil penalty of $500,000 in settlement of the United States claims. This action was brought as a result of Teledyne's repeated violation of the federal categorical pretreatment standards governing metal finishing point sources. Teledyne had also violated the prohibition against dilution as a substitute for treatment by adding unnecessary quantities of water to its process wastewater prior to discharge into the City sewer system.

***U.S. v. County Sanitation Districts of Los Angeles County* (S.D. Calif.)**: On June 6, 1994, a consent decree was entered resolving the CWA enforcement action against the County Sanitation Districts of Los Angeles County (CSDLAC). The United States and the State of California sued in January 1992 to compel CSDLAC to achieve secondary treatment at the Joint Water Pollution Control Plant located in Carson, CA, and to address additional intermittent violations of other permit conditions. Under the terms of the consent decree, CSDLAC was required to pay a civil

penalty of $300,000 to the United States and a penalty of $200,000 to the State of California. The decree further requires CSDLAC to complete a program to promote the beneficial reuse of its wastewater, and requires CSDLAC to implement a household hazardous waste collection program costing at least $1.2 million.

RCRA

***U.S. v. Hawaiian Western Steel, Ltd., Estate of James Campbell, Ipsco Inc. and Cominco Ltd.* (D. Hawaii)**: On August 2, 1994, the court entered the consent decree signed by three of the four defendants in this case. The decree provides for payment of $700,000 in penalties by all settling defendants jointly. The decree also provides that HWS will implement corrective action and closure at the facilities at issue and the Estate will annually survey its tenants concerning their compliance with environmental laws and organize programs educating its tenants concerning hazardous waste laws and pollution prevention.

In the Matter of U.S. Naval Air Facility, El Centro, California: On August 29, 1994, EPA signed a CACO resolving an administrative complaint against the U.S. Naval Air Facility in El Centro, CA, involving various violations of the RCRA. Under the terms of the settlement, the Navy will pay a penalty of $100,000 and in addition will perform at the facility two SEPs relating to pollution prevention. The total cost of the two SEPs is approximately $250,000.

***U.S v. City of Los Angeles and U.S. v. Lockheed Corporation* (C.D. Calif.)**: On September 14, 1994, the United States filed settlements in five industrial pretreatment civil cases. The settlements totaled $750,000 in civil penalties. The defendants were Lockheed Corporation (an aerospace manufacturer), Chevron, U.S.A. (an oil refiner), Teledyne Industries (a computer chip manufacturer), Stainless Steel Products, Inc. (an aerospace manufacturer), and Zero Corporation (an aerospace manufacturer). All of the defendants operate facilities in the greater Los Angeles area and discharge into the City of Los Angeles sewer system. The defendants had numerous violations of EPA's categorical pretreatment standards, mostly for toxic metals, which contributed to the City of Los Angeles' discharge of toxics into Santa Monica Bay from its Hyperion Treatment Plant.

***U.S. v. Hawaiian Western Steel, et al.* (D. Haw.)**: Hawaiian Western Steel operated a secondary steel production plant in the Campbell Industrial Park in Ewa Beach, Oahu, HI. The plant's emission control system collected particulate matter from the furnace, thereby generating "baghouse dust" which is an RCRA hazardous waste due to high concentrations of lead and cadmium. Approximately 43,500 tons of HWS' waste filled a 4.5-acre on-site landfill. Three of the four named defendants, including Hawaiian Western Steel signed a consent decree which required them to pay $700,000 in penalties for violating RCRA's permitting requirements for storing and treating hazardous waste, and complete closure of the landfill and on-site and off-site corrective action at an estimated cost of over $5 million.

CERCLA

***U.S. v. Peter Gull and NL Industries, Inc.* (C.D. Calif.)**: On April 12, 1994, the court signed a judgment approving $2,687,982 in response costs and $3,670,274 in punitive damages for NL Industries' failure to comply with a CERCLA §106 order to clean up lead contamination at the B&H Battery site in Norco, CA. The only other defendant, property owner Peter Gull, had previously entered a settlement with the United States. In imposing the penalty, the court found that NL did not have a sufficient cause defense to the order because it "did not have an objectively reasonable basis for believing that EPA's order was either invalid or that EPA's order was arbitrary and capricious."

Pearl Harbor Naval Complex Federal Facilities Agreement: On March 17, 1994, EPA, the State of Hawaii, and the U.S. Navy signed the Federal Facilities Agreement (FFA) for the Pearl Harbor Naval Complex CERCLA site. This agreement contains several changes over prior FFAs, including strengthened language on splitting

stipulated penalties with the State and a modified dispute resolution process. Under the modified dispute resolution process, only the Secretary of the Navy may elevate disputes to the Administrator, and the parties state their intention that such disputes will be limited to issues of national significance.

***U.S. v. Montana Refining Co.* (9th Cir.)**: On August 17, 1994, the Ninth Circuit granted the United States' appeal of the district court decision in this CERCLA cost recovery case brought against C. Michael Wilwerding, Poly-Carb, Inc., and Montana Refining Company in connection with a removal action conducted at the Poly-Carb facility in Wells, NV. Montana Refining sent two shipments of toxic spent phenolic caustic to the Poly-Carb facility, operated by Michael Wilwerding, allegedly as "feedstock" for an untested recycling operation. Montana Refining paid the costs of shipment and did not have any arrangement with Mr. Wilwerding for payment for the feedstock. The phenolic caustic subsequently spilled. EPA incurred response costs of $482,410 in cleaning up the spill after Montana Refining failed to comply with an EPA order. The United States subsequently brought a cost recovery case, the first such action in Nevada.

In the Matter of Iron Mountain Mine: On April 22, 1994, EPA issued a CERCLA §106 order to the current and operators of the Iron Mountain Mine Superfund Site, T.W. Arman and Iron Mountain Mines Inc., and the former owners and operators Rhone-Poulenc Inc., requiring that they construct new facilities and operate facilities currently under construction to treat the three largest sources of acid mine drainage. This acid mine drainage eventually enters the Sacramento River where it has been responsible for fish kills and chronic adverse impacts on an important fishery population, including a commercial run and the winter run chinook salmon, an endangered species. Iron Mountain Mine was identified as the largest uncontrolled toxic point source in the nation under the CWA §304(l) program and was one of the first sites placed on the Superfund National Priorities List.

***U.S. v. Alcatel Information Systems, Inc.* (D. Arizona)**: On September 2, 1994, a civil consent decree for the remedial design and remedial action at the Hassayampa Landfill Superfund site ("Site") was lodged in the court. The settlement requires 12 major settling defendants to design, construct, and operate the remedy selected in EPA's Record of Decision for the Site and to reimburse EPA for all of its past and future response costs at the Site. The twelve major settling defendants are: Honeywell Inc.; Bull HN Information Systems, Inc.; Alcatel Network Systems; Digital Equipment Corp.; General Instrument Corp.; AT&T Corp.; Shell Oil Company; Arizona Public Service Company; American National Can Company; Intel Corporation; Reynolds Metals Company; and Maricopa County, AZ (all of the major settling defendants are generators except for Maricopa County, which owned and operated the Site). The settlement also provides for 74 de minimis corporate generators and 3 settling federal agencies (the U.S. Air Force, the Veterans Administration and the U.S. Forest Service) to resolve their generator liability at the Site by cashing out to the twelve major settling defendants.

REGION X

CLEAN AIR ACT

Alyeska Pipeline Services Company and ARCO Products: On November 4, 1993, the Regional Administrator entered a CACO resolving the three administrative complaints issued to Alyeska. The CACO assessed a final penalty of $135,000 and incorporated the requirements of an alternative monitoring plan (AMP) to be used at the pump stations in lieu of the CEMS. Under the alternative monitoring plan, Alyeska installed H_2S treatment process to remove H_2S from the fuel gas at the pump stations. The treatment, a dry chemical bed produced by SulfaTreat Company, will reduce SO_2 emissions to virtually zero (from the existing approximately 120 ppm). On September 30, 1994, the CACO was modified to allow until October 8, 1994 for the SulfaTreat systems to be installed and to require that the topping unit at Pump Station 8 be permanently shut down no later than March 31, 1995.

Norma and Frank Echevarria, d/b/a Echeco Environmental Services: On December 27, 1993, EPA held that respondents were strictly liable for violations of the CAA and asbestos NESHAP, EPA need not prove that visible emissions of asbestos occurred to prove violation of the wetting requirements, EPA could rely on the observations of inspectors to establish that asbestos is inadequately wetted and that once the asbestos material has been collected and contained, the wetting requirements of 61.145 no longer apply. EPA ordered Echeco to pay a penalty of $9,500.

Phillips Petroleum Company and AGI, Inc.: EPA filed an administrative case against these two companies alleging they had violated the asbestos NESHAP wetting requirements. After obtaining affidavits from Phillips documenting that it had hired and paid a qualified contractor (AGI) to perform the asbestos removal properly and an independent third party to monitor the contractor's work, EPA entered into a settlement ordering AGI to pay a penalty of $16,500, and a stipulation of dismissal of the claim against Phillips (at Phillips' and AGI's request).

Trans-AK Environmental Services & Construction Corp., Giddings Mortgage and Investment Company, and Neeser Construction: In FY94, EPA issued and resolved an administrative complaint against Giddings Mortgage and Investment Company, Neeser Construction, and Trans-Ak Environmental Services & Construction Corp. The complaint alleged violations of the asbestos NESHAP regulations during renovation of the city hall in downtown Anchorage, Alaska. The consent agreement assesses a penalty of $40,000. In addition, Trans-Ak agreed to develop and implement an internal asbestos control program.

***U.S. v. Global Travel, Jordan-Wilcomb Construction, and Allied Construction* (D. Id.)**: On October 18, 1993, a consent decree was entered in by the court resolving a complaint filed against Global Travel, the building owner, Jordon-Wilcomb Construction, the general contractor; and Allied Construction, the demolition contractor, in October 1992 for violations of the asbestos NESHAP. The complaint had alleged violations of the notice provision of the asbestos NESHAP and three work practice requirements during renovation of a building in Boise, Idaho. In the consent decree, the Defendants agreed to pay a $50,000 penalty and to injunctive relief.

U.S. v. Zemlicka and Davis: On October 20, 1993, two consent decrees were entered which resolved an asbestos NESHAP case in Idaho. The defendants were the owner of a building and the demolition contractor that he hired to demolish the building. A preliminary environmental assessment prepared for the owner showed the likelihood of asbestos-containing material in the building, yet he failed to point this out to the demolition contractor. The contractor hired more than a dozen itinerant workers who had no respiratory protection while working. The penalties paid were $25,000 (building owner) and $1,000 (contractor),

which reflect reductions for inability to pay. The injunctive relief is valued at $4,000 to $6,000.

U.S. v. Martech USA, Hobbs Industries, Chugach Electric Association, Inc.: In late 1993, the United States filed a partial consent decree resolving its claims against Martech USA in this asbestos NESHAP case. Martech had previously escrowed the $85,000 penalty, which the court then released to the United States after Martech filed for Chapter 11 bankruptcy protection in November 1993. The consent decree settled claims arising out of asbestos removal work performed by Martech USA, Inc. at a decommissioned power plant in Anchorage, Alaska in 1990. The first consent decree, entered in November 1991, resolved claims against Martech's co-defendants, Hobbs Industries and Chugach Electric Association, Inc.

U.S. v. Hagadone Hospitality Co.: On August 13, 1993, the United States filed a complaint against the Hagadone Hospitality Company of Coeur D'Alene, Idaho, alleging asbestos NESHAP violations under the CAA. At the same time the US lodged a consent decree in which Hagadone agreed to a penalty of $48,000 and injunctive relief. The violations occurred during the summer of 1990 when Hagadone was demolishing buildings to build a large resort. The consent decree was entered on November 30, 1993.

CLEAN WATER ACT

Wesley M. Sherer: An order was issued requiring removal of fill and bulkhead from the Stehekin River at Stehekin, WA. Fill had been put in by an individual for bank protection of private property within the boundary of the Stehekin National Recreation Area and in a designated National Scenic River. This settlement agreement provided for complete removal of the fill, restoration of the site, provision of a buffer, continuing negotiations for acquisition of a conservation easement on the property, and an understanding by the county to require future compliance with state shoreline protection measures. Fill removal was begun in the spring of 1994 and completed in November.

***U.S. v. Steve Burnett and Dean Schrader* (W.D. Wash.)**: In September 1994 a Plea Agreement and Judgment was entered which provided for establishment of a Trust Agreement. A Trustee was established to receive, hold, administer, and distribute more than $150,000 "to preserve, protect and restore wetlands in the Battle Ground area for the benefit of the community's citizens." The plea to the misdemeanor charge resulted from investigation of a citizen complaint of filling of wetlands adjacent to the Salmon River near Battle Ground, WA. Compliance was initially established with a fill removal order. The Defendants subsequently refilled the same area, again without benefit of a Corps of Engineers permit. Additional investigation by the Corps and EPA resulted in the bringing of criminal charges which were resolved by the Plea Agreement.

Kenco Marine: An order was issued for removal of fill material placed in the Duwamish River at Seattle, WA. The violator, Tom Kent (d/b/a Kenco Marine), placed fill, including concrete rubble, in an anadromous fish-bearing river which is currently the focus of watershed restoration efforts. EPA assumed the lead for enforcement from the Corps of Engineers and, following negotiations and issuance of a removal order, established compliance by fill removal and site restoration including revegetation. Significantly, the site is adjacent to a coastal America restoration project which was occurring simultaneously.

City of Ocean Shores, Washington: At the request of the Corps of Engineers, the EPA assumed the lead for enforcement against the City of Ocean Shores for placing fill in interdunal wetlands adjacent to the Pacific Ocean. Following difficult negotiations, the city removed the unauthorized fill, replanted the site, and restored an adjacent site which had long been degraded by vehicle traffic. The compliance action resulted in a net gain of wetlands functions and values.

Rodger Forni: Individual (d/b/a Lighthouse Inn) entered a settlement agreement which provided for creation and restoration of interdunal wetlands adjacent to the Pacific Ocean at Ocean Shores, WA. EPA assumed the lead for enforcement at

the request of the Corps of Engineers. Negotiations coordinated with the State of Washington resulted in wetlands creation, restoration (at a 2:1 ratio) and the deeding to the state of dunal wetlands and beach adjacent to a public access and state park in an accreting coastal reach. Educational signs indicating the significance of the wetlands were also erected by the violator.

Martin Nygaard: Repeat violator attempted to drain approximately 15 acres of freshwater marsh near Warrenton, OR, by ditching. EPA entered into a joint enforcement action with the State of Oregon Division of State Lands resulting in the complete restoration of the wetlands as well as a state fine.

Rogge Mills: The mill in eastern Oregon was responsible for unauthorized placement of woodwaste in approximately five acres of wetland in violation of the CWA and two state statutes. EPA assumed the Federal lead and in conjunction with the State of Oregon obtained fill removal from most of the wetlands as well as mitigation for remaining fill.

Washington State Department of Transportation (WSDOT): Unauthorized filling of several acres of wetland in conjunction with a major highway project in western Washington led to the halting of construction (at a cost of several million dollars) and an agreement by WSDOT to have middle and upper management undergo 404 training sponsored by the Corps of Engineers, EPA and the Washington State Department of Ecology.

Northlake Shipyards: EPA, DOJ and the state negotiated a complex settlement arrangement with Northlake and the bankruptcy trustee for Unimar for cleanup of the contaminated site. Under that arrangement, Northlake entered into a prospective purchaser agreement with the state that creates a trust fund to pay for remediation of existing sediment contamination and resolves Northlake's liability under the state's Superfund law. EPA agreed to terminate the existing CWA consent decree. Northlake will pay up to $1.1 million into the trust fund. This will pay for the cleanup contemplated by the original CWA decree.

City of Tacoma: The United States settled a CWA judicial action against the City of Tacoma, WA, for secondary treatment violations. Settlement includes payment of a $525,000 penalty and a SEP valued at $100,000 for the sewage treatment plant hookup of low income housing which currently discharges untreated wastewater directly to Commencement Bay.

Arctic Fisheries: The United States settled this CWA lawsuit (part of a Region X enforcement initiative) against the Alaska seafood processor for $725,000 for the unlawful discharge of fish wastes.

U.S. v. Stanley C. Rybachek: The United States settled the government's long-standing case against two Alaska placer miners, for a $15,000 penalty and dismissal of outstanding litigation the Rybacheks had filed against the government and individual employees in the Court of Claims and Alaska District Court, requesting millions of dollars in damages.

RCRA

***U.S. v. Robert and Geneva Stobaugh* (W.D. Wash.)**: The State of Alaska notified EPA of a Chapter 7 bankruptcy action filed by the Washington State owners of two Anchorage service stations with documented petroleum releases. The State requested EPA assistance in obtaining funds from the bankruptcy estate to clean up the sites. After receiving the Region's expedited referral on December 10, 1993, DOJ filed a protective proof of claim with the bankruptcy court for the estimated cost of investigating and cleaning up the contamination at the two sites ($427,000 to $779,000). In March 1994 an agreed order was entered by the bankruptcy court placing about $39,477, the funds remaining after payment of taxes and administration fees, into an environmental cleanup trust account to be used to remove the leaking tanks and begin investigation of the extent of contamination and cleanup.

