

UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY

EPA REGION I
JFK FEDERAL BUILDING
BOSTON, MA 02203

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MAY 1994

FY 93 Enforcement Accomplishments Report



DEDICATION TO PAUL G. KEOUGH

The Fiscal Year 1993 Region I Enforcement Accomplishments Report is dedicated to Paul G. Keough. Paul served the United States Government and the Environmental Protection Agency for nearly half his life before he died suddenly on January 17, 1994. Carol Browner, the EPA Administrator, recognized Paul Keough's contributions to EPA in her announcement of a national award in his name as follows:

Paul epitomized the very best of EPA, serving the Agency in many capacities in his twenty-three year career in Region I. At the time of his death, he was the Acting Regional Administrator, a position he held almost as often as his official position of Deputy Regional Administrator.

Paul was the toughest of defenders of the environment and EPA, fighting passionately for what he believed to be the correct course of action.

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ACKNOWLEDGMENTS

The Office of Regional Counsel coordinated the writing of this report with the Region's Air, Pesticides and Toxics Management Division; Environmental Services Division; Waste Management Division; and Water Management Division. John Smaldone of the Deputy Regional Administrator's office oversaw this project.

Special thanks to John Williamson, MTI Information Center Supervisor, for his valuable assistance in the publication of this report, and to Barbara Waller, MTI Task Leader, for her coordination of publishing resources.

INTRODUCTION

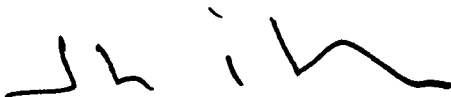
This report describes the results of Region I's enforcement efforts in the six New England States during fiscal year 1993 (October 1, 1992 through September 30, 1993). It contains separate chapters on each of our major enforcement programs and our multi-media and federal facility programs. Each chapter contains narrative summaries of our enforcement accomplishments and highlights some of the significant cases. Enforcement statistics from 1989 through 1993 are also provided.

The states are the primary implementers of several of these programs. For these programs, statistics about state enforcement achievements that are tracked in EPA's national databases are also provided. Many states take additional enforcement actions that are not required to be reported to EPA. Although the multitude of state achievements is beyond the scope of this report, we acknowledge the states' dedication and contribution to the successes of the past year.

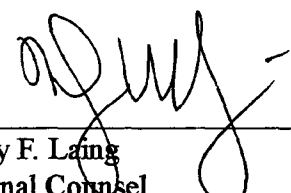
During fiscal year 1993, progress continued in state/EPA coordination efforts, strategic targeting of enforcement, improving efficiency of inspections, joining compliance with pollution prevention, and settlement of prior year enforcement cases.

Federal and state enforcement programs conducted over 8,200 inspections in New England during the fiscal year. Over 500 new federal and state cases were filed (administrative, civil, and criminal) and over 95 previously-filed federal cases settled. Assessed penalties exceeded \$12,000,000. In addition to provisions for paying fines and coming into compliance, many case settlements included Supplemental Environmental Projects. These innovative approaches to settlement result in violators agreeing to additional relief in the form of projects which remediate the adverse public health or environmental consequences of the violations. These projects range from restoration of natural resources to pollution prevention programs aimed at reducing the amount of wastes generated.

For 1994 we have launched an effort to develop an even more effective enforcement strategy that will be unveiled in the fall. We will focus on improving our enforcement targeting by working more collaboratively with the New England states on setting priorities and allocating resources to compliance and enforcement. We will give priority to increasing Region I's inspection and enforcement presence in environmental justice areas. We will maintain a vigorous enforcement program, while also bolstering Region I's efforts to provide technical assistance to industry.