***U.S. v. R.H. Bowles, Inc. and Central Marketing, Inc.* (E.D. Wash.)**: Case involved two closed service stations on the Yakima Indian Reservation in Toppenish and Wapato, WA. On May 27, 1994, EPA sent a referral to DOJ to file an objection to the trustee's intent to abandon these two properties as a part of the liquidation of these two corporations because petroleum contamination had been identified at the Toppenish site and the tanks had not been properly closed at either facility. As a result of the objection filed, the trustee withdrew his notice of abandonment and is currently in the process of selling the properties to a third party who has agreed to remove the abandoned tanks, conduct site assessments, and undertake remedial action at both properties as needed.

Alaska Railroad Company: In a settlement reached between EPA and the Alaska Railroad Company (ARRC) in April 1994 ARRC agreed to three Supplemental Environmental Projects (SEPs), which included the following: 1) installation of three state-of-the-art hazardous waste accumulation buildings to temporarily store the hazardous waste and used oil ARRC generates at its Anchorage, Alaska, repair and maintenance facility; 2) conducting an audit of ARRC's waste generation and management practices and implementing the findings of the audit; and 3) funding and sponsoring a series of used oil management and compliance seminars in Alaska for the benefit of similarly-regulated industries and the general public. These seminars will assist the public and the regulated community in Alaska to comply with EPA's newly-promulgated used oil regulations codified at 40 CFR Part 279. These SEPs were proposed by ARRC during settlement negotiations. Implementation of the SEPs will allow ARRC to discover and implement changes in its waste management practices in order to prevent improper management of those wastes. It was improper management which led to the violations alleged in EPA's complaint. When the complaint was originally issued in 1992, EPA proposed penalties of $1,829,574. The case was settled for a civil penalty of $685,999, with $274,400 of the penalty being suspended and deferred pending ARRC's successful completion of the three SEPs mentioned above. The settlement also requires ARRC to pay a $411,599 cash penalty, with quarterly payments over two years, plus interest. This case was one of the cases filed nationally by EPA as part of the 1992 RCRCA "Illegal operations Initiative."

Boeing Company: Seattle, Washington and Portland, Oregon: In January of 1994, the Boeing Company entered into two separate, very similar administrative orders on consent, pursuant to Section 3008(h) of RCRA, to take corrective action at its aircraft manufacturing/assembly facilities in Seattle and Portland. The orders obligate Boeing to implement specified interim measures and to evaluate and assess opportunities for additional interim measures while implementing the orders. Boeing will also perform RCRA Facility Investigations and Corrective Measures Studies for the facilities, and following Final EPA Corrective Action Decision(s), Boeing will implement the selected corrective measures, subject to a right to withdraw consent for the implementation of any specific final corrective measure(s).

U.S. Army, Fort Wainwright, Alaska: On April 29, 1994, Region X issued an administrative complaint and compliance order against the Department of the Army, Fort Wainwright, Alaska. The order alleges six violations of RCRA requirements, including illegal storage of hazardous waste and failure to make hazardous waste determinations. Region X and the state of Alaska have tried through both informal outbriefings and through a Federal Facility Compliance Agreement to address Fort Wainwright's failure to achieve compliance. The Region decided to use the enhanced enforcement authority of the Federal Facility Compliance Act of 1992 to assess a penalty of $659,450 both to underscore the significance of the violations and to force Fort Wainwright to come into compliance with RCRA requirements.

U.S. Army, Fort Richardson: On April 29, 1994, Region X issued an administrative complaint and compliance order against the U.S. Army, Fort Richardson, Alaska, for $1,337,332. In the order, EPA alleges twelve violations of the RCRA

requirements, including illegal storage of hazardous waste; failure to make hazardous waste determinations; inadequate closure, contingency and waste analysis plans; and failure to obtain detailed physical and chemical analysis. As with Fort Wainwright, Region X and the State of Alaska have addressed Fort Richardson's noncompliance over the past four years with notices of noncompliance, informal and formal outbriefings and through a Federal Facility Compliance Agreement. Because these past efforts have not been successful, Region X is taking this enforcement action to force Fort Richardson to come into compliance with RCRA.

CERCLA

Commencement Bay – South Tacoma Channel: Well 12A, a municipal well in Tacoma, WA, was contaminated by organic chemicals from property presently owned by the Time Oil company.

Evidence uncovered in the Time Oil case indicated that the Boeing Company and the military (Army and Air Force) were potential generators at the site. DOJ filed *U.S. v. Boeing Company* in 1992; Boeing then countersued based on the possible military contribution. The parties settled in spring 1994 and a consent decree was lodged in December with the following terms. The Boeing Company will pay EPA $2.3 million to settle claims related to its alleged liability. Boeing has agreed to drop its claim against the United States for reimbursement of past and future cleanup costs which Boeing is required to pay EPA. The military has agreed to pay EPA $7.7 million to settle claims related to their alleged liability.

Bunker Hill: In a consent decree referred in March 1994 and entered by the court in November, EPA settled with six companies who owned or operated mines upstream from this 21-square-mile site in Shoshone County, Idaho. The site, which includes five communities, was contaminated by past mining and smelting activities. The respondents will continue the residential soil cleanups that were begun several years ago under an Agreement on consent using removal authorities. The estimated value of the work to be done by the respondents is $40 million. EPA has more recently settled with other PRPs for this site, and has undertaken Fund-lead cleanup actions at the Bunker Hill smelter complex, for which the owner-operators are bankrupt.

FEDERAL FACILITIES ENFORCEMENT OFFICE

RCRA/FFCA

RCRA/FFCA Penalty Order–Coast Guard, Kodiak, Alaska Facility: On July 14, 1994, EPA Region X issued a complaint against the U.S. Coast Guard Kodiak Support Center, Kodiak, Alaska, seeking $1,018,552 in penalties. The complaint resulted from two major violations of the RCRA: failure to properly monitor groundwater in an area where cleaning solvents had been dumped on the ground, and the illegal storage of hazardous waste without a proper permit from EPA. The complaint was the first action brought against a civilian Federal agency under the Federal Facility Compliance Act of 1992 (FFCA), an amendment to RCRA which allows EPA to assess civil penalties against federal agencies in the same way that it does against private companies.

Presidio of San Francisco: Region IX filed a complaint and citations May 9, 1994, against the U.S. Army Garrison, Presidio of San Francisco for violating federal environmental laws and proposed a penalty of $556,500 for the hazardous waste violations.

Besides paying the penalty, the complain charging hazardous waste violations required the Army to inspect each building on the Presidio for hazardous wastes and to remove all such wastes currently stored there by July 1, 1994.

Schofield Barracks: Region IX assessed $543,900 in penalties under the RCRA §3008(a), April 21, 1994, against Schofield Barracks, a U.S. Army facility located in Wahiawa, HI. Schofield Barracks is headquarters for the 25th Infantry Division and 45th Support Group. The facility operates numerous motorpools and maintenance shops that generate wastes such as waste paint, waste solvents, and contaminated waste oils which are listed as hazardous waste under RCRA.

Norfolk Naval Shipyard: EPA Region III issued RCRA §7003 emergency orders March 25, 1994 (traditionally used in the hazardous/solid waste area) requiring the Department of the Navy and the private operator of the municipal waste incinerator at the Norfolk Naval Shipyard to address air emissions. The order is designed to address the dioxin emissions in the short term.

As a result of the Navy's efforts following the order, a June 1994 stack test indicated that dioxin emissions have been reduced by 95 percent from one of the four units at the municipal waste incinerator. Region III and the Navy are moving to the other three units and hope to accomplish similar results.

Yorktown Naval Weapons Station, Yorktown, Virginia: EPA, the Navy, and the Commonwealth of Virginia reached settlement on an interagency agreement (IAG) for the Naval Weapons Station at Yorktown, VA. The Yorktown Naval Weapons Station is a 10,624 acre installation located in York and James City Counties and the City of Newport News. Hazardous substances and other contaminants of concern detected among 14 sites at WPNSTA-Yorktown included arsenic, cadmium, chlordane, ethylbenzene, explosives, heptachlor, hexavalent chromium, lead, mercury, PAHS, PCBS, phenols, TCE, TCA, 1,2-DCE, thallium, toluene, and zinc. EPA conducted an RCRA Solid Waste Management Unit Investigation at the WPNSTA, and issued a final report in December 1992. The final report identified 94 areas at the WPNSTA that require additional investigation under RCRA. Of the 94 identified areas, 10 areas will be deferred to the Virginia Department of Environmental Quality Underground Storage Tank (UST) Program. The agreement requires the Navy to determine the nature and extent of contamination at the Yorktown Naval Weapons Station. In addition, should any remedial action be necessary, the Navy will perform it.

Naval Surface Warfare Center, Dahlgren Division, Dahlgren, Virginia: EPA Region III, the Navy, and the Commonwealth of Virginia reached settlement on an interagency agreement

(IAG) for the Naval Surface Warfare Center, Dahlgren Division, Dahlgren, VA. The agreement requires the Navy to determine the nature and extent of contamination at NSWC-Dahlgren. In addition, should any remedial action be necessary, the Navy will perform it.

Fort Dix, New Jersey: Region II issued a Notice of Violation July 15, 1994, to Fort Dix, NJ, for a CWA violation. The Army violated the interim limits on biological oxygen demand contained in the order on consent EPA-CWA-II-91-95 and the final limits of the facility's NJPDES permit. Under the order, the Army will be responsible for the completion of an environmentally beneficial project (EBP) to offset the effects of the violation. The sum of the EBP due for the period in question, January 1994 through March 1994, is $4,000.

U.S. Naval Station Roosevelt Roads, Ceiba, Puerto Rico: EPA settled a dispute with the Navy at USNS-Roosevelt Roads in Puerto Rico. The dispute was over a revised consent order under the NPDES program for violations of an existing Federal Facility Compliance Agreement (FFCA). The CWA matter in dispute covered violations of the effluent parameters of the facility's NPDES permit and interim limits of an existing FFCA, as well as for overflows of the sewage collection system. A proposed order was originally issued on February 12, 1993. EPA has issued approximately three NOVs to the facility since 1990 under the CAA and the CWA (SPCC), and a Warning Letter pursuant to Subtitle I of RCRA (UST, all of which have been resolved or are on track to be resolved.

OFFICE OF REGULATORY ENFORCEMENT

CLEAN AIR ACT

***U.S. v. Atlantic Richfield Company and Snyder Oil Corporation* (D. Wyo.)**: EPA settled violations of the provisions of Part C-PSD of Air Quality PSD of the CAA, at the ARCO Riverton (Wyoming) Dome Gas Plant. This consent decree provides that the defendants pay a civil penalty of $875,000, the largest CAA settlement in Region VIII's history.

***U.S. v. W.R. Grace Company* (D. Mont.)**: EPA resolved an action against WR Grace for alleged violations of the work practice standards for demolition and renovation activities where the building contains asbestos. The alleged violations took place during demolition activities at Grace's vermiculite mill in Libby, MT. The $510,000 penalty paid by Grace in settlement of this action is the largest paid in settlement of an Asbestos NESHAP case in the Region and second nationally. In addition to the penalty, Grace also agreed to engage in a specific compliance program at 29 of its facilities across the nation as part of the settlement.

U.S. v. ICI International, Inc.: An administrative settlement agreement was executed by EPA on April 26, 1994 with the respondent, resolving numerous violations of the CAA committed over the past several years. The respondent is an importer of motor vehicles, who was licensed by EPA to convert motor vehicles that do not meet Federal emission requirements into complying vehicles. The settlement agreement required that the respondent lose its EPA import license for a year, hire an EPA compliance manager, and pay $10,000 in civil penalties. This case was the first time that an importer lost its license to import cars under EPA's motor vehicle imports program.

***U.S. v. JBA Motorcars, Inc. and Dr. Jacob Ben-Ari* (S.D. Fla.)**: On December 15, 1993, judgment was entered against the defendant by the court, resolving numerous violations committed over the past several years. The defendant was an importer of motor vehicles, who was licensed by EPA to convert motor vehicles that do not meet Federal emission requirements into complying vehicles. The court ordered the defendant to pay $196,000 in civil penalties. This was the largest penalty ever assessed under EPA's motor vehicle imports program.

***U.S. v. Daniel Rosendahl* (S.D. Tex.)**: On July 13, 1994, judgment was entered against the defendant by the court for $120,000. The district court found the defendant liable for importing 12 disassembled Citroen 2CVs that did meet Federal motor vehicle emission standards in violation of the CAA. Because the defendant had imported the cars as parts, instead of as whole cars, this case helped close a potential loophole in the CAA related to the importation of incomplete automobiles.

***U.S. v. Ken Ball and Phil McCreery* (W.D. Mo.)**: A consent decree was formally entered October 17, 1994. Ball, a scrap dealer, had sold McCreery, a muffler shop owner, used, untested automobile catalytic converters to be used as replacement parts on vehicles needing new converters, in violation of section 203 of the CAA. An improper or non-functioning catalytic converter can result in 400 to 800 greater greater emissions than would occur from the same vehicle with a proper converter. A complaint had been filed on September 29, 1993, and alleged up to 39 separate violations of the tampering prohibition of section 203 of the Act. Both Defendants made a showing of financial hardship. Based on that, the United States settled with Ball for $12,500 and with McCreery for $10,000.

TSCA

Town of Wallingford, Connecticut: Wallingford will test all town-owned transformers for PCBs and, at a cost of over a million dollars over the next 3 years, will remove all that were previously improperly disposed and pay a cash penalty of

$40,050, pursuant to this TSCA settlement negotiated by Tom Olivier.

Cressona Aluminum Company PCB Cleanup: The United States settled a judicial case against the Cressona Aluminum Company addressing the improper use, storage and disposal of PCBs at the company's facility in Cressona, PA. Cressona manufactures various extruded aluminum parts at its 115 acre facility on the bank of the west branch of the Schuylkill River and high concentrations of PCBs were previously used in the company's hydraulic equipment.

EPA's complaint sought injunctive relief under TSCA §§ 6 & 7 to address PCBs that presented an imminent hazard. The settlement requires Cressona to clean up the PCB contamination at the facility. The company will decontaminate all plant equipment, including the hydraulic and waste water treatment systems, and where necessary, remove concrete floors up to 1.5" depth. Plant outfalls will undergo a Toxics Reduction Evaluation to eliminate PCB discharge into the Schuylkill River. All PCB-contaminated debris will be disposed of in a proper manner.

USS Cabot/Dedalo: EPA learned on June 8, 1994 that the owners of the USS Cabot/Dedalo, a retired Navy warship, proposed to export the ship, which contains high levels of PCBs in its wiring. The presence of PCBs at levels over 50 ppb makes the ship subject to TSCA §6(e).

On June 27, 1994, EPA learned that the Foundation had a contract to sell the vessel for scrap and salvage to a company in the Republic of India and had requested export clearance from the U.S. Customs Service. EPA requested that Customs deny clearance until the Foundation could comply with TSCA §6(e). In response, on July 11, 1994, the Foundation sought a TRO in the New Orleans U.S. District Court, alleging that EPA is without statutory or other authority to instruct Customs to restrict the export of this vessel. EPA requested and DOJ has filed an action seeking a TRO to halt the export. DOJ has submitted a legal brief in opposition to the Foundation's motion as well as a complaint on behalf of EPA.

Port of New Orleans: The Port of New Orleans will remove and dispose of PCB transformers, capacitors and contaminated pads as part of a SEP under the terms of a September 12, 1994, CACO which EPA negotiated with the Board of Commissioners of the Port of New Orleans for violations of the TSCA PCB requirements. The Port also will pay a civil penalty of $8,520.

Sunshine Mining Company: EPA cited Sunshine Mining Company for improper disposal of PCBs both on the surface and underground at the Eureka Mine in Utah. Alleging 16 TSCA PCB counts, the proposed penalty is $109,500.

Imperial Holly Corporation: Imperial Holly Corporation will pay a $7,490 penalty and perform a $224,700 SEP involving removal and replacement of PCB equipment pursuant to a settlement with EPA of a TSCA case involving for PCB registration, record keeping, inspection and disposal violations.

EPCRA

General Chemical Corporation: On July 26, 1993, there was a release of approximately 7800 pounds of sulfur trioxide, an EPCRA extremely hazardous substance, from a railroad tank car located at the General Chemical facility in Richmond, CA—an area where environmental equity is of critical concern.

On September 29, 1993, EPA issued an administrative complaint to the General Chemical Corporation (GCC) with proposed penalties of $65,625 for violations of CERCLA Section 103 and EPCRA Section 304(a) and (c). These violations involved GCC's failure to immediately notify the NRC and the SERC of the release and, its failure to provide adequate written follow-up reports to the SERC as soon as practicable. On February 11, 1994, only 6½ months from the date of the release event, EPA closed the case with an executed consent agreement and consent order (CACO). The CACO required GCC to pay 100

percent of the $65,625 penalty proposed in the complaint and required them to certify that it had come into compliance with CERCLA Section 103 and all Sections of EPCRA.

Alaska Pulp Corporation: In Region X's first multimedia settlement, reached on February 17, 1994, Alaska Pulp Corporation (APC) will pay cash penalties of $64,600 for TSCA violations, $45,650 for TRI violations, and $27,068 for RCRA violations. The settlement also requires APC to spend at least $129,200 to dispose of PCB transformers at its Sitka facility; to spend a minimum of $83,000 to implement a "Nutrient Pollution Prevention Project" and a "Caustic Wash Reuse Project" at its Sitka facility; and to pay up to an additional $10,062 in cash if it does not expend at least $40,250 more on the Nutrient Pollution Prevention and Caustic Wash Reuse Projects (over and above the initial $83,000).

Trail Wagons: EPA inspected Trail Wagons, a Yakima, WA, van conversion operation, and found that it had used 1,1,1-trichloroethane and styrene in amounts exceeding the Toxics Release Inventory reporting thresholds. EPA filed an administrative complaint on October 22, 1992 for $51,000. The company submitted sales data supporting penalty reduction because of inability to pay, and proposed two SEPs which consisted of a solvent recycling unit and high efficiency spray equipment, at a total cost of $7,872, resulting in a final penalty of $7,314 which was paid in cash pursuant to a settlement entered on January 24, 1994.

Northwest Castings: Northwest Castings, Seattle, WA, a manufacturer of steel castings which contain chromium, nickel and manganese, was inspected by the EPA on June 10, 1993, The inspection revealed that the company exceeded the TRI reporting threshold for manganese. An administrative complaint seeking penalties of $14,200 was issued. After settlement negotiations, the company was assessed a penalty of $9,940, of which $4,970, was paid in cash, and the balance was deferred as credit for an SEP involving installation of a baghouse to reduce air particulate emissions.

FIFRA

Pinnacle Agricultural Technologies: A tip and complaint led EPA to ask the Arizona State Department of Agriculture to inspect two facilities suspected of distributing unregistered growth regulator products. Pinnacle Agricultural Technologies was charged with three counts of distributing the unregistered product "Boost" to three companies in Mexico without obtaining a foreign purchaser acknowledgement. The proposed civil penalty is $13,500. Westmark Ag Group was charged with distributing the unregistered product "BIOBOOST" within the United States and to Mexico without a foreign purchaser acknowledgement. The proposed penalty for the two violations of §12(a)(1)(A) is $7,000.

Accuventure, Inc.: Criminal and Civil Enforcement Coordination: EPA issued an administrative complaint on October 9, 1992, against Accuventure, Inc., alleging 13 violations for distribution of unregistered pesticides and one violation for an unregistered establishment. After Accuventure failed to respond to EPA's motion for accelerated decision on the issues of liability and penalty, or to Administrative Law Judge Frank Vanderhayden's order to show cause, Vanderhayden issued an order granting EPA's motion for accelerated decision with regard to both liability and penalty of $70,000. The penalty, which was due August 3, 1994, has not been paid and EPA is filing a collection action with the Attorney General.

Argent Chemical Laboratories, Inc.: Negotiations conducted during FY94 have led to settlement of EPA's July 8, 1993 complaint against Argent Chemical Laboratories, Inc. for sale of unregistered pesticides, sale of pesticides which compositions differed from those described on the product's Confidential Statement of Formula, export of products without required bilingual labeling, and pesticide misuse. The company has agreed to pay a penalty of 50,000, which was reduced by ability-to-pay considerations, for 21 violations.

MULTIMEDIA CASES

Allied Tube & Conduit: On September 30, 1994, EPA issued a multimedia administrative complaint against Allied Tube & Conduit for alleged violations of EPCRA and RCRA. In the EPCRA inspection, the company failed to report toxic chemical releases to the air in 1989. The RCRA inspection revealed numerous violations, including failure to properly mark containers, failure to record weekly inspections, failure to conduct personnel training, failure to adequately maintain fire protection equipment, failure to maintain adequate aisle space, failure to maintain closure of hazardous waste containers, and failure to properly prepare several hazardous waste manifests. Corrections of these multiple statutory violations will provide benefits to the public health and environment.

U.S. v. Columbus Solid Waste Reduction Plant: In response to an EPA administrative order and community concerns about dioxin emissions the city of Columbus agreed to shut down the Columbus Solid Waste Reduction Plant in Columbus, OH, an electricity generating facility for the city which operates six refuse and coal-fired boilers. EPA interest began after numerous citizen complaints about air emissions. EPA negotiated an AOC under RCRA §7003 to require the facility to design systems to achieve the lowest dioxin emissions due to be required by EPA's municipal combustion regulations.

Subsequently, several circumstances arose which affected the proposed AOC. First, citizens made numerous comments about the AOC at a public meeting. Second, a meeting was held between EPA and the Agency for Toxic Substances and Disease Registry on June 23, 1994, to discuss conducting human health evaluations of the area surrounding the facility. Third, two recent Supreme Court decisions may result in the facility greatly changing its operations. Then, on September 9, 1994, EPA issued a unilateral administrative order pursuant to RCRA §7003 requiring essentially the same injunctive relief as the AOC. In response, the city decided to authorize closure of the facility.

U.S. v. Southern Pacific: A second consent decree resulted in a multimedia settlement that will resolve the liability of a number of parties under a number of statutes (including Superfund, RCRA, CWA, FIFRA, and others) arising out of the 1991 train derailment and spill of metam sodium into the Sacramento River in California. The spill created a toxic plume which killed aquatic life along a long stretch of the river.

***U.S. v. Texas Eastern* (S.D., Tex.)**: On June 16, 1994, the Second Modification to the Texas Eastern Federal consent decree was lodged by the court. The modification incorporates the PCB and mercury cleanup provisions of the settlement negotiated between Texas Eastern and the Commonwealth of Pennsylvania into the federal decree and also allows the Agency to consider off-site remediation workplans on a case-by-case basis for all Texas Eastern sites located in 14 states. To date, 18 compressor station sites have been remediated pursuant to the federal consent decree. Six additional compressor station sites will be remediated in 1994, as well as 36 Off-Site Equipment Area Locations in Pennsylvania.

OFFICE OF CRIMINAL ENFORCEMENT

***U.S. v. Hartford Associates* (D. Md.)**: The court sentenced Hartford Associates, a New Jersey partnership engaged in property development, on October 7, 1993, to pay a $100,000 fine and to grant a conservation easement on more than 100 acres of wetlands for violating the CWA. Hartford, a limited partnership based in Berlin, NJ, pled guilty to one count of negligently discharging dredged or fill material without a permit in wetlands located on a 375-acre tract of land the partnership owns near Elkton, Maryland. Under the sentence imposed by Judge Nickerson, the partnership must pay one third of the $100,000 fine immediately and the remaining portion over a 2-year period of probation. The conservation easement must become effective within 30 days. The easement will effectively restrict further development of a large portion of the property.

***U.S. v. Penn Hills* (W.D. Penn.)**: Rejecting pleas of municipal poverty and taxpayer hardship, a federal judge, on September 8, 1994, sentenced the Municipality of Penn Hills, Allegheny County, PA, to 5 years probation and a $150,000 fine for illegally disposing of sewage sludge and other pollutants from three of its sewage treatment plants in violation of its NPDES permit and the CWA. On July 8, 1994, Penn Hills pled guilty to a three count information charging it with failing to remove and knowingly illegally disposing of sewage sludge and other pollutants in violation of the CWA from the three plants.

U.S. v. Reilly: Defendant William P. Reilly, a shipping company executive, was charged with a violation of the Ocean Dumping Act, 33 U.S.C. §1411(a), for the knowing discharge of approximately 11,000 tons of incinerator ash from the ship *Khian Sea*, a bulk cargo ship, into the Atlantic and Indian Oceans. On appeal, the convictions of Reilly and his codefendant, John Patrick Dowd, which included false declaration charges under 18 U.S.C. §1623(a) were affirmed. Issues relating to defendant Reilly's knowledge of the Ocean Dumping Act's permit requirements were not appealed.

U.S. v. Wietzenhoff: Michael Weitzenhoff and Thomas Mariani appealed their felony convictions for conspiracy and knowing violations of the CWA. The decision by the U.S. Court of Appeals for the Ninth Circuit presents a highly favorable precedent concerning the knowledge requirements of the CWA's criminal provisions. A jury convicted the two plant managers, Weitzenhoff and Mariani, of six felony counts. The judge sentenced Weitzenhoff to 21 months and Mariani to 33 months in prison. On August 3, 1993, the Ninth Circuit affirmed the convictions. The Court agreed with the District Court that the felony provisions of the CWA do not require proof that the defendants knew that their conduct violated the NPDES permit. The defendants then requested that the Ninth Circuit rehear the case *en banc*. On August 8, 1994, the Ninth Circuit denied the request and slightly modified its original opinion. The Supreme Court denied the defendant writ of certiorari on January 23, 1995.

***U.S. v. Laughlin*, 10 F.3rd 961 (2d Cir. 1993), *cert. denied*, 114 S.Ct. 1649 (1994)**: The defendant, an owner of a railroad tie treating business, was convicted after trial for knowingly disposing of hazardous waste without a permit in violation of RCRA and for failing to report the release of a hazardous substance in violation of CERCLA. The court held that the RCRA provision prohibiting knowing disposal of a hazardous waste without a permit, 42 U.S.C. § 6928(d)(2)(A), requires only that a defendant have a general awareness that he is performing acts proscribed by the statute, and that the trial court did not err in refusing to charge the jury that the government had to prove the defendant knew that the waste was identified or listed under RCRA. The court further held that under section 6928(d)(2)(A), the government does not have to prove that the defendant was aware of the lack of a permit to dispose of hazardous waste. Consistent with the RCRA ruling the court also found that section 9603(a) of CERCLA does not require proof of knowledge of regulatory requirements, but only that the defendant be aware

of his act. Thus, the trial court did not err when it failed to instruct the jury that the government must prove that the defendant knew the release of the hazardous substance violated the provisions of CERCLA.

***U.S. v. Advance Plating Works, Inc., et al.* (S.D. Ind.)**: Advance Plating Works, Inc., an electroplating and metal finishing shop located in Indianapolis, IN, was fined, and its owner and president, Eugene Doughty, was sentenced to jail and fines, on October 8, 1993. The defendants engaged in the tampering of samples and illegal discharges of company wastes into the Indianapolis sewer system under the CWA. Doughty sought to conceal his CWA violations by tampering with discharge samples which were being taken in order to determine compliance. Advance Plating also illegally stored and disposed of hazardous wastes at its facilities without a permit to do so. Doughty was sentenced to 12 months in jail, and ordered to pay a fine of $3,000 and restitution of $5,165. Advance Plating was sentenced to 3 years probation, and was ordered to pay a fine of $200,000 with $100,000 suspended.

***U.S. v. Carlo Arco and Automatic Plating Company, Inc.* (D. Conn.)**: Carlo Arco was sentenced to 15 months in prison for attempting to cover up the release of sodium cyanide from the company's Bridgeport, CT, facility. The June 24, 1994, sentencing followed the March 16, 1994, conviction of Arco and Automatic Plating Co., Inc. on one count of failing to report the release of a hazardous substance under the CERCLA and one count of knowingly introducing pollutants to the Bridgeport sewer system in violation of federal CWA categorical pretreatment standards.

***U.S. v. AT&T and Harry J. Kring* (E.D. Penn.)**: Harry J. Kring was sentenced to 3 years probation, 6 months of home confinement, and a $5,000 fine stemming from his plea of guilty to one count of negligent violation of the CWA and one count of making false statements to the EPA and the Pennsylvania Department of Environmental Resources. Kring pleaded guilty to these charges on March 3, 1994. In a related case, AT&T pleaded guilty to a one count information charging the company with negligently discharging pollutants in violation of its NPDES permit limitations. The company was fined $175,000. Although Kring knew that AT&T's internal laboratory conducted monitoring in addition to the outside laboratory, he failed to incorporate all the analytical information and the DMRs. Had Kring reported all the analytical results, the effluent from the air stripping tower would have been reported in violation of the effluent limitations on numerous occasions.

***U.S. v. Richard Vernon Bates, et al.* (C.D. Calif.)**: On April 11, 1994, Richard Vernon Bates was sentenced for knowing violations of the CWA's Pretreatment Standards. Bates, former vice president and general manager of Travelin' West Textiles (also known as Melody Knitting Mills, Inc.), Simi Valley, CA, was sentenced to 5 months incarceration, 100 hours community service, and 3 years probation. Kenneth Allen Baber, former plant engineer, was sentenced to 3 months incarceration, 3 years probation and 100 hours community service. The company received a $45,000 fine. Bates, Baber, and the corporation had pleaded guilty to two counts each of violating pretreatment standards in the discharge of acidic wastewater into the Simi Valley Sanitation District POTW.

***U.S. v. Giacomo Catucci* (D. R.I.)**: Giacomo Catucci, former president of Post-Tron, Inc., a computer software company, was sentenced on February 15, 1994, to 27 months in prison for the unlawful disposal of polychlorinated biphenols (PCBs) and failing to report the release of a hazardous substance into the environment. Catucci was convicted on October 22, 1993, after a 2-week trial for illegal disposal of toxics (PCBs) in violation of the TSCA and failing to report the release of a reportable quantity of a hazardous substance in violation of CERCLA. The violations occurred after Catucci gave the workers permission to scrap two PCB transformers, knowing that the transformers contained PCBs. At sentencing, Senior District Court Judge Raymond Pettine enhanced the penalty under sentencing guidelines because substantial clean up costs had

been incurred by the government as a result of the illegal acts.

***U.S. v. Larry A. Christopherson* (E.D. Wisc.)**: On May 3, 1994, Larry Christopherson, the former owner of Nardi Electric Company, an electric contracting firm in Milwaukee, WI, was sentenced to 3 years probation and 100 hours of community service. Nardi Electric shut its doors in the 1980s leaving behind 17 barrels of PCBs and ignitable hazardous waste, principally solvents. When the new owner of the property objected to the waste left behind, Larry Christopherson loaded the barrels onto a trailer and abandoned it on neighboring property. Christopherson had been charged with and pleaded guilty in January 1994 to the illegal storage and disposal of hazardous waste, including PCBs and characteristic waste, under the RCRA and for violations of the TSCA.

***U.S. v. Craven Laboratories, Inc., et al.* (W.D. Texas)**: Don Craven and his company pleaded guilty on December 1, 1993, to various charges including FIFRA misdemeanors and criminal conspiracy. Dale Harris and Donald Hamerly together with twelve other defendants pleaded guilty to similar charges. Craven, who was the owner of the laboratory, directed his employees to use testing short cuts that resulted in the production of false data. This data was used for pesticide residue studies, which in turn was used for pesticide reregistration. Numerous employees knowingly followed Craven's instructions (and were often paid bonuses for doing so), and understood that the data was false and misleading. Craven was sentenced to a maximum 60 months imprisonment and, along with the company, paid $30 million in fines and restitution. Fourteen employees received sentences ranging from imprisonment to probation and fines totaling $250,000.

***U.S. v. Dean Foods Company and Winfred Smith* (W.D. Ky.)**: In July 1992, a biologist from the Kentucky Department of Fish and Wildlife investigated a massive fish kill in Beargrass Creek located in Louisville. A 3.5 mile trail of dead fish, crayfish, algae and other aquatic life led to a pipe entering an unnamed tributary of Beargrass Creek from a facility operated by the Dean Foods Company, a manufacturer and distributor of wholesale and retail foods. The Kentucky Department of Fish and Wildlife estimated the fish kill at approximately 15,000. As a result of investigations and prosecutions for illegal discharges in violation of the CWA, Dean Foods Company was convicted on December 30, 1993, on one count of negligently discharging pollutants into navigable waters of the United States without a permit in violation of the CWA.

***U.S. v. Doyle Crews*, (N.D. Tex.)**: Doyle Crews, the former President and owner of Crews Plating, Inc., located in Dallas, TX, was sentenced on August 3, 1994, for a criminal violation of the CWA. Crews was sentenced to 5 years probation and 6 months of home confinement after he pleaded guilty to illegally discharging untreated chromium wastes into the Dallas sewer system. The Judge declined to impose a fine or prison time against Crews, but instead imposed special condition of probation that requires Crews to pay the total costs of the clean-up of the electroplating facility pursuant to an EPA approved plan.

***U.S. v. Charles A. Eidson and Sandra A. Eidson* (M.D. Fla.)**: Sandra Eidson former owner and officer of Cherokee Oil Company, Ltd., was sentenced on April 27, 1994, to serve 37 months in prison and her husband, Charles Eidson, was sentenced on March 11, 1994 to serve 70 months in prison for federal crimes committed while operating an oil recycling business. A Florida jury had previously convicted the Eidsons of one count of knowingly discharging used oil into waters of the United States without a permit, a violation of the CWA and of three counts of mail fraud. The Eidson's operated a oil recycling and wastewater disposal business in Tampa, FL. An investigation revealed that the company represented to clients that it would dispose of the wastes in a lawful manner. However, they instead illegally disposed of the wastes into storm sewers. They concealed their illegal practices by falsifying business records. Samples taken in and around the facility showed significant contamination of the area with petroleum by-products.

***U.S. v. Cherokee Resources, Inc., et al.* (W.D. N.C.)**: On June 29, 1994, following an 8-day trial, a jury convicted Cherokee Resources, Inc. (Cherokee) and two corporate executives, Keith Eidson and Gabe Hartsell, on five counts of illegally discharging wastewater into the municipal sewer system and one count of criminal conspiracy to violate the CWA.