John P. DeVillars
Regional Administrator



Harley F. Laing
Regional Counsel

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MULTI-MEDIA ENFORCEMENT

During FY 93 Region I continued to pursue many aspects of the inspection and enforcement process from a multi-media perspective. Field inspectors routinely used a multi-media checklist. Case teams were required to complete multi-media case screening before an enforcement action could be commenced. Significant settlements were reached in several multi-media judicial enforcement actions, including a precedent-setting settlement with the United Technologies Corporation. A record number of settlements - 22 - included supplemental environmental projects. In FY 93 the New England states and Region I also created a new committee to focus on enforcement information sharing and issues common across media programs.

Inspectors' Multi-media Checklist

In FY 93 Region I's inspectors were required to use a multi-media checklist during inspections. Use of the checklist first started two years ago. The checklist includes questions from all of the regulatory programs that EPA administers. By asking the questions on the checklist during a compliance inspection, an inspector can uncover possible compliance problems beyond the program for which he or she is inspecting the facility.

Region I's inspectors conducted 231 single-program inspections for which they completed the multi-media checklist in FY 93. Of these 231 checklists, more than 50 were forwarded to another program office for follow-up action because the inspector suspected a violation might exist. These referrals led to six enforcement actions in six different programs and to two state enforcement actions. In addition, the Region and the states conducted a number of follow-up inspections on identified violations that may lead to future enforcement actions.

Multi-media Inspections

Although the majority of the inspections conducted by Region I are single-program with use of the multi-media checklist, the Region is committed to multi-media inspections in appropriate circumstances. During FY 93, the Region's inspectors participated in eight consolidated inspections (- full inspections during which compliance with more than one program is investigated). The inspectors also conducted 32 coordinated inspections (- those in which two or more programs coordinate their planning and inspect the same facility within 90 days of each other).

Multi-media Training

To advance the multi-media approach to enforcement, Region I conducted training in the spring of 1993 for all of the Region's field inspectors on a number of important topics. All inspectors attended a course devoted exclusively to the subject of multi-media inspections at which experts from each of the enforcement

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programs discussed the major requirements of their programs so that inspectors would be better able to identify problems in areas beyond their individual programs. A separate course discussed ways in which inspectors can promote pollution prevention during their inspections. Finally, the Region held a course for inspectors and others which covered the litigation process and their role in it.

Enforcement Workgroup

Region I's Enforcement Workgroup, which includes representatives of the Region's media enforcement programs and the Office of Regional Counsel, in FY 93 continued to play a lead role in developing and overseeing multi-media enforcement. As in recent years, the Workgroup held a roundtable discussion early in the year at which each of the programs discussed their inspection and enforcement plans for the year. During this meeting, opportunities for coordinated and consolidated inspections were identified and the possibilities for participation in the various regional and national enforcement initiatives surfaced. The Workgroup also considered other important multi-media issues, including refinement of the Region's multi-media inspection checklist, data collection efforts, and inspection and enforcement targeting.

Case Screening

In FY 93 the Region continued to follow multi-media case screening procedures before initiating enforcement actions. Under these procedures, the Region's case team investigates whether there is a history of enforcement, other current violations, or the existence of a TRI (Toxics Release Inventory) report for the violating facility. To conduct the screening, the case team relies on two computerized systems: the national enforcement database, IDEA (Integrated Data for Enforcement Analysis), and the Region I database, METS (Multi-media Enforcement Tickler System). After checking the databases, the case team also solicits information about the violating facility from all the Region's enforcement programs. The screening provides a complete picture of the facility's compliance status and facilitates decision-making about appropriate enforcement strategy.

The most significant refinement to the case screening process in FY 93 was revision to the worksheet that the case team must prepare to summarize the information collected during the screening process. Reflecting the Agency's commitment to environmental justice by providing environmental protection to all members of the public, the worksheet now asks several questions about the community in which a violating facility is located and the impact its emissions may be having on area residents. The worksheet also now asks the case team several questions about the potential for including an SEP (supplemental environmental project) in any settlement of the case.

Multi-media Enforcement Actions

Although the number of judicial multi-media enforcement actions is not large, Region I in FY 93 achieved significant settlements in several cases.