***U.S. v. Garlick Helicopter, Inc.* (D. Mont.)**: Garlick Helicopter, Inc. (GHI), a Montana corporation, with large federal government contracts and one of the largest employers in the Bitterroot Valley of Montana, pleaded guilty January 13, 1994, to illegal storage of hazardous waste in violation of the RCRA. GHI is owned by Ron Dean Garlick, who entered the plea on behalf of the company. From approximately 1982 through 1992, GHI generated hazardous waste in connection with its airplane and helicopter paint and repair business.

***U.S. v. Gaston* (D. Kan.)**: Donald Gaston, the Highway Administrator for Montgomery County, KS, pleaded guilty to a felony CERCLA charge on July 21, 1994. The plea was the result of an Indictment returned by a Federal Grand Jury on March 9, 1994, which charged Gaston with three RCRA felony violations and one CERCLA violation. Sometime after he became the County Highway Administrator, Gaston ordered the employees of both the county road crew and the county bridge crew to haul 11 drums of hazardous waste to a closed Montgomery County Landfill where trenches were dug and the drums buried with the use of a county backhoe.

***U.S. v. Hedge*, (S.D. Ohio); *State of Ohio v. Hedge and City Bumper Exchange, Inc.*, (Hamilton County Court of Common Pleas)**: Roland Hedge, the owner of City Bumper Exchange, Inc. (City Bumper), an abandoned electroplating facility in Cincinnati, OH, was sentenced by Federal and State courts to a total of 24 months and a $25,000 fine for violations of CERCLA, and the State of Ohio's hazardous waste act. City Bumper, although defunct, was also sentenced in the State court to pay a fine of $25,000 for violating the State's hazardous waste act. Hedge abandoned the facility with over 27,000 gallons of hazardous substances left on the site. Clean-up of the site pursuant to action by EPA cost the Federal Government $875,000.

***U.S. v. Hofele.* (W.D. Mo.)**: The owner/manager of a Missouri car repair shop entered a guilty plea on May 11, 1994, for knowingly releasing freon (which contains CFCs) while servicing automobile air conditioners at his business in Chesterfield, MO. As many as 60 automobiles were serviced by Hofele between January 1992 and July 1993. Hofele entered a guilty plea on one count of violating the CAA, 42 U.S.C. §7671h, in the first criminal prosecution involving the January 1992, CAA requirements that repair shops use freon recycling equipment. The requirements also mandate that employees be trained and certified in the use of this equipment before servicing motor vehicle air conditioners.

***U.S. v. Robert H. Hopkins* (D. Conn.)**: On July 20, 1994, Robert H. Hopkins, former Vice President of Manufacturing at Spirol International Corporation in Killingly, CT, was sentenced to serve 21 months in prison and to pay a $7,500 fine for tampering with wastewater samples required under the CWA. In September 1990, Hopkins directed and conspired with others to filter, dilute, and selectively collect samples of the discharge from Spirol's wastewater treatment system. Hopkins then submitted false reports to the Connecticut Department of Protection to conceal Spirol's discharge of heavy metal bearing wastewaters to the Five Mile River—a heavily stocked trout stream in northeastern Connecticut.

***U.S. v. George Frederick Heidgerken* (W.D. Wash.)**: George F. Heidgerken, the owner of several companies including GFH Timber Products, was sentenced on December 3, 1993, to 5 months in prison, followed by 4 months of electronically monitored home detention. Heidgerken was also sentenced to 3 years of supervised release subsequent to his incarceration and ordered to pay a $4,000 fine. Heidgerken pleaded guilty to violation of the RCRA. Heidgerken's offenses involved approximately 260 drums of ignitable lacquers and paints. The 55-

gallon drums were stored in warehouses and outdoors in Detroit, OR, where they were exposed to the elements in an area of pristine rural land and natural hot springs.

***U.S. v. Gomer's Diesel and Electric Company* (D. Mont.)**: Gomer's Diesel and Electric Co., with automotive and truck repair facilities located in Belgrade, Great Falls, and Missoula, MT, was sentenced on March 24, 1994, following a plea of guilty to a one-count of the unlawful transportation of a hazardous waste in violation of the RCRA, 42 U.S.C. §6228(d)(1). The company was placed on supervised probation for a period of 2 years and fined $100,000 to $50,000 of which was suspended in recognition of remediation conducted at its Belgrade facility.

***U.S. v. Jay Jurek* (W.D. Wash.)**: On July 12, 1994, Jay Jurek, a production manager for Boomsnub Corporation and Pacific Northwest Plating Company (Boomsnub), entered a plea of guilty to a federal criminal information charging him with attempting to harass a witness to dissuade him from assisting a criminal prosecution of Boomsnub. On June 6, 1994, EPA's Criminal Investigation Division Special Agents arrested Jurek, without incident, at the Boomsnub facility in Vancouver, WA, on a warrant issued by a U.S. Magistrate. On June 2, 1994, Jurek had threatened bodily harm to a person for allegedly providing information to EPA/CID in the course of EPA's criminal investigation into activities of Boomsnub. The person threatened had been named as a source of information for the EPA by a local newspaper.

***U.S. v. MOR, Inc.* (S.D. Fla.)**: On May 19, 1994, MOR, Inc., pleaded guilty to a one-count information charging it with knowingly violating the CAA. In March and April of 1991, extensive renovations were made to the Sea Isle Hotel (now known as the Miami Beach Ocean Resort) in Miami Beach, FL, including the stripping of thermal insulation materials containing friable asbestos from piping and the removal of facility components, such as boilers, that were encased in friable asbestos. The removal was accomplished through the use of itinerant workers who were not supervised by a licensed asbestos contractor nor provided with respirators or protective clothing. None of the work practice standards for asbestos removal were followed and clouds of asbestos were released as a result of the operation. The unsealed asbestos was transported to a solid waste landfill in ordinary trash dumpsters.

***U.S. v. Francis Morgan, et al.* (D. Haw.)**: On May 31, 1994, Francis Morgan was sentenced to 1 year unsupervised probation and a $6,000 fine for three counts of negligently discharging a pollutant into the Pacific Ocean in violation of the CWA. The defendants had been managers at the Hamakua Sugar Company from 1988 to 1990. The sugar company mill had an NPDES permit to discharge treated waste water from the processing of sugar cane. The indictment charged that the defendants conspired to violate the CWA, manipulated the treatment system to misrepresent discharges during regulatory inspections, and falsified required discharge monitoring reports with regard to exceedences and other violations of CWA regulations and permit requirements. In addition, the defendants had been charged with fourteen counts of operating a secret by-pass which discharged untreated waste water directly into a gulch leading to the Pacific Ocean. These discharges of total suspended solids contributed to the degradation of coral communities off the Hamakua Coast of the island of Hawaii.

***U.S. v. M. Tyronne Morgan and Meydenbauer Development Corp.* (E. D. Wash.)**: On July 6, 1994, a jury returned guilty verdicts for both Marvel Tyronne Morgan, the President of the Meydenbauer Development Co., and the Meydenbauer Development Corporation (MDC). Morgan and MDC were convicted under the CAA for unlawful removal of asbestos in connection with the demolition/renovation of the former Deaconess Hospital. The defendants were also convicted of failing to report the release of asbestos and PCBs. Bradley Brown, one of the defendants in this, was sentenced on January 28, 1994, to incarceration for a year and a $5,000 fine following his guilty plea. The case originated in September of 1992 when CID received reports of allegedly unlawful removal and disposal of asbestos, and the alleged unlawful disposal of PCB

fluid and PCB transformers from the former Deaconess Hospital located in Wenatchee, WA.

***U.S. v. Bob Murphy, et al.* (D. Nev.)**: This case involved the removal of asbestos-containing material from approximately 70 apartments in a 413-unit complex. Defendants in this case were the owner of the apartment complex, Robert Murphy, and the former manager of the apartments, Thomas Devins. Devins hired casual laborers for asbestos removal without following the required work practice standards. After asbestos debris was deposited in trash dumpsters at the complex, other residents, including small children, were exposed to airborne asbestos fibers. Murphy was convicted on February 3, 1994, of knowingly violating asbestos work practice standards, of failing to report the release of asbestos and concealing the violations from local authorities under the CAA and failing to report the release of a hazardous substance in violation of CERCLA. After pleading guilty to violations of the CAA and conspiracy, Devins was sentenced to 32 months incarceration on October 25, 1993.

***U.S. v. Norwood Industries, Inc., et al.* (E.D. Penn.)**: Norwood Industries, Inc. a southeastern Pennsylvania adhesive tape manufacturer was fined $100,000 (suspended) and ordered to perform beneficial environmental projects after pleading guilty to criminal violations of the CAA VOC regulations. The company was sentenced March 1, 1994, in federal court in Philadelphia for failing to install control technology or use compliant coating at its Malvern, PA, plant from July of 1989 to August of 1990. The plant's VOC emissions are regulated by the Commonwealth of Pennsylvania's SIP.

The Court order included requirements that the company develop a corporate environmental regulatory compliance program, including development of an environmental compliance manual within 90 days of sentencing and spend at least $30,000 annually during the company's 5-year period of probation on research and development to replace solvent-based coatings with water-based materials.

***U.S. v. OEA, Inc.* (D. Colo.)**: OEA, which manufactures 60 percent of the world supply of explosive air bag initiators, pleaded guilty on April 28, 1994, to six felony violations of the RCRA—illegal transportation of hazardous waste, illegal treatment of hazardous waste without a permit, illegal disposal, and illegal storage of hazardous wastes. The company engaged in the practice of on-site detonation of excess waste materials consisting of ignitable solvents and reactive explosives used in the company's manufacturing process. During the manufacturing process, waste hexane and acetone mixed with explosive zirconium potassium perchlorate (ZPP) was generated, in addition to flawed initiators containing ZPP. These wastes were the subject of the charged violations. In three separate incidents four employees were injured, one with serious burns, during the disposal activities.

***U.S. v. Palm Beach Cruises* (S.D. Fla.)**: Palm Beach Cruises, the corporate owner of the cruise ship MV Viking Princess, was sentenced on August 30, 1994, on two felony counts of having knowingly violated the CWA and the OPA, 33 U.S.C. §§ 1319(c)(2) and 1321(b)(3). The basis for the prosecution was the deliberate dumping of waste oil from the cruise ship into the ocean off the coast of Florida. The discharge created a visible sheen which was detected during a joint operation conducted by the Coast Guard, EPA, the Federal Bureau of Investigation and the Department of Justice. The corporation entered its guilty pleas to a two count information on May 19, 1994. Palm Beach Cruises was sentenced to 5 years probation and must pay a fine of $500,000.

***U.S. v. Pacific Aqua Tech, Ltd.* (E.D. Wash.)**: On June 14, 1994, Gerhard Herman Zimm, Sr., the President of Pacific Aqua Tech, Ltd., was convicted by jury trial of conspiracy and substantive violations of the CAA and the CERCLA. Zimm and his corporation also pleaded guilty to a CERCLA count in the indictment and entered into a detailed plea agreement with the Government which provided for the funding of a $1 million trust fund annuity for the future medical expenses of the workers who were

exposed to asbestos during the company's scrap metal removal operations (the trust is to pay the cost of medical and associated expenses of asbestosis or asbestos-related diseases). Zimm conducted the scrap operation at Pacific Aqua Tech's Toppenish, WA, facility from 1986 through the spring of 1991. Contamination at the facility necessitated a superfund clean-up effecting the removal of 111 tons of asbestos contaminated material from Pacific Aqua Tech's property.

***U.S. v. Robert Pardi* (S.D. N.Y.)**: On May 25, 1994, Robert Pardi, an architect and the former Director of the Asbestos Task Force of the New York City Board of Education was sentenced to 30 months of imprisonment for falsely reporting that school buildings were free of asbestos contamination. He pleaded guilty in federal court on March 24, 1994, to making false statements and to criminal conspiracy to make false statements in violation of the criminal laws of the United States, 18 U.S.C. §§ 1001 and 371, and to a substantive count of violating the TSCA by failing to maintain required reports concerning asbestos conditions in the public schools. Pardi was responsible for reporting to the EPA concerning the inspection and testing of New York City public schools for the presence of asbestos.

***U.S. v. Nicholas Pasquariello* (S.D. Fla.)**: On May 16, 1994, sentence was passed on Nicholas Pasquariello after he was found guilty in a non-jury trial on all counts, including six counts of violating the CWA, among other criminal charges alleged in a 15-count indictment filed in 1989. Pasquariello was convicted on January 25, 1994, after a sporadic bench trial which began in August 1993, and took 33 court days. The various charges ranged from Pasquariello having filled jurisdictional lakes and wetlands on property owned by him and associates in the Ft. Lauderdale, FL, vicinity, to charges of violating income tax laws, criminal conspiracy, and making a false statement to Department of Labor officials investigating labor law violations. Pasquariello was sentenced to 70 months incarceration and 36 months supervised probation following incarceration.

***U.S. v. Norma Phillips, et al.* (W.D. Mo.)**: The owners and operators of the A-1 Electroplating Company facility in Kansas City, MO, were sentenced on February 11, 1994, to prison and probation for the illegal disposal of pollutants into the Kansas City sanitary sewer system in violation of the RCRA and the CWA. During the period of their operations, Phillips and the Mammens ordered the discharge of hazardous waste generated by their electroplating process. On February 11, 1994, Philip Mammen was sentenced to 27 months of incarceration and David Mammen received a sentence of 18 months of incarceration. Norma Phillips was sentenced to 2 years of probation and 6 months house arrest. Hazardous waste generated by A-1 Electroplating was literally swept out of front and back doors into the adjoining working class residential neighborhood. The hazardous waste was also discharged into the sewer system where the Kansas City Water Department noted numerous violations. The Water Department had sought civil fines from the business, and ultimately turned off the sewer and water connections to the facility in an attempt to stop the discharges. However, the defendants managed to dismantle the sewer connection plug and continued their illegal discharges into the system. After the business was forced to shut down in early 1990, Phillips and the Mammens attempted to start a new plating operation in another Missouri community. They transported hazardous waste from the Kansas City, MO, facility to the new location and ultimately illegally disposed of some of the waste at the new location.

***U.S. v. Pioneer Chemical, Inc. and Gerald Butler* (D. Ky.)**: Gerald Butler and Pioneer Chemical Inc. were sentenced August 8, 1994, in Louisville, KY, for violations of the Clean Air Act, 42 U.S.C. §7413, for the illegal removal of asbestos-containing material without complying with applicable permitting and work-practice requirements. Pioneer Chemical Inc. (Pioneer) was also sentenced on one count for having violated the RCRA by storing hazardous waste without a permit. Pioneer was fined $37,300 per count for a total of $75,000 in criminal fines and costs. In addition, Pioneer paid $25,000 in restitution to the Jefferson County Air Pollution

Control District Air Quality Trust Fund. Butler was sentenced to 1 year of probation. Pioneer had hired Butler, and a co-defendant, Jewell, to demolish and remove asbestos-covered components from one of Pioneer's buildings. Pioneer's RCRA conviction resulted from its illegal storage of 100 drums of hazardous waste.

***U.S. v. John Pizzuto* (S.D. Ohio)**: In his second environmental prosection, Pizzuto pleaded guilty, on December 16, 1993, in Huntington, WV, to a three count indictment of violating the TSCA, 15 U.S.C. §§ 2614 and 2615b after his illegal storage of PCB's in Nitro, WV. On April 1, 1994, he was sentenced to 18 months incarceration for his violations of TSCA. As a result of the West Virginia crimes, which occurred during Pizzuto's probation in Ohio, the Ohio federal judge on July 18, 1994, revoked Pizzuto's probation, and ordered him jailed for 18 months. The judge imposed the prison sentence consecutively, not concurrently, to the West Virginia sentence, meaning Pizzuto is required to serve a total of 36 months imprisonment.

***U.S. v. Nobert Efren Pohl* (D. N.M.)**: Defendant Pohl, a former owner and operator of Service Circuits, Inc. (SCI), an electroplating company that manufactured printed circuit boards, pleaded guilty to knowing storage of hazardous waste without a permit and the knowing disposal of hazardous waste without a permit under the RCRA. On December 20, 1993, Pohl was sentenced to 1 year and a day incarceration. Pohl generated hazardous waste at a metal plating facility in Albuquerque from 1985 to 1989. CWA charges were also filed for the knowing discharge of lead in concentrations above those allowed under SCI's wastewater discharge permit and the knowing failure to submit complete quarterly reports to the City of Albuquerque. SCI's process involved the dipping of circuit boards into acidic solutions containing heavy metals. Solvents were used to clean and dry the boards and printing inks were used for labels. Irresponsible waste handling practices, resulting in serious contamination of the property, were discovered after the defendant ceased operation and abandoned the facility in 1989.

***U.S. v. R&D Chemical Company, Inc.* (N.D. Ga.)**: Noble and Oscar Cunningham and their corporation, R&D Chemical Company, were charged with conspiracy to transport hazardous waste from Ohio to an unpermitted facility in Georgia and with illegal disposal of hazardous waste in violation of the RCRA. R&D Chemical accumulated a quantity of hazardous waste sludge from industrial operations on the company farm in Ohio. R&D Chemical misrepresented the sludge as being non-hazardous and made arrangements to sell it to a Georgia company, calling it "RD-344" to disguise it as a product. R&D Chemical leased a truck and trailer and transported approximately 15 roll-off containers of the waste to a company in Atlanta. The containers were abandoned in the company's parking lot. In addition, R&D Chemical caused a portion of the hazardous waste to be disposed of at a non-hazardous landfill in Atlanta. Commenting that the case involved "aggravating" circumstances, the court sentenced R&D Chemical on October 6, 1994, to 5 years probation, a $200,000 fine and $146,716 restitution to the Atlanta company where the waste had been abandoned.