HIGHLIGHT: MULTI-MEDIA SETTLEMENT WITH UNITED TECHNOLOGIES CORPORATION

On August 23, 1993, a precedent-setting consent decree was lodged in U.S. District Court for the District of Connecticut, resolving a multi-media, multi-facility enforcement action against United Technologies Corporation (UTC), a major defense contractor. (The decree was entered by the court on October 19, 1993.) UTC agreed to pay a penalty of \$3,701,910 to the United States for violations of the Resource Conservation and Recovery Act (RCRA), the highest civil penalty ever obtained in settlement of a civil RCRA action. In addition, UTC agreed to pay a total penalty of \$1,600,000, with \$1,050,000 to the State of Connecticut and \$550,000 to the United States, for violations of the federal Clean Water Act (CWA) and state water protection laws. UTC facilities named in the suit design and manufacture jet engines and parts, aircraft and spacecraft components, and helicopters.

The complaint in this action, originally filed in September, 1990 and amended in April, 1991, alleged that UTC had committed over 150 violations of RCRA at eight different UTC facilities in Connecticut. The RCRA violations included improper handling of hazardous waste, storage of hazardous waste without a permit, inadequate personnel training, and inadequate groundwater monitoring. Along with the settlement, the government filed a second amended complaint that addressed dozens of CWA violations at seven UTC facilities in Connecticut. Under the CWA, UTC was cited for the discharge of pollutants without a permit, the discharge of inadequately treated wastewater to surface waters, and the discharge of water with a high pH that caused a fish kill in the Connecticut River. As a delegated NPDES state, Connecticut chose to be a co-plaintiff in the action and made valuable technical and legal contributions to the case.

As part of the settlement, UTC agreed to implement an extensive multi-media environmental audit at all 26 of its New England facilities. The scope and range of the audits are unprecedented. Under the audit provisions of the consent decree, UTC must retain an independent management consultant to make recommendations for how UTC can alter its management systems in order to improve its environmental compliance. After the recommended changes to its management systems are made, the company must retain an outside audit firm to assess the 26 facilities' compliance with all environmental laws. The audit process is expected to take several years to complete and will cost the company between \$4-8 million, during which time EPA and the state DEP will continue to inspect UTC facilities for compliance.

*Attorneys: Amelia Katzen (RCRA) and Michael Wagner (Water)
Engineers/Scientists: Regina Snyder & Rich Piligian (RCRA)
Mike Fedak & Richard Hull (Water)*

HIGHLIGHT: MULTI-MEDIA SETTLEMENT WITH GEORGIA-PACIFIC CORPORATION

On September 9, 1993, EPA, the State of Maine and Georgia-Pacific Corporation lodged a consent decree with the federal district court resolving a multi-media enforcement action against Georgia-Pacific Corporation's pulp and paper mill in Woodland, ME. (The federal court entered the decree on November 2, 1993.) The case was originally filed as part of EPA's pulp and paper mill enforcement initiative in September, 1992.

The consent decree settles an enforcement action addressing violations of both the Clean Air Act and Clean Water Act at the facility. In 1990 and 1991, Georgia-Pacific intermittently violated air emission and water discharge standards, as well as frequently failed to comply with its air license's monitoring requirements. The consent decree requires Georgia-Pacific to pay a civil penalty of \$390,000, to be split between the state and the federal government. The action reflects Region I's efforts to coordinate enforcement between different media (in this case the air and water media) and between state and federal governments. Maine was an active participant in the development of the case and in the settlement negotiations with the company.

*Attorney: Mike Kenyon
Engineers/Scientists: Donald Dahl (Air) & Joy Palmer (Water)*

HIGHLIGHT: MULTI-MEDIA SETTLEMENT WITH MTD PRODUCTS AND COLUMBIA MANUFACTURING COMPANY

The District Court of Massachusetts entered a consent decree on August 11, 1993 settling an action against MTD Products, Inc. and Columbia Manufacturing Company, Inc. for violations of RCRA and the Clean Water Act. MTD and Columbia are the former and present owners and operators, respectively, of a bicycle and furniture manufacturing facility in Westfield, MA. The initial action was filed in 1991.

The consent decree provides that the defendants will pay a total civil penalty of \$100,000, with \$90,000 under RCRA and \$10,000 under the CWA. In addition, the decree requires the defendants to complete any RCRA corrective action determined to be necessary at the site and to assess the adequacy of the plant's CWA treatment facilities.

Columbia Manufacturing Company, which owns the real property at the site filed a Chapter 11 bankruptcy petition. Without this consent decree, therefore, the site would likely lay unexamined for years. This settlement is extremely beneficial because it will result in completion of a RCRA Facility Investigation and corrective action. Depending on the extent of environmental degradation which is uncovered, this consent decree could result in a major benefit to the environment.

*Attorney: Michael Wagner
Engineers/Scientists: Mary Garren (RCRA) & Brian Pitt (Water)*

FY 93 was also the first year of implementation of the consent decree in the record-breaking settlement achieved late in FY 92 with the Dexter Corporation.

HIGHLIGHT: THE FIRST YEAR UNDER THE MULTI-MEDIA SETTLEMENT WITH THE DEXTER CORPORATION

On November 13, 1992, a multi-media consent decree was entered in federal district court settling federal and state civil claims against The Dexter Corporation for violations of the CWA and RCRA at its Windsor Locks, CT specialty paper manufacturing facility. The civil decree was part of a global settlement involving a \$13,000,000 penalty and substantial injunctive relief resolving civil, criminal, and suspension and debarment actions pending against the company. Under the civil consent decree, the company was required to pay \$9,000,000 in penalties, perform a multi-media audit at its Connecticut facility, build wastewater treatment facilities, conduct a RCRA Facility Assessment, and perform closure of former hazardous waste treatment, storage and disposal areas.

Approximately one year later, significant strides have been made at the facility in complying with the settlement. The company is on the brink of completing all Clean Water Act remedial work, including installation of a multi-million dollar treatment unit for its pulp mill wastestream, preparation and implementation of a comprehensive spill prevention plan, and construction of a diffuser that will allow sufficient mixing of Dexter's discharge in the Connecticut River thereby preventing toxicity.

Because there were exceedences of some of the interim effluent limits imposed by the consent decree during the period pending completion of the CWA remedial work, stipulated penalties of \$49,000 were assessed and collected against Dexter during FY 93.

The company is also moving forward with respect to compliance with the RCRA requirements under the decree. After submitting the RCRA Facility Assessment (RFA) Workplan and the closure plans for the 18 units which require closure, Dexter has begun site characterization work pursuant to these plans.

Although not a part of the settlement, the company has also significantly reduced the amount of toxic pollutants that it discharges by discontinuing the use of carbon disulfide and reducing the quantities of sodium hydroxide and sulfuric acid used in its paper making process.

*Attorneys: Tonia Bandrowicz (Water) & Andrea Simpson (RCRA)
Engineers/Scientists: Mike Fedak (Water) & Elaine Stanley (RCRA)*

New England State/EPA Environmental Enforcement Committee

FY 93 was the first year of operation of the New England State/EPA Environmental Enforcement Committee which was established to foster communication and coordination between EPA and the six New England states on enforcement matters. The Committee includes high-level representatives from the enforcement offices of all the state environmental agencies and from the environmental divisions of the state attorneys general offices in Region I. The Committee meets approximately every four months and addresses topics of mutual interest, such as the coordination of enforcement efforts, participation in national enforcement initiatives, administrative penalty programs, and training needs. Establishment of the Committee has created a forum for some of the key environmental enforcement managers in the states to come together to exchange information and discuss issues with Region I.