***U.S. v. Recticel Foam Corporation, et al.* (E.D. Tenn.)**: On July 22, 1994, Recticel pleaded guilty to a felony charging that it knowingly omitted material information in a record filed with EPA and the Tennessee Department of Environment and Conservation (TDEC) and failed to keep a record of a hazardous waste determination made by it in July 1990. Recticel also pleaded guilty to a State environmental misdemeanor in a related State prosecution. The case had begun on October 15, 1990, when TDEC conducted an administrative inspection of two manufacturing facilities located in Morristown, TN, owned by Recticel. The TDEC inspectors observed methylene chloride waste in solid waste dumpsters at the plants. Subsequent investigation revealed that Recticel was burying drums containing allegedly hazardous waste on property owned by Cansler, and dumping it in rolloff containers that were destined for disposal in solid waste landfills in eastern Tennessee.

***U.S. v. William C. Reichle and Reichle, Inc.* (D. Ore.)**: William Chester Reichle, the President of Reichle, Inc. and his Portland, OR, based corporation both entered guilty pleas on May 23, 1994, in the District of Oregon to one count each of felony violations of the RCRA. The federal charges resulted from a joint investigative effort by EPA's Criminal Investigation Division and the U.S. Department of the Interior's Bureau of Land Management (BLM) special agents based in Portland, OR. Reichle owns and operates a large commercial painting and drywall company which performs jobs in southwest Washington and northwest Oregon areas. Reichle frequently participates in contract work at federal, state, and local construction and renovation projects. In March 1992, an unpermitted hazardous waste disposal site with numerous 55-gallon drums of paint and spent solvents was discovered on BLM-administered public land in a rural area of northwest Oregon. In June 1992, investigative efforts led federal agents to a second unpermitted hazardous waste site on privately-owned land, also in northwest Oregon, which is used as a dairy farm. Reichle and his company were responsible for the illegal disposal at these sites.

***U.S. v. Reilly and Dowd* (D. Del.)**: On October 4, 1993, two shipping executives were sentenced to prison terms on ocean dumping, 33 U.S.C. §1411(a), and perjury charges in connection with the freighter, Khian Sea. Reilly received a sentence of 37 months imprisonment. This case arose after approximately 15,000 tons of municipal incinerator ash was loaded on the Khian Sea vessel destined for a disposal location in the Bahamas. After sailing the Atlantic in 1987 in an unsuccessful effort to find a disposal location, the ship returned to the lower Delaware Bay in March of 1988. The ship ultimately sailed away against the orders of the Coast Guard, and dumped its cargo in the Atlantic and Indian Oceans. Both defendants were found guilty of lying to a federal district court judge concerning what had happened to the shipment of ash. Reilly was also convicted of one count of lying to a grand jury in Wilmington over the ash's disappearance. Evidence presented at trial included trans-oceanic cable messages linking the defendants with instructions to illegally dump the ash in the ocean.

***U.S. v. Sentco Paint Manufacturing, Inc., et. al.* (N.D. Ohio)**: On March 17, 1994, Sentco Paint Manufacturing Company, Inc., was sentenced to 3 years probation and an $8000 fine for its part in having violated the RCRA through the illegal disposal of hazardous wastes. The sentencing of Sentco concluded an investigation which resulted in previous guilty pleas and the sentencing of Roland Brothers, President of Sentco; Rick Brothers, Plant Manger; and Donald Cole, a company employee involved in the illegal disposal of hazardous waste. They had pleaded guilty June 1, 1992, to a 1990 indictment charging them with having buried fifty-six drums of paint waste, a hazardous waste, under a cement loading dock at the plant site. The guilty pleas resulted in sentences of 15 months incarceration of Roland Brothers, 18 months incarceration for Rick Brothers, and 6 months home detention for Donald Cole.

***U.S. v. Mark Steven Stewart, et al.* (D. Ariz.)**: Mark Steven Stewart, the president of a crop dusting company in Pinal County, AZ, was incarcerated for a year for illegal disposal of methyl parathion (a hazardous waste from his crop dusting activities) and illegal use of a pesticide in violation of the FIFRA. As part of his guilty plea on December 13, 1993, Stewart agreed to liquidate the assets of the company and use that money to pay for clean-up costs at the illegal disposal site. Two aircraft, valued at approximately $60,000, were forfeited to the United States Marshal under terms of the plea agreement. Stewart transported methyl parathion and unsuccessfully attempted to incinerate the material in concrete tanks. Two county zoning officials who inspected the uncontrolled site were exposed to airborne contaminants and became ill from the exposure. Stewart's illegal practices lead to a clean-up of the disposal site contaminated with methyl parathion.

***U.S. v. Thermocell S. E. Inc., Douglas Kirchofer and Sherwin T. Haskell* (E.D. Tenn.)**: Thermocell Inc. was fined $125,000 for illegal transportation of hazardous waste in violation of

the RCRA, 42 U.S.C. §6928 (d)(2)(A). As a condition of probation, $100,000 of this fine was suspended on the condition that, as restitution and compensation to the State of Tennessee, Thermocell pay $50,000 into the State's Environmental Protection Fund and pay cleanup cost of $38,000. Kirchofer, the corporate secretary, was sentenced to supervised probation for 1 year and fined $5,000. The comptroller, Haskell, was sentenced to 1 year of supervised probation and a $1,000 fine. Each of the men had pleaded guilty to a misdemeanor violation of RCRA as an accessory after the fact pursuant of Title 18 U.S.C. §3. This case arose after Thermocell sold machinery and 320 drums of chemicals to an Atlanta, GA, manufacturer for one dollar. The Atlanta manufacturer subsequently had financial difficulties, and at least 35 drums were abandoned on farmland in Norcross, GA. The farmer contacted Haskell and requested removal of the drums. Haskell and an associate loaded the drums on a rented Ryder truck and abandoned them on unused property in an isolated area of Scott County, TN. The drums were then discovered by a U.S. Office of Surface Mining inspector.

***U.S. v. Weaver Electric* (D. Colo.)**: Weaver Electric Company was in the business of buying, refurbishing, and selling used electrical equipment. As part of its operation, it collected, used, and stored PCBs. Indictments charged individuals with illegal storage of PCBs, in violation of the TSCA, conspiracy, and false statements. An individual defendant, Daniel Rodriguez, was charged with transporting tractor trailers full of 55-gallon drums containing PCB fluid for eventual illegal export to Mexico. The Weaver Electric Company was convicted and sentenced to pay a $200,000 fine and $300,000 for remedial activities. The company participated in a scheme to illegally dispose of PCBs by burial at a remote Colorado horse ranch and to illegally export PCBs to Mexico in order to avoid paying the costs associated with the lawful and proper disposal of PCBs in the United States. Rodriguez had agreed with Weaver to receive three tractor trailers full of 55-gallon drums containing PCB fluid in El Paso, TX, for eventual illegal exportation into Mexico. After numerous unsuccessful attempts by Rodriguez to pay individuals to transport the three trailers full of leaking drums, the trailers were eventually discovered by the local fire marshal. Due to PCB contamination at two facilities, the company agreed to spend $300,000 for environmental remediation. Restitution was ordered for superfund clean-up of PCB contaminated property at the facilities.

U.S. v. Safety Kleen: A joint Federal/State investigation of Safety Kleen and Booth Oil Co. relating to improper handling of hazardous waste oils at a Buffalo, NY, facility, resulted on August 19, 1994 in Booth pleading guilty to a State felony count for possessing hazardous waste (PCB-laden oil) in violation of its State permit, and paying a fine of $100,000. Safety Kleen and Booth Oil had been running the Booth Oil facility jointly. Safety Kleen settled in a civil action with the Federal government at the same time, by forfeiting $1.9 million; agreeing to purchase the Booth Oil facility for $2.4 million and install new management; and accepting appointment of a State environmental monitor to assure compliance.

***U.S. v. Steve Weinsier* (S.D. Fla.)**: Steve Weinsier, former owner of Florida Waterway Management, an aquatic management company, entered a guilty plea January 18, 1994, to ten counts of illegally using the pesticides Direx and Karmex on aquatic areas in violation of the FIFRA. Weinsier had been indicted November 19, 1993, on ten counts of violating FIFRA and seven counts of Mail Fraud. Weinsier pleaded guilty to the illegal use of the pesticides Direx and Karmex on sensitive Florida aquatic areas. Weinsier knew that the products Direx and Karmex, which contain the active ingredient diuron, were not approved by the Environmental Protection Agency for use on water. However, he used mail solicitations to attract customers for his business of removing and controlling unwanted aquatic vegetation and algae growth using these chemicals. Weinsier obtained written contracts for his services by falsely represented that he used only EPA-approved products in his removal and control activities.

***U.S. v. Larry Kenneth West* (W.D. Mich.)**: On January 14, 1994, Larry K. West, owner of Cal-Art, a defunct Cassapolis, MI, plastics business, was sentenced to 4 months home confinement, a $10,000 fine, $40,000 restitution, and 2 years probation for his actions in abandoning drums of chemicals at his former business site in Cassapolis in July of 1988. West had previously pleaded guilty on November 5, 1993, to one count of violating the RCRA, 42 U.S.C. §6928 (d)(2)(A), and a second, under the CERCLA, for having knowingly and unlawfully failed to report an unpermitted release of a reportable quantity of a hazardous material. This case is related to another federal RCRA criminal case, *U.S. v. William Meyers*, which resulted from the activities of the owner of the premises where Cal-Art had been located. The waste had been illegally transported to Ohio and abandoned there, and the perpetrator of that violation had been ordered to reimburse EPA for its costs of the Ohio clean-up and disposal of the waste.

***U.S. v. William C. Whitman and Duane C. Whitman* (M.D. Fla.)**: On July 28, 1994, following a 2-week jury trial in Tampa, FL, William C. Whitman, a plant manager, and Duane C. Whitman, a shop foreman, of Durex Industries were found guilty of treating and storing hazardous waste without a permit from June 1991 to June 1992. The company that owned Durex, William Recht Company, Inc., pleaded guilty to a two-count indictment which charged the defendants with illegal treatment, storage and disposal of hazardous waste without a permit and knowing endangerment in violation of the RCRA. The prosecution of the defendants was initiated following the deaths of two 9-year-old boys from toluene fume asphyxiation on June 13, 1992. The two children had been playing in a dumpster in which toluene waste had been discarded. The company and individual defendants were sentenced in FY95.

Harry Zucker (W. D. Pa): On July 8, 1994, Harry Zucker was sentenced in Federal court to eight months home detention, one year probation and ordered to pay a $5,000 fine on his conviction for discharging brine waste water from oil production wells into waters of the United States without a permit in violation of the Clean Water Act. Harry Zucker plead guilty to count one of an eight count indictment on February 3, 1994. The indictment charged the defendant for illegal discharges which occurred between November 1989 until July 1992. As a condition of the Federal criminal plea, Marley Industries entered a guilty plea to state criminal charges for the unpermitted discharges and paid a $40,000 fine to the Commonwealth on May 24, 1994.

***U.S. v. Dale Valentine et al.* (D. WY)**: In one of the largest RCRA setion 7003 cases ever, EPA finalzied a series of settlement agreements during fiscal year 1994 as well as receving a number of favorable rulings. The case arose from Regions VIII's enforcement action relating to the Powder River Crude Processors site near Glenrock, Wyoming.

In 1991, EPA issued UAOs under RCRA §7003 to several parties, demanding cleanup of this former oil re-processing facility. Surface impoundments at the site pose a serious risk to wildlife, with birds and antelope becoming trapped and dying in the oily wastes. In addition, abandoned above-ground tanks, which could fail, pose a potential risk to human health. Some of the respondents constructed a security fence around the facility and netted the open pits; otherwise, they declined to clean up the site. The U.S. subsequently filed a complaint against ten of the parties.

In March 1994, the Agency lodged a settlement with five generator-defendants (Texaco, Conoco, Phillips Petroleum, True Oil, Eighty-Eight Oil). Under the consent decree, the settling defendants are obligated to pay a $300,000 penalty and clean up the site. Cleanup consists of the removal and treatment of materials from the impoundments and tanks, plus contaminated soils. Estimated cost: at least $4.5 million, perhaps (depending on amount of soil requiring remediation) as much as $8.9 million.

During the summer of 1994, the Agency concluded negotiating a settlement agreement with one of the former site operators, Richard Wallace,

obligating him to pay a $30,000 penalty. Settlement negotiations with the four remaining defendants continued into fiscal year 1995.

The U.S. District Court for the District of Wyoming issued several favorable decisions in FY 94 during litigation of this case. For example, in a decision dated June 1, 1994, the court granted the government's motion for summary judgement on issues related to the presence of an imminent and substantial endangerment at this particular site. In addition, the court held that the administrtive orders unilaterlally issued by EPA pursuant to RCRA section 7003 were "reasonable." In doing so, the court rejected the argument of one of the defendants that its due process rights were violated by the lack of an opportunity for a hearing prior to issuance of the orders. The court found that EPA had provided the defendants a timely opportunity to confer, subsequent to the issuance of the orders, regarding implementation. It also noted that the defendants would have an opportunity, during an upcoming trial, to challenge their liability under RCRA section 7003. This portion of the court's decision supports EPA's position that defendants are not entitled to a judicial hearing to review such orders prior to the government filing an action to enforce them.

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APPENDIX B
STATE CASES

ALASKA

Anchor Forest Products: Anchor Forest Products was convicted of three misdemeanors following a bench trial. The convictions are for Pollution, Illegal Discharge of a Petroleum Product, and Illegal Discharge of Non-domestic and Domestic Wastewater. The court merged the first two counts, then imposed a fine of $1,000 and 30 days in jail on each of the remaining two counts, but suspended the fines and jail on the condition that Anchor Forest Products conduct adequate remediation over the next two years, and comply with DEC regulations.

CH2M-Hill Engineering: CH2M-Hill Engineering agreed to pay a $25,000 civil settlement to the state's Hazardous Substance Mitigation Account in July 1994 in Unalaska District Court. The agreement resulted from a compromise on four misdemeanor charges involving the same chlorine discharge into Icy Creek to which CRI pleaded guilty. Magistrate Hawkins approved the agreement following arguments by both sides in favor of the dismissal and compromise. CH2M-Hill also agreed to institute an in-house training program to avoid future chlorine discharges.

City of Angoon, Alaska: The City received a $5,000 fine in August, 1994 in Juneau Superior Court following a plea of no contest to a class A misdemeanor charge of failing to file water treatment records in a timely manner. The record keeping problems occurred between 1990 and 1993. Superior Court Judge Walter R. Carpeneti suspended all of the fine and placed Angoon on probation for a period of 3 years on the condition that the city have no environmental violations during that period. In addition, the court ordered Angoon to complete a report upon consultation with DEC which addresses how the city will supervise its water treatment operators, verify reports, educate the community about water treatment, maintain schedules for supplies and equipment and fund its maintenance of the water treatment plant.

Construction Rigging, Inc. (CRI): CRI, an Alaska Corporation, pleaded guilty in July in Unalaska District Court to four misdemeanor charges involving a chlorine discharge into Icy Creek. CRI accepted responsibility for the acts of its agent whom they had instructed not to participate in a discharge of the chlorine without first neutralizing it. The discharge killed approximately 40 Dolly Varden (Char). Magistrate Mary Hawkins sentenced CRI to pay a total fine of $5,000 with $2,500 suspended on the condition that CRI not have any similar violations for one year.

Echo Bay Alaska, Inc.: Echo Bay Alaska, Inc., entered into a civil Consent Decree with the State of Alaska in which the company agreed to pay the State a total of $250,000 for violation of State environmental laws. The amount includes $125,000 in civil penalties, $50,000 for investigation cost reimbursement, and $75,000 to offset future costs of ADEC oversight and monitoring of the Alaska Juneau Mine. In the Consent Decree Echo Bay Alaska, Inc., admitted liability for violating State laws concerning the reporting of oil spills and disposal of materials used in oil spill cleanup actions. The action resulted from an ADEC investigation of a turbidity event in Gold Creek. An investigation led ADEC to inspect operations and discover the violations. The mine is operated in an exploratory phase by Echo Bay Alaska.

Enstar Natural Gas Company: Enstar paid a $15,000 civil settlement to the State of Alaska in October, 1994. The agreement resulted from a compromise to three misdemeanor charges brought by the State's Environmental Crimes Unit involving unpermitted stream crossings near Meadow Creek in Wasilla, Alaska. Minor damage resulted to the rearing habitat of coho salmon during installation of a gas pipeline. The

crossings occurred in October, 1993. Enstar also agreed as part of the settlement to conduct mitigation efforts on the streams under the direction of the Department of Fish and Game's Habitat Division.

Kake Tribal & Kake Tribal Logging: Kake Tribal Logging Camp is located at Point Macartney, five miles northwest of Kake, on Kupreanof Island in Southeast Alaska. Respondents were charged with numerous violations of state pollution laws, which included oil and chemical spills, open burning of used oil and oily wastes, discharge of improperly treated sewage, failure to notify the State of Alaska DEC of oil and hazardous substance spills, unpermitted disposal of solid waste, and violations of the State Drinking Water regulations. In settlement for damages and penalties, Respondents agreed to pay the state $125,000 with $50,000 suspended on condition that the Respondents complete all cleanup and remediation required by the Compliance Order by Consent entered into by the parties. In addition, the Respondents agreed to pay $15,000 to the City of Kake to purchase emergency response equipment, and an additional $15,000 to provide spill response training to citizens of the Kake community.

Northland Fisheries, Inc.: A Washington State based corporation, Northland pleaded no contest to one count of violating its NPDES permit in Akutan Harbor in the Aleutian Islands. The violation involved discharge of ground crab viscera and shells at a depth not allowed by permit. The court fined Northland $20,000, suspending all but $17,500 of the fine on the condition that Northland have no violations for one year.

Ronnie C. Fisheries: Ronnie C. Fisheries, an Oregon Corporation, received a $10,000 fine in August, 1994 in Unalaska District Court following a plea of no contest to a class A misdemeanor charge of illegally discharging oil into Dutch Harbor. The spill occurred in March of 1993 and involved approximately 50 gallons of diesel fuel from the fishing vessel "AJ." Attempts by the vessel owners to disperse the spill with liquid detergent were unsuccessful and did not meet DEC standards for oil spill cleanup. Magistrate Mary Hawkins suspended all but $2,500 of the fine and placed the corporation on probation for a period of one year on the condition that Ronnie C. Fisheries have no similar violations during that period.

William A. Wood: William A. Wood pled no contest to three water treatment misdemeanors resulting from development of a trailer court on Prince of Wales Island in southeast Alaska. The convictions were for charges of failing to obtain a plan review for his water and wastewater system, in addition to not conducting proper fecal coliform tests. He was utilizing a surface water source. The court imposed a fine of $5,000 for each count concurrently, suspended the fines and placed Mr. wood on probation for one year.

COLORADO

State of Colorado v Colorado Refining: In coordinated multimedia State and EPA actions, CDPHE's NPDES and RCRA programs took enforcement actions against Colorado Refining to clean up seeps to Sand Creek. Colorado Refining also had effluent violations of their NPDES permit. The State ordered injunctive relief and has settled for $375,000 cash plus $1.4 million in SEPs. This will be the largest penalty the State has collected. Further, the Agency got a favorable ruling on the applicability of CWA to discharges of pollutants reaching surface waters via groundwater. In a related citizen's suit under the Clean Water Act, *Sierra Club v Colorado Refining Company*, 838 F. Supp. 1428 (D. Colo. 1993), where pollutants migrated through the groundwater into surface water, the Court concluded that the Clean Water Act's prohibition of the discharge of any pollutant into "navigable waters" includes such discharge which reaches "navigable waters" through groundwater.

State of Colorado v Conoco: In coordinated multimedia State and EPA actions, CDPHE'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 suit under the Clean Water Act, 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.

State of Colorado v The City of Ft. Morgan: In coordinated State and EPA actions, the Colorado Department of Health's NPDES program and EPA's Pretreatment program took enforcement actions against The City of Ft. Morgan. The State addressed the effluent violations and ordered injunctive relief related to the effluent violations. The State collected $115,000 for the effluent violations. This is the largest penalty the State has collected against a municipality.

DISTRICT OF COLUMBIA

Concerned Citizens of Brentwood, et al., v. The District of Columbia, et al.: The citizen plaintiffs initially obtained a TRO from the Court which set aside District Government permits issued to Consolidated Waste Industries, Inc. for the purpose of expanding a solid waste management operation into a receiving, sorting, and baling operation for recyclable materials. The TRO was in effect until the Court was satisfied that the District Government had complied with the D.C. Environmental Policy Act, which requires consideration of the environmental impact of proposed activities meeting the statutory threshold criteria. Multimedia inspections were directed by the Court and ultimately, the Court found in favor of the government and vacated the TRO, allowing the expansion of CWI's operations.

Subsequently, residents complained to the Attorney General's office, raising the issue again as a matter of environmental equity and justice. Ms. Reno's office referred the complaint to EPA's Office of Environmental Justice and Region III requested the D.C. ERA to conduct a Multimedia environmental justice inspection of Consolidated Waste Industries, Inc., now a business partner of Browning Ferris Industries, Inc. The inspection has been completed and a report forwarded to EPA.

D.C. Department of Consumer and Regulatory Affairs (DCRA) v. Coastline Purchasing Corporation: Administrative enforcement action was initiated to remedy contamination of soil and ground water resulting from leaking underground storage tanks. DCRA obtained consent agreement from owner/operator authorizing DCRA to enter on property to perform further site investigation and corrective action. Respondent acknowledged that the District of Columbia was authorized to recover costs against it and was further authorized to file a notice of lien against the property. DCRA agreed that after issuing a demand letter to Respondent for the costs of remediation, that DCRA would refrain from selling the property at a tax sale for a period of at least one year and 30 days in order to provide the Respondent with an opportunity to sell the property and pay off the lien first.

D.C. Department of Consumer and Regulatory Affairs (DCRA) v. Kayfirst Corporation: Administrative enforcement action was initiated to remedy contamination of soil and ground water resulting from leaking underground storage tanks. Action was first brought against current owner of the property, Kayfirst Corporation, which had failed to comply with agency directives. However, initial investigation conducted by Kayfirst Corporation in response to administrative action revealed that 6 underground storage tanks, thought to have been previously removed from the property, were still on-site. Thereafter, DCRA issued discovery directives to previous owners and operators, including Sunoco, CSX Transportation Corporation, Inc. and Mount Clare Properties, Inc. Through discovery responses, it was learned that Sunoco previously leased the site and operated a gas

station, and that while 3 tanks had been removed from the site before Kayfirst purchased in 1989, 6 remained, out of 9 tanks shown to have been installed by Sunoco.

On July 19, 1994 a revised Stipulation was entered among the parties. Once the remediation system is fully installed and operational, a final stipulation and conditional order of dismissal without prejudice will be entered.

D.C. Department of Consumer and Regulatory Affairs (DCRA) v. The U.S. General Services Administration: The U.S. General Services Administration (GSA) operates two large heating plants in Washington, DC. These plants provide steam to heat Federal buildings. During the late 1980s, GSA began a boiler refurbishment and replacement program at both plants. After completing their refurbishment program, GSA planned to burn coal as their principal fuel.

In January 1991, the U.S. Environmental Protection Agency (EPA) determined from air dispersion modelling that violations of the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide (SO2) may occur in areas around these plants when coal is fired in plant boilers. To resolve air quality compliance issues associated with the plants, GSA, EPA and the District entered into a Federal Facility Compliance Agreement in the spring of 1992. The agreement required that GSA increase the height of the smoke stacks at the heating plants to better disperse air pollutants or develop an alternative compliance plan. GSA was unable to secure timely approval for taller stacks from the National Capitol Planning Commission and other regulatory agencies pursuant to the agreement. As a result, GSA was forced to develop an alternative compliance plan.

In May 1993, GSA committed to burn only natural gas and very low sulfur fuel oil at their heating plants to ensure NAAQS were not violated. EPA and the District accepted this alternative compliance plan. GSA failed to adhere to commitments made in their alternative compliance plan during the 1993/94 heating season, however. In response to violations of their alternative compliance plan and other air quality violations, the District issued a Notice of Non-Compliance and Proposed Order to GSA April 15, 1994. After lengthy negotiations, GSA has agreed to strictly adhere to their commitment to burn only natural gas and very low sulfur oil. GSA has also agreed to improve continuous emission monitor performance at their facilities.

The District issued an operating permit to GSA's heating plants September 8, 1994. The permit requires that GSA operate in compliance with the significant elements of their alternative compliance plan and other air quality regulations. The operating permit, which has been submitted to EPA as a State Implementation Plan (SIP) revision, is Federally enforceable.

District of Columbia Department of Consumer and Regulatory Affairs (DCRA), Environmental Regulation Administration (ERA) v. Respondent Mr. Jerry Schaeffer: The D.C. Environmental Regulation Administration (ERA) participated in a multimedia inspection and coordinated the issuance of a multimedia compliance order (under RCRA ^U3013) to the violator. The facility was used for automobile salvage and storage operations. The investigation revealed illegal traffic in stolen vehicles and parts distribution was also occurring at the site. The project site was known locally as "the Deanwood Dump." The administrative order directed the site owner to identify the presence and extent of any soil contamination. A sampling and analysis plan was submitted and approved by ERA. The area was found to be free of serious toxic contamination but was greatly cleaned up as a result of this action. The D.C. City Council recognized the participants' initiative to solve a pressing community problem in a ceremony and Council Resolution on January 4, 1994.

FLORIDA

Boston Chicken: Boston Chicken was cited for no notification, no trained on site representative

and inadequate wetting of approximately 2,400 sq. ft. of RACM ceiling tile. Boston Chicken has signed a Consent Order and paid a $25,000 penalty.

Department of Environmental Protection v. Lake County: Lake County operated the Lake County Sign Shop, a road striping facility, located in Tavares, Florida. The operation involved the use of toluene for cleaning machinery, and of paints containing lead and chrome. Toluene, lead and chrome were discharged to the ground. Hazardous waste violations were documented after a RCRA hazardous waste compliance inspection was conducted. In settlement of these matters, the parties entered into a Consent Order. Lake County agreed to pay $2,000 in costs and $22,000 in in-kind penalties.

Department of Environmental Protection v. Pinellas County Board of County Commissioners: The violations in this case included numerous instances of effluent dumping in excess of amounts allowed by the operating permit for the South Cross Bayou wastewater treatment plant. Treated effluent, which was pumped deep underground, migrated into an underground source of drinking water. In settlement of these matters, a Consent Order was approved by the Pinellas County Commission. Pinellas County agreed to pay $120,400 to DEP in penalties and costs. The County is replacing the deep-well injection systems at South Cross Bayou and at its McKay Creek treatment plant with reclaim water reuse systems. A report is to be prepared concerning potential impacts of deep-well injection at South Cross Bayou on the drinking water aquifer. The total estimated cost for replacing the systems at the two sites is $133 million.

Department of Environmental Regulation v. Cabot Corporation: Cabot Corporation owned and operated a pine tar and charcoal facility ("Facility") in Alachua County, Florida from 1945 to 1966. During the Facility's operation, by-products containing hazardous substances were dumped into three unlined lagoons. In 1983, the Department filed a complaint against Cabot and other parties, seeking to require Cabot and the others to clean up the Cabot/Kopper Superfund Site ("Site") in Alachua County. Prior to this action, EPA had placed the Site, which included the former Cabot Corporation property, in the Superfund National Priority List. Approximately six years after the court case was suspended, the Department filed a motion to revive the circuit court action. On March 10, 1989, the Department and the Cabot Corporation signed a Stipulation for Settlement whereby Cabot agreed to pay $650,000 to resolve the claims between the parties.

Department of Environmental Regulation v. Pilot Properties Co. and Durham Utility Service, Inc.: This case involved a wastewater treatment plant located in Jacksonville, Florida. Pilot Properties Co. ("Pilot") owns an apartment complex, Turtle Lake Apartments, along with its wastewater treatment plant. Durham Utility Service, Inc. ("Durham") operates the plant under Pilot's direction. Violations at this plant included the routine discharge of effluent into areas that were accessible to the general public, thereby creating a risk to public health. Subsequent to the Department obtaining a temporary injunction, Pilot connected the facility into the regional system. The Department settled with Pilot for a penalty of $10,000. Durham, a co-defendant in the civil action, had a default entered against it on the issue of liability. On June 1, 1994, a Final Judgment was entered against Durham Utility Service, Inc. and the Department was awarded $250,000 in penalties.

Florida Department of Corrections: The Department executed a Consent Order with the Florida Department of Corrections on May 3, 1994, concerning violations at its Sumter Correctional Institution regarding replacing and operating process steam boilers without the necessary air pollution permits. The Department discovered these violations after receiving an after-the-fact construction permit application from FDC. The Department agreed to waive penalties if FDC agreed to survey its facilities statewide to identify all potential sources of air

pollution and submit permit applications for any facility found not in compliance. The FDC found 11 facilities out of compliance and submitted permit applications within the timeframe agreed to in the Consent Order.

Florida Department of Environmental Protection v. NRG/Recovery Group, Inc., aka Ogden Martin Systems of Lake, Inc.: On March 3, 1994, Ogden signed a Consent Order to address its exceedance of the permitted one-hour 100 ppmdv CO standard and six-hour 60 ppmdv SO2 standard. The Department assessed penalties against Ogden at $14,799, plus Department costs of $350,00. The Department found the company in violation of its State and Federal Prevention of Significant Deterioration (PSD) permit conditions. The corporation owns and operates two 288 tons-per-day Municipal Waste Combustors located in Okahumpa, Lake County, Florida. The Unit 1 combustor is permitted to combust 51.60 tons/day of biohazardous waste as part of its 288 tons/day load. Ogden operated Unit 1 for three six-hour periods on July 22, 1993 with SO2 emissions at 65, 85, and 73 ppm. Ogden also operated Unit 2 on July 16 and 18, 1993 with CO emissions for three one-hour periods of 183, 238 and 503 ppm. The violations were found as a result of self-reporting and subsequent Department inspections. Along with the assessed penalties, the company agreed to install two additional SO2 analyzers to monitor the unabated concentrations of SO2 in the flue gas prior to the scrubbers. The company was previously operating two SO2 analyzers to monitor the stack effluent as required by its State and PSD permit. The installation of the additional analyzers gives Ogden an early warning to allow for a more timely response to fuel related SO2 increases. Ogden implemented a corrective action plan to abate the CO excess emissions. The plan involved stepped up inspections of the material before combustion, and avoidance of wet waste.

Florida Gas Transmission: Florida Gas Transmission was cited for exceeding the permitted gas consumption rate, late test report, and failure to timely apply for a construction permit extension. Consent Orders were signed with the penalty for Brevard's 2 units amounting to $13,128 and Marion County's amounting to $7,068. In another county, Florida Gas Transmission was cited for exceeding this permitted gas consumption rate, late test report, and failure to timely apply for a construction permit extension. FGT signed consent orders for all these units. Penalties received are as follows: Gadsden, $8,400; Washington, $8,400; Santa Rosa, $7,800. Still in another county, Florida Gas Transmission was cited for exceeding the permitted gas consumption rate and failure to timely apply for a construction permit extension. FGT signed a Consent Order and paid a $6,150 penalty.

Florida Gas Transmission: The Department has collected a total of $575,400 from Florida Gas Transmission (FGT) for 110 violations in construction in the Florida Panhandle. In addition, the DEP executed a temporary emergency suspension of FGT's construction permit, required FGT to contract with an independent consulting firm to oversee their construction activities, and to submit a restoration proposal. The violations included a total lack of required Best Management Practices in certain construction areas, the creation of excessive levels of turbidity, and violations of design specifications outlined in the permit application for the project. The violations spanned the Florida Panhandle and included the Blackwater River State Forest, Joe Budd Management Area and Outstanding Florida Waters. Of the $575,400 total penalty, FGT paid a cash penalty to the DEP of $375,400. The remaining $200,000 will be paid by the company for longleaf pine forest restoration within the Blackwater River State Forest.

Hazardous Waste Consultants, Inc. and Hazardous Waste Services, Inc.: Two hazardous waste companies, Hazardous Waste Consultants, Inc. and Hazardous Waste Services, Inc., and their president, Patricia Ricketson, were fined more than $1 million in civil penalties on September 22, 1994 by an Orlando County Circuit Judge. The lawsuit focused on hazardous

waste violations in Orange and Seminole Counties. Violations included storage of hazardous waste past the ten-day limit and improper disposal of waste. Portions of hazardous waste went to the Seminole County landfill which is not a hazardous waste disposal facility. Landfill employees were not told they were handling hazardous waste. A dozen small bottles were disposed of in Orange County in the Tosahatchee State Reserve near residential areas. One bottle contained high levels of mercury.

Kissimmee Utilities: An inspection revealed the facility did not have a continuous monitoring system to monitor and record the ratio of water to fuel being fired in the turbine and had been submitting the CEM quarterly reports without having the required system to obtain the data. Kissimmee Utilities agreed to purchase and install a new monitoring system to comply with NSPS requirements. After signing the consent order and paying a penalty of $14,758.80, the company requested an additional meeting. The district, along with the Division air attorney Jeanne Elias, met with Kissimmee Utilities explaining the state's position on the matter of enforcing the NSPS requirement.

Master Packaging: A stack test conducted at the flexographic printing facility revealed VOC emissions were 68.7 lbs/hr vs. the permitted limit of 48.2 lbs/hr. Also, the 65% minimum capture and 90% minimum destruction efficiencies were not being met. On a later date, an inspection of the source revealed there was circumvention of the control equipment. Master Packaging signed a Consent Order and will pay a $7,000 penalty. In addition, they will be implementing a Supplemental Environmental Project, with a minimum cost of $45,000, intended to increase the overall capture efficiency from the presses to the incinerator from the current permitted level. Also, the company is to incur a minimum $6,000 cost for an independent environmental audit of the air pollution sources, which is to result in a compliance plan for these sources.