Supplemental Environmental Projects

Region I's emphasis on a multi-media perspective in enforcement was again demonstrated in FY 93 by the number of settlements including SEPs (supplemental environmental projects). Such SEPs often involve pollution prevention or recycling projects under which the violator goes beyond the requirements of the law to remediate the adverse public health or environmental consequences of the violations cited in the enforcement actions. In FY 93, the Region incorporated SEPs in the settlement of 22 cases.

HIGHLIGHT: SEP IN SETTLEMENT WITH AVCO CORPORATION, TEXTRON LYCOMING

On August 19, 1993, Region I settled administrative actions filed under the Toxic Substances Control Act (TSCA) and RCRA against AVCO Corporation, Textron Lycoming of Stratford, CT, a manufacturer of jet engine parts. The agreement requires a penalty payment of \$151,625 (\$84,500 for the TSCA violations and \$67,125 for the RCRA violations). The agreement also requires the company to perform an SEP with a value of at least \$434,800. The project consists of the company replacing its current method of parts cleaning using 1,1,1-trichloroethane with an alternative method using an aqueous based cleaner or ultrasonic cleaning. The effects of this SEP will be the reduction of the trichloroethane waste stream at the facility, lessening the potential for spills and ground contamination and reducing the volume of hazardous waste generated at the facility.

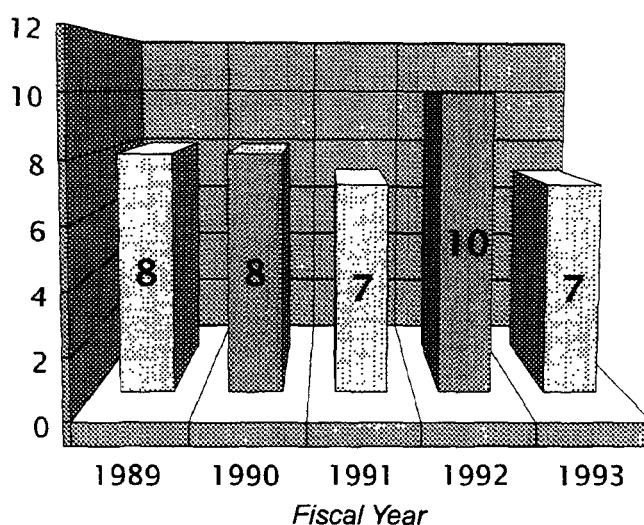
Attorney: Deborah Brown

Engineers/Scientists: Marianne Milette (TSCA) & Elaine Stanley (RCRA)

CRIMINAL ACTIONS

EPA has kept pace with the mandate of the Pollution Prosecution Act of 1990 and has nearly doubled the number of special agents in Region I's Criminal Investigation Division. In FY 93, the Region supported seven search warrants and criminal charges against nine individuals. In addition, seven people were convicted and sentenced, including the longest term of incarceration in New England history for a violation of federal environmental law.

Referrals to Department of Justice for Criminal Action



CASE HIGHLIGHTS

1. *United States v. David Dellinger (D. R.I.)*

David Dellinger was sentenced to the longest term of incarceration for a federal environmental case in New England when he was given a 27-month sentence on September 14, 1993 by District Judge Raymond Pettine. Dellinger pleaded guilty on June 25, 1993 to an indictment charging him with violations of TSCA and CERCLA. Dellinger's co-defendant, Giacomo Catucci, was convicted by a federal jury on October 22, 1993.

In the fall of 1991, Giacomo Catucci hired two metal salvagers to scrap certain equipment at his mill in Providence, RI. The two men asked Catucci if they could have five

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transformers for scrap. Catucci knew that two of the five transformers contained PCBs, but let the men have them anyway. The two men enlisted the help of their friend David Dellinger. Dellinger recognized the Pyranol nameplates on the two transformers as designating them as PCBs. Dellinger loaded the transformers onto his pickup truck, cracked open the covers on Interstate 95 just outside of Providence and let the PCBs spray out along the highway during rush hour. He then dumped more PCBs onto and along a side road, and then in the woods, along with the transformer carcasses.