Mur-Shel, Inc.: Larry Shelton, Lois Shelton and Melvin Powell were arrested on November 4, 1994, by Florida Game and Freshwater Fish Commission officers for improper storage of a hazardous material "asbestos" in Panama City and Fort Walton Beach, Florida and several counts of theft. The arrests culminated a criminal investigation initiated by DEP Air Resources Management staff. The Sheltons operated Mur-Shel, Inc., an asbestos abatement company. During 1990-1992, they conducted abatement projects for a number of businesses, schools and industries in the Florida Panhandle. The asbestos waste was placed in rented warehouses in Fort Walton Beach and Panama City. They declared bankruptcy in 1992 and turned all of their assets, including the contents of the warehouses, over to Mr. Powell. The asbestos waste is still stored in the warehouses pending negotiations with Powell and the Sheltons for cleanup.

Ogden Martin: Ogden Martin exceeded the permitted one-hour average CO standard on July 6, 1993 and exceeded the permitted six-hour average SO2 standard on July 22, 1993. A Consent Order was executed on March 3, 1994 with a penalty of $14,799 assessed for the violations.

Pinellas County Department of Solid Waste Management: The Department issued a Warning Letter on September 2, 1994 to the Pinellas County Department of Solid Waste Management for excessive downtime on its Resource Recovery Facility, Unit 3, carbon monoxide continuous emission monitoring system during the first quarter of 1994. The Department detected the violation after reviewing the quarterly excess emissions report. PCDSWM agreed to purchase and certify a new carbon monoxide monitor, replace the existing monitor control, upgrade communications between the monitor cabinet and the data acquisition system, purchase a backup strip recorder, rewrite the quality assurance plan and upgrade the data acquisition system at a total cost of nearly $37,000. Because of the PCDSWN's good faith effort to achieve compliance, the Department reduced the penalty from $7,530 to $3,830. PCDSWM will keep the old carbon monoxide

monitor as a spare to prevent future excessive downtime problems.

Polyplastex International: The facility failed a VOC compliance test on its incinerator. The test showed actual emissions to be 82.21 lbs/hr vs. a permitted limit of 12.21 lbs/hr. A retest conducted on 4/11/94 showed the facility to be in compliance. The company signed a Consent Order and has paid a penalty of $22,000.

R.P. Scherer Corp.: R.P. Scherer Corporation was found in violation of its annual permitted VOC emission limit for 1992. A Consent Order was signed and a penalty of $18,000 was paid.

South West Florida Water Management District: SWFWMD was cited for no notification, no survey, no wetting during removal and improperly packaging and disposing of 2,000 sq. ft. of asbestos containing floor tiles. As property owner, they have completed abatement, which totaled approximately $50,000 and have paid a penalty through an in-kind settlement totaling $2,700. Excluding the subcontractor, Thunder and Lighting, the two other parties involved in the case have signed consent orders and each has paid $1,800 in penalties. A settlement was not reached with Thunder and Lightning and a case report was sent to the Department's Office of General Counsel (OGC).

State of Florida Department of Environmental Protection v. United States Naval Air Station—Jacksonville: The Respondent operates a facility in Jacksonville, Florida. The facility has a large industrial complex for the repair and overhaul of airframes and engines of naval aircraft. Hazardous waste management, collection and transportation manifesting activities are conducted at the facility. A departmental inspection documented hazardous waste violations, including the operation of a hazardous waste storage facility without a valid permit. In settlement of these matters, the parties entered into a Consent Order. The Respondent agreed to pay $1,000 in costs, $30,000 cash penalty and $120,000 in in-kind penalties. This case is significant because it is believed to be the first monetary settlement in Florida since the Navy waived its immunity under RCRA.

State of Florida v. Urbano Diaz-Devillegas; Romulo Juan Delgado; German Delgado; Darwin Mesa and Errol Woon: During May through August, 1993, Special Agents from EPA's Criminal Investigation Division Miami Resident Office, Federal Bureau of Investigation, Everglades National Park Service Rangers and members of the Metro-Dade Police Department cooperatively conducted an initiative to identify and apprehend individuals responsible for illegal disposal of construction debris in the wetlands of southern Florida. This initiative was called "Operation Sawgrass." Both aerial and ground surveillance activities were conducted to detect and apprehend violators. Operation Sawgrass resulted in detection of a number of potential violations of the Federal Clean Water Act and State of Florida environmental laws. Five individuals were arrested on probable cause by the agents after they were actually observed in the act of dumping construction debris in southern Florida, near the Everglades National Park. As a result of Operation Sawgrass, the five individuals arrested by the investigative team have been successfully prosecuted and sentenced.

Tampa Bay Center: Tampa Bay Center, Inc. was cited for removing 400 square feet of spray on fireproof coating from the air conditioning duct. Samples contained 30-35% asbestos. Violations cited were failure to notify, failure to survey, failure to wet, improper bagging and improper disposal, and untrained personnel. Tampa Bay Center, Inc. signed a Consent Order and is paying a penalty totaling $8,000.

Trend Management: Violations included demolition without notification, failure to wet and maintain wet, and improper disposal of approximately 5,218 sq. ft. of spray on ceiling containing regulated asbestos containing material (RACM). Trend Management has completed abatement and has signed a consent order. A

penalty amount of $18,000 is to be paid over a 24-month period.

Venture Properties: The owner of Venture Properties and OPC General Contractor, Inc. have settled with Duval County over the removal of approximately 94,000 sq. ft. of RACM ceiling tile. The violations included failure to maintain adequately wet and failure to seal the material in leak tight containers. Both parties signed a Consent Order and paid a total penalty of $36,000.

Waste Management: Waste Management exceeded their SO2 emission limit on their combustion turbines. Waste Management paid a $60,000 penalty and has signed a Consent Order. As a requirement of the Consent Order, they will install a desulfurization control system.

GEORGIA

Oxford Industries, Greenville, Georgia: A Consent Order was executed July 20, 1994 which concerned the illegal operation and overflow of an in-ground concrete tank that contained hazardous waste. Operation of this device is believed to be the source of contamination of the town's public water supply well. In addition to full RCRA compliance and facility-wide corrective action, the company was required to pay a cash settlement of $99,000 eliminate the use of chlorinated solvents at the plant, and replace the town's well at a cost of $100,000.

U.S. Navy Submarine Base, Kings Bay, Georgia: A Consent Order was signed June 14, 1994 concerning the Navy's improper identification, storage and disposal of hazardous paint waste. In addition to rectification of the violations, the Navy was required as a condition of the settlement to construct and operate a protected breeding habitat for an endangered species of migratory marine bird and to conduct a breeding bird survey for declining neotropical migratory birds. The habitat and the population study must be done in accordance with state and federal wildlife protocols. The agreement included a $10,000 cash settlement, plus a minimum of $40,000 that must be spent on the endangered species work.

Young Refining Corp., Douglasville, Georgia: A Consent Order was executed July 8, 1994 which concerned the illegal disposal of listed refinery wastes into a lagoon. As a condition of the settlement, Young Refining agreed to the required RCRA closure, monitoring, post-closure, and facility-wide corrective action, plus supplemental environmental projects that are non-mandatory environmental improvements. The $400,000 penalty included $175,000 in cash plus expenditures of not less than $225,000 on the supplemental environmental projects.

IDAHO

Envirosafe Services of Idaho, Inc.: Envirosafe Services of Idaho, Inc. (ESII) is located approximately ten miles west of Grandview, Idaho. The facility was originally a missile complex operated by the U.S. Air Force until 1965, and ultimately taken over by ESII in 1981. ESII is situated on layered interbedded gravels and clays which overlay regional basalt flows. ESII is a RCRA permitted facility for the treatment, storage and disposal of regulated hazardous waste. Treatment processes at ESII include stabilization via microencapsulation, crushing and macroencapsulation of hazardous debris. Land disposal occurs in a landfill which is constructed to meet the minimum technology requirements.

The State of Idaho, Division of Environmental Quality (DEQ), performed approximately 14 inspections and record reviews at the site between September 1992 and June 1993. As a result of these inspections, two Notices of Violation (NOVs) alleging 25 violations of the RCRA Operating Permit, proposing penalties of $137,492, were issued on October 21, 1993. The violations alleged included failure to comply with the waste analysis plan, preparedness and prevention, contingency plan, manifesting and LDR requirements of the permit. The NOVs also alleged improper treatment of hazardous

waste to meet LDR standards, inadequate response to a fire in the landfill trench, and improper management of spent aluminum potliners.

Complex negotiations between ESII and the State of Idaho to resolve the violations took place. On March 24, 1994, a Consent Order was signed by the parties to resolve the violations and return the facility to compliance. A penalty of $50,000 was collected. The Consent Order requires ESII to cease acceptance of spent aluminum potliners, re-evaluate and improve the stabilization treatment process and modify the permit where necessary. Idaho's oversight of ESII's compliance with the terms, conditions and schedules set forth in the Consent Order is ongoing.

Stibnite Mining Company: On October 20, 1993, the Stibnite Mining Company entered into a Consent Order through which Stibnite agreed to pay $15,000 in penalties in settlement of violations of Idaho's Water Quality Standards. On July 13, 1992, Stibnite reported a diesel fuel leak from an above-ground storage tank at the company's cyanidation gold mine facility located in Valley County, Idaho. Subsequent investigations by DEQ indicated that the fuel leak, itself a violation, was caused by improper fuel storage and handling techniques. Additional violations discovered during the investigation included elevated nitrate in ground water, possibly caused by leaky cyanidation ponds, and failure to characterize and properly dispose of hazardous wastes. Groundwater contamination at the Stibnite Mine is of particular concern because it discharges to the East Fork of the South Fork of the Salmon River, a tributary to a major salmon spawning and recreational stream in Idaho. The mine, an unpermitted (grandfathered) cyanidation operation, is now in the process of mitigation of groundwater pollution according to conditions set forth in the Consent Order, and is in the process of obtaining a cyanidation permit through the DEQ for future operations.

St. Alphonsus Regional Medical Center, Boise, Idaho: On December 13, 1993, a Consent Order was signed in which St. Alphonsus Regional Medical Center agreed to pay $11,500 in civil penalties. This action arose out of St. Alphonsus's alleged failure to adequately control visible emissions from their medical waste incinerator and failure to obtain a Permit to Construct prior to construction of a boiler and back-up electrical generator. A notice of Violation was issued to St. Alphonsus on February 22, 1993 which included four alleged violations (two visible emission violations and two failure to obtain permit to construct violations) along with a proposed total penalty of $21,500. Settlement negotiations with St. Alphonsus after issuance of the Notice of Violation resulted in the reduction of the penalty to $11,500.

The issuance of a Notice of Violation to St. Alphonsus Regional Medical Center was one of several similar actions taken as part of a statewide initiative to ensure the proper operation of medical waste incinerators in Idaho. In addition to payment of the civil penalty, the December 13, 1993 Consent Order also required St. Alphonsus to prepare, and submit to IDEQ for approval, a comprehensive Operations and Maintenance Manual which thoroughly describes the methods and procedures which St. Alphonsus will follow to ensure compliance with the Idaho Environmental Protection and Health Act and Idaho Code Section 39-101 through 39-130. Over a period of three months, IDEQ and St. Alphonsus carried on negotiations to determine the scope and content needed to develop a meaningful and effective Operations and Maintenance Manual. These negotiations produced a document that was approved by IDEQ.

ILLINOIS

Pork King Packing Company: In response to a citizen complaint, Illinois EPA cited Pork King Packing Co., (a slaughter/packing operation) for the unpermitted discharge of blood wastes and raw wastewater (contaminated with BOD, total

suspended solids, and ammonia) through a tile field into a small stream tributary to the Kishwaukee River. The company was also cited for unpermitted waste storage pits. The State's March 1994 consent decree required the company to haul wastes off-site temporarily. Pork King has since constructed a wastewater treatment system utilizing an anaerobic facultative percolation three-stage treatment lagoon, plus groundwater monitoring wells installed around the percolation cell, as confirmed by a State compliance inspection in November 1994. Estimated costs for installing the system were up to $1 million. The facility paid a $50,000 penalty to the State, as well as the $1,375/week cost of hauling wastes off-site for treatment while negotiations were ongoing and the treatment plant was being constructed. (SIC/2011/meat packing plants.)

INDIANA

Confined Feed Lot Facilities: Confined feed lot operations have been found to have a significant impact on Indiana streams. Non-point source discharges from such facilities are not generally regulated under NPDES permits. The State of Indiana has initiated aggressive enforcement against a number of feed lots for violating State discharge permits limits for: biochemical oxygen demand (BOD), total suspended solids, ammonia-nitrogen and bacteria. The State's settlements are summarized in the following table:

JPT Petroleum Production Corp.: On February 1, 1994, the Indiana Department of Natural Resources and JPT signed an administrative agreement regarding missed deadlines for demonstrating mechanical integrity of three Class II wells. The agreement also addressed minor violations associated with nine oil and gas wells in Gibson County. These violations were discovered through file reviews and routine inspections conducted in 1992. JPT agreed to pay a $3,000 penalty. This action will prevent contamination of underground sources of drinking water. (SIC/1311/crude petroleum & natural gas.)

State of Indiana v. James E. Nichols, State of Indiana v. Custom Finishing Corp.: James E. Nichols, the owner of Custom Finishing, Inc., located in Indianapolis, Indiana, was sentenced on January 19, 1994, in Marion County Superior Court on one count of storing hazardous waste without a permit in violation of an Indiana state statute. Nichols was sentenced to eighteen (18) months of incarceration, of which the court suspended twelve (12) months. The remaining six (6) will be served under a home detention program. Nichol's company, Custom Finishing, Inc. was fined $250,000 on each of two counts of the information charging the unlawful storage and disposal of hazardous waste without a permit at the facility. Nichols and the company entered guilty pleas to the State charges December 29, 1993.

IOWA

In the Matter of the City of Winterset, IA.: In a case representing the first criminal environmental charge against an Iowa municipality, the City of Winterset entered guilty pleas to: 1) Knowingly discharging a pollutant; 2) Knowingly constructing a disposal system without a permit; and 3) Falsifying a Monitoring Report. The City was sentenced to pay the maximum fines on all three charges, for a total of $110,000, with fines for two of the three charges being applied to upgrade the sewage collection system. The charges arose from an investigation that revealed that the City had installed covert automatic sewer bypass lift stations, which avoided sewage backup into residential basements by discharging onto streets or into storm drains. In a related case, the former mayor pled guilty to Non-felonious Misconduct in Office and received a deferred judgment. Charges of Conspiracy and Knowingly Constructing a Disposal System without a Permit are pending against the city engineer. The City also paid a $20,000 civil penalty for effluent violations at its wastewater treatment facility.

KANSAS

In the Matter of Dawson Brothers, Inc., Wichita, KS:: Based on two separate inspections of the Dawson Brothers, Inc. facility, the Kansas Department of Health and Environment finds that the Dawson Brothers have violated K.A.R. 28-31-1 et seq., which regulates the generation, transportation, storage, and disposal of hazardous waste. The inspections revealed that Respondents 1) disposed of waste paint coated tape in the trash dumpster; 2) disposed of waste Iridide powder in the trash dumpster; 3) allowed plating process tanks to leak; 4) stored for over 90 days over 1,000 kilograms of hazardous waste paint thinner, paint filters, paint-related materials, and bead blast; 5) had not evaluated stored wastes to determine if they were hazardous; 6) violated reporting requirements; 7) did not mark several drums of hazardous waste as "Hazardous Waste"; 8) did not conduct weekly inspections of the hazardous waste storage area; 9) did not develop a hazardous waste training program; 10) did not develop a Contingency Plan; 11) stored ignitable hazardous waste within 50 feet of the property line; and 12) did not allow sufficient aisle space to allow unobstructed movement of personnel and equipment. The Dawson Brothers paid a penalty of $41,500.

In the Matter of Owens-Corning Fiberglas Corporation, Kansas City, KS: On April 9, 1993, the U.S. EPA issued a Notice of Violation alleging visible emissions in excess of 20% opacity. Recurrent blue-colored carryover from combined stack and fugitive emissions, periodically emanated from the plant. Owens-Corning and KDHE entered into a Consent Agreement to resolve the issues raised by EPA's NOV. Owens-Corning agrees to establish written procedures to operate, maintain, and clean the control equipment. Owens-Corning agrees to conduct visual emissions evaluations of stack emissions from cooling scrubbers and smoke strippers and prepare an emissions reduction plan.

In the Matter of Sunflower Manufacturing Company, Inc., Beloit and Cawker City, KS: On February 10, 1994, the Secretary of KDHE issued a Notice of Proposed Penalty and Order for Corrective Action based on results of separate inspections at the Sunflower-Beloit, and Sunflower-Cawker City, Kansas facilities. Both facilities stored wastes over 90 days in containers not marked "Hazardous"; had not marked open containers with the accumulation start date and the containers were not in good condition; had inadequate aisle space; failed to develop a contingency plan and failed to develop and implement a personnel training program. Beloit received regulated quantities of hazardous waste from the Cawker City facility without a permit. In addition to the above violations, the Secretary of KDHE also found that Cawker City failed to prepare a manifest for the shipment of hazardous waste; failed to apply for and obtain an EPA identification number prior to generating, treating, storing, disposing, transporting, or offering for transportation hazardous waste; transported waste without first registering as a transporter to a facility which is not authorized; and failed to prepare a land disposal restriction notice for each shipment of hazardous waste. The Secretary assessed a penalty of $57,600 and an order to come into compliance.

MICHIGAN

Ace Finishing, Inc.: A July 1994 jury verdict against Ace Finishing, Inc. in Macomb County Circuit Court, MI, resolved an important case taken by the State of Michigan. AFI is a metal finishing facility that discharges to the City of Warren's wastewater treatment plant. The City imposed pretreatment limits on AFI to meet categorical limits and to prevent harm to the wastewater treatment works and the environment. After a routine inspection uncovered an ongoing sludge discharge, the City began monitoring AFI's control manhole. Discharges of zinc and chromium resulted from the company's improper operation of its pretreatment system. AFI was diverting all or part of the wastestream around the treatment facility. Manhole sampling

confirmed numerous violations of the City's sewer use ordinance.

The City requested assistance from the Michigan Department of Natural Resources and the State Attorney General in initiating legal action. AFI was charged with felony violations of the Michigan Water Resources Commission Act (1929 PA 245, as amended). The jury returned guilty verdicts against AFI for 10 felony counts for the unlawful discharge of zinc and chromium. AFI has 3 years to pay a $100,000 penalty ($10,000 per count). In addition, AFI will be on a 3-year probation. The court also ruled that AFI had 90 days to reimburse the City and the State for court costs. The total restitution to be paid was $9,228.67. (SIC/3471/plating and polishing.)

MINNESOTA

LTV Steel Mining Co.: On July 27, 1994, the Minnesota Pollution Control Agency (MPCA) and LTV Steel Mining Co. Steam Electric Generating Plant (LTV) of Taconite Harbor, MN, entered into a negotiated stipulation agreement to address environmental problems caused by a landslide of ash from LTV's power plant. Almost exactly a year earlier (on July 28, 1993) a landslide of about 400,000 cubic yards of power plant ash (mixed with 8,000 gallons of mineral oil from a subsequent spill) cascaded down a slope from LTV property towards Lake Superior. LTV subsequently spent about $10 million to clean up the ash spilled on the land. MPCA also requested that LTV conduct a dredging survey which determined that about 400 cubic yards of contaminated sediment ended up in Lake Superior.

MPCA then proceeded with an enforcement action, citing LTV for violations of State environmental statutes. The stipulation agreement requires LTV to pay a $66,430 reimbursement to the MPCA for expenses related to the slide and a calculated $240,000 economic benefit recovery (LTV's estimated savings for not removing the ash from Lake Superior.) The State will assess the environmental damage after the Minnesota Dept. of Natural Resources conducts a detailed survey of native fish habitat along the north shore of Lake Superior. The survey is scheduled for Summer 1995. (SIC/1011/iron ores).

MISSOURI

In the Matter of Barton Nelson, Inc.: City and Federal inspections established that Barton Nelson, Inc. violated Section 110 of the Clean Air Act, and Missouri Department of Natural Resources regulations when it failed to obtain permits for construction presses in 1992. Barton Nelson also violated 40 CFR Subpart RR, New Source Performance Standards for Pressure Sensitive Tape and Label Surface Coating Operations. The City of Kansas City, Missouri and the State of Missouri referred this matter to the EPA when settlement negotiations between Barton Nelson and the City/State broke down. In July, 1994, EPA, the City and State met with Barton Nelson and reaffirmed the State's bottom line offer of $100,000. EPA gave the source a specific time deadline to settle with the State for the full $100,000, or EPA would initiate its own action against Barton Nelson. Barton Nelson, Inc. settled with the State of Missouri for $100,000 the day before the deadline expired.

In the Matter of International Paper Company, Joplin, MO: International Paper Company will pay a $273,000 penalty as a result of its alleged failure to meet a timetable to close several hazardous waste ponds at its wood treatment facility. Waste sludge from the wood treatment process, classified as a hazardous waste due to creosote and pentachlorophenol contamination, was placed in nine ponds at the facility. In 1986, MDNR had approved a plan to close the ponds and treat soil contaminated with hazardous waste. The Company failed to comply with the original plan's timetable and did not submit a modified closure plan in a timely fashion. In addition to the penalty, International Paper is also required to close the ponds and treat the contaminated soil under a modified plan approved by MDNR.

Norfolk and Western Railway Co.: The railway company has paid $700,000 in civil penalties and damages and will provide another $2.7 million in payments and equipment to the State of Missouri to compensate for illegally disposing of more than 500 containers waste paint at its Moberly railroad yard. In the civil settlement, Norfolk and Western agreed to: 1) pay $350,000 in civil penalties to the Randolph County School Fund as required by the Missouri Constitution; 2) pay $350,000 to the Natural Resources Protection Fund; 3) take any steps necessary, including closing the site, to bring the railroad yard into compliance with hazardous waste management laws and regulations; and 4) comply with the Missouri Hazardous Waste Law and RCRA.

Under the terms of the criminal plea, Norfolk and Western agreed to: 1) pay $1 million to the Missouri State Parks Earnings Fund to benefit the Katy Trail State Park, 2) buy for the state $1.7 million worth of material and equipment used in identifying, investigating, and prosecuting environmental offenses, and 3) develop and implement an organization-wide environmental awareness program. The criminal plea also requires the company to pay a $500,000 fine - the highest penalty allowed. The company also must pay an additional $500,000 to the United States for its cost and damages.

MONTANA

State of Montana v Continental Lime: This case was comprised of several NSPS, SIP permit, and PSD violations which included failure to obtain a PSD permit for SO2 emissions, failure to submit quarterly excess emissions reports, failure to install a State-required baghouse for control of particulate emissions, failure to conduct initial performance tests for particulates and opacity, and failure to conduct CEM initial performance tests. The State used the EPA Stationary Source Civil Penalty Policy but then reduced the calculated amount by 60%, or a factor of 0.4 purportedly to account for its $10,000 per day per violation maximum penalty compared to EPA's maximum of $25,000 per day per violation (i.e., $10,000/$25,000 = 0.4) and did not include the PSD permitting violation due to equitable defenses the source had against the State, but which it did not have against EPA. This resulted in a State penalty assessment of $60,000. On June 17, 1994, EPA issued an NOV and Order to Continental Lime, but in the cover letter encouraged CL to reach an appropriate settlement with the State. The State and Continental Lime agreed to the penalty of $144,000 thereby avoiding an EPA civil judicial action. This is an example of State capacity building using EPA oversight and enforcement agreements.

NEBRASKA

Ash Grove Cement Company: The Ash Grove Cement Company will pay $15,000 in accordance with a settlement with the Nebraska Department of Environmental Quality (NDEQ) and Nebraska Attorney General's Office. Ash Grove Cement owns and operates a portland cement manufacturing facility. The Company manufactures cement by heating a mixture of limestone, clay, sand, and mill scale in two cement kilns that are fueled primarily by coal. The kilns use hazardous waste as a supplemental fuel. A March, 1993 NDEQ inspection allegedly found: recordkeeping violations involving inspections of a hazardous waste storage area; improperly marked containers; no independent certification of the facility's hazardous waste storage tank system integrity; and inadequate information in the facility's contingency plan and training records.

NEW JERSEY

State of New Jersey v. Patricia Nazzaro, John Martinez, Augustine Scalzitti & Frank Scalzitti: On October 5, 1993, Patricia Nazzaro, John Martinez, Augustine Scalzitti, Frank Scalzitti and Paul Scalzitti pleaded guilty to a New Jersey State Accusation for violations of New Jersey Code § 2A(2): 17 - 2C, Reckless Release and Abandonment of Hazardous Waste and Toxic Pollutants. On November 18, 1993 in Passaic County Criminal Court, John Martinez,

Augustine Scalzitti, Frank Scalzitti, and Paul Scalzitti were each sentenced to three years probation, fined $1,000, and directed to perform 100 hours of community service. Patricia Nazzaro was sentenced to four years probation, fined $85,000 and directed to perform 100 hours of community service. Martinez and the Scalzittis were workers hired by Nazzaro to pack up and dispose of hazardous printing and lithographic wastes from her property located in Fairfield, New Jersey. En route to the dump site, the trailer caught fire due to incompatible wastes having spilled and mixed during transport. The smoking trailer was then abandoned.

NORTH CAROLINA

Carolina Mirror Company (North Wilkesboro, NC): Carolina Mirror Company manufactures a variety of mirror products for commercial use which vary in shape, size and thickness. Lead based paint is used in the manufacturing process to coat the back of the plate glass. Various activities produce mirror cullet which consist of off-specification or damaged broken pieces of mirrors, and mirror generated by cutting, polishing and other processes. The facility disposed of mirror cullet in a North Carolina solid waste landfill and stockpiled cullet on-site. Some of the waste exhibits the hazardous waste toxicity characteristic.

An Administrative Order on Consent with a $25,000 penalty pending characterization of the mirror cullet entered on April 14, 1994, to address the characterization and remediation of the mirror cullet on-site and at the solid waste landfill. The agreement was revised on December 7, 1994, to include a potential SEP if Carolina Mirror can initiate a Household Hazardous Waste Collection Program in Wilkes County at a reduction in penalty of $0.50 on the dollar.

Duke University (Durham, NC): Duke University is a private institution which generates and manages hazardous waste from a variety of sources. This Consent Agreement specifically addresses the management of hazardous waste located at the Paul M. Gross Chemical Laboratory. During a routine inspection as a Large Quantity Generator (Generator) Duke University was found to be storing mercury and dioxin related waste longer than ninety (90) days. Therefore, a Consent Agreement was entered with the university to address the closure of the unpermitted storage unit. The settlement was entered into February 28, 1994, and included a $10,000 administrative penalty with a SEP in the amount of $15,000 which called for an external environmental audit of all environmental protection programs and implementation of an inventory and risk analysis of previously utilized hazardous waste TSD facilities.

Fawn Industries (Middlesex, NC): Fawn Industries is located approximately 1/4 mile from the nearest resident. The Compliance Order with Administrative Penalty was the result of the following violations: failure to conduct a proper waste determination; failure to properly label and date containers of hazardous waste; failure to maintain adequate aisle space; and failure to properly complete land disposal restriction forms.

Total penalty assessed against the facility was $21,250. The settlement figure was $10,000 and approved SEPs estimated at 295,000. Settlement date was July 21, 1994.

SEPs consisted of:

- RCRA Compliance Audit (cost $68,000).
- Pollution Prevention:
  - product substitutions such as water-based paints, alternate solvents and re-tooling manufacturing process (cost $72,000);
  - purchasing in bulk to reduce paint can residues (cost $5,000); and
  - evaluate on-site wastewater treatment (initial equipment/permit/operation cost $150,000 with payback in 2.3 years).

Greer Laboratories: Greer Laboratories is located approximately 1/4 mile from the nearest resident. A Compliance Order with Administrative Penalty was issued as a result of the following violations: operating without a correct EPA identification number; tank violations including failure to obtain a written certified assessment, provide secondary containment, conduct daily inspections and properly label the tank; failure to maintain a contingency plan; and failure to properly train personnel and maintain the required training documentation.

Total penalty assessed against the facility was $17,200. The settlement figure was $10,000 and an approved SEP. The SEP consisted of development and implementation of a acetone recovery system (Cost $7,290). Settlement date April 26, 1994.

Midway Body Shop (Winston-Salem, NC): Midway Body Shop is a small business personally owned and operated which performs body shop repairs and automobile painting operations. The facility transported five 55-gallon drums of spent paint thinner to a piece of property owned by brother of the body shop owner. Two of the containers appeared to be leaking during an on-site inspection. The brother contended that he was using the spent solvent to clean painting equipment, though two drums were labeled "Hazardous Waste."

The Compliance Order with Administrative Penalty was issued to address the following violations: transporting hazardous waste to a site that has not received an EPA identification number; failure to manifest the shipment of hazardous waste; and failure to properly label and date containers of hazardous waste. The penalty was assessed at 75,000. Review of the owner's financial documents indicated that the company was in poor financial condition and could not pay the penalty. A Consent Agreement was entered on September 29, 1994, in which the owner would pay a $5,000 penalty and perform eight hours of community service as a volunteer at the Envirofair in Winston-Salem, North Carolina.

NC DOT—Ferry Division (Manns Harbor, NC): An Administrative Order on Consent for NC DOT - Ferry Division was the result of the following violations: open container of waste paint thinner; failure to conduct weekly inspections; failure to train personnel involved in hazardous waste management and complete annual training updates; failure to maintain training records; and the facility was not maintained and operated to minimize releases.

Total penalty assessed against the facility was $25,750. The settlement figure was $10,000 and approved SEPs. Settlement date was June 6, 1994.

SEPs consisted of:

- Waste reduction:
  - replace conventional oil filters with reusable oil filter screening system and use of filtration units on coolant system (six systems replaced at $625, expected annual savings of $3,512);
  - use of filter system in parts cleaning machines to cut down on replacement of solvent (initial cost $8,070 with payback in 1.06 years); and
  - implement a solvent distillation system (initial cost $14,625 with payback in 1.5 years).
- Recycle Program:
  - further development of a ferry customer newsletter on recycled paper
  - aluminum/cardboard/plastic collection operation at four additional ferry sites; re-use of plastic dredge piping as chafing gear on piling clusters; (Cost $4,400) and

- public awareness through use of posters and distributing brochures to ferry customers.

Phillips Plating Company (Bridgeton, NC): Phillips Plating Company was cited in the Compliance Order with Administrative Penalty for the following violations: failure to properly determine what waste is a hazardous waste; disposal of hazardous waste in a non-permitted unit. The facility operated a wastewater treatment system under a Clean Water Permit. The units, however, would not structurally qualify as tanks due to their design, construction and evidence of cracks. Therefore, the units which received wastewater exhibiting the toxicity characteristics of hazardous waste due to the cadmium and lead content were considered surface impoundments subject to hazardous waste permit standards.

The total penalty issued against the facility was $75,000. An ABLE analysis indicated the company was in poor financial condition. A settlement was reached November 21, 1994, with a $5,000 administrative penalty and a $5,000 SEP commitment to conduct one or more SEP projects (to be initiated by December 20, 1995, and completed by November 21, 1995). In addition, Phillips Plating will be retro-fitting its wastewater treatment system as it undergoes extensive site characterization and remediation to address any contamination resulting from the use of existing wastewater treatment system.

Watts Regulator Co./Regtrol (Spindale, NC): Watts Regulator is located in an industrial/business area. The distance to the nearest residence is approximately 1/4 mile from the facility. The Compliance Order with Administrative Penalty was the result of the following violations: open hoppers of D008 sand and failure to properly label and date containers/hoppers; storage tank violations including no written assessment of the D008 hazardous waste coolant storage tank system, lack of a leak detection mechanism, failure to remove released waste from the secondary containment system within 24 hours and operate the facility in a manner to minimize the potential for releases, failure to provide overfill protection equipment, failure to conduct daily inspections and failure to document inspections; and failure to complete annual training for all employees engaged in hazardous waste management activities.

Total penalty assessed against the facility was $85,999. The settlement was signed February 9, 1994, with an administrative penalty of $37,000 and approved SEPs which included an environmental education/awareness program for all employees and construction at the baghouse collection area to eliminate the possibility of baghouse dust handling problems.

OHIO

Andersons Management Corp.: On November 14, 1994, a State consent order with the Andersons Ltd. Partnership and the Andersons Management Corp. was filed in Common Pleas Court, Lucas County, OH. At Ohio EPA's request, the State Attorney General's Office took action again the Toledo facility on August 14, 1992. The violations of the Ohio Revised Code (ORC) 6111 relate to the unpermitted discharge of pollutants into the Maumee River. Stormwater and subsurface drainage was contaminated with arsenic, lead, phosphorus and other pollutants. The source was glass manufacturing waste placed in settling lagoons by previous owners. The consent decree levied a $430,000 penalty and required the following: compliance with the applicable sections of ORC 6111; cessation of discharge (except in accordance with NPDES regulations) and analytical testing of all wastewater removed from the facility. (SIC/4221/ farm prod. warehousing & storage.)

PENNSYLVANIA

ARCO Chemical Company: ARCO owns and operates a manufacturing facility known as the Beaver Valley Plant, which is located on the south bank of the Ohio River. Other waters that flow through or bound the plant site include

dangerous waste outside in containers without lids or labels, and failure to ship dangerous waste to a facility authorized to treat, store, or dispose of it within ninety days of generating it. The case was settled when Fort Lewis agreed to pay $15,000 to Ecology, develop a "continuous inspection program" with the help of an independent contractor, and conduct a detailed waste streams study of Madigan Army Hospital.

WISCONSIN

Dean Foods Vegetable Company: During FY 94, eight judgments resolved the State of Wisconsin's case against nine Dean Foods Vegetable Co. (formerly known as The Larsen Company) facilities. Wisconsin had alleged numerous violations of wastewater discharge permits and State water pollution laws. Dean Foods discharged not only excessive pollutants but also wastewater at excessive temperatures and pH levels. The company also failed to sample its wastewater on hundreds of occasions between 1987 and 1993. In addition, spills at several plants resulted in the illegal discharge of pollutants into State waters. The spills consisted of treated/untreated process wastewater and leachate from sweet corn silage stacks. A total forfeiture of $207,500 was assessed (penalty breakdown for each facility is listed below). Wisconsin has a large food canning industry, and the whole industry took note of this case. (SIC/2033/canned fruits, vegetables, preserves, jam.)