Attorney: Andrew Lauterback
Investigator: Robert Harrington

2. *United States v. Victor Figueroa (D. Conn.)*

Victor Figueroa, a/k/a Victor Figueroa-Soto, pleaded guilty to disposing of hundreds of unlabeled bags of asbestos in a concealed storage room in the basement of a building at 17, 29, and 35 Bartholomew Avenue in Hartford, CT. On September 13, 1993, two days before trial was to begin, Figueroa pleaded to one count of violating 42 U.S.C. § 7413(c) by failing to dispose of asbestos-containing waste material in accordance with the asbestos NESHAP (40 C.F.R. §61.150). During his change of plea, Figueroa acknowledged that in the spring of 1991, he assisted others in removing asbestos from the upper floors of the Hartford building and placing it in a vacant basement storage room. The room was then sealed shut with cinder blocks and mortar and painted to match the surrounding basement walls. Figueroa never notified EPA of his intent to remove asbestos from the building and his activities resulted in asbestos contamination throughout the building. Ultimately, the building owner retained other asbestos abatement contractors to dispose of the asbestos properly and decontaminate the building.

Figueroa runs a boiler repair business, 1155 Southern Boulevard Corporation, in the Bronx, NY. Although asbestos removal was not the primary focus of Figueroa's work, he had received training as an asbestos handler on several occasions. The July 8, 1993 indictment charged both Figueroa and his company with asbestos NESHAP notification and labeling violations in addition to disposal counts. As part of the plea, the remaining counts against Figueroa and all of the counts against the company have been dismissed.

This case began when an engineer in the Region's Air, Pesticides and Toxics Management Division received a tip about a suspicious removal operation and the possible concealment of asbestos. That tip ultimately led the government to obtain a warrant to search the facility and break into the concealed storage room. On July 12, 1991, EPA's Criminal Investigation Division executed the search warrant using a sledge hammer to break through the cinder block wall. CID discovered unlabeled bags of asbestos - much of it dry - piled to the ceiling.

Attorney: Peter Kenyon
Investigator: David McGonigle

3. *United States v. David Liebman et al. (D. Conn.)*

On July 7, 1993, David Liebman of Enfield, CT was sentenced to ten months of incarceration, followed by one year of supervised release and a \$3,000 fine for his role in dumping three truckloads of asbestos at the Kollar Wildlife Management Area in Tolland, CT as well as a site in Enfield, CT.

Three co-defendants were sentenced to terms of home detention and probation. Louis Lavitt, 84, of Rockville, CT was sentenced to five years probation and a \$4,000 fine. William Janiak of Stafford Springs, CT was sentenced to six months of home detention, 250 hours of community service, and five years probation. Thomas Janiak of Stafford, CT was sentenced to five years of probation and 250 hours of community service.

The asbestos had been removed from Shepard Realty Company, Inc. of Vernon, CT. The Shepard mill was owned by David Liebman and his family. In 1989, the Liebman family wanted to sell the mill and with the help of their realtor, Louis Lavitt, obtained several bids for asbestos removal from certified contractors. The bids ranged as high as \$76,000. Lavitt arranged a meeting with David Liebman and Thomas and William Janiak to remove two large boilers and pipes and the asbestos that covered them. The Janiak family had no training or experience in asbestos removal and had only performed odd jobs and metal salvaging in the Vernon, CT area prior to the Shepard asbestos removal. Liebman paid them \$15,000 in cash. In the summer of 1989, the Janiak family, with the help of two teenagers, removed the asbestos, and in three separate dump runs, disposed of the asbestos in the Kollar Wildlife Management Area in Tolland, and another wooded site in Enfield, CT. Approximately three tons of asbestos were dumped at these sites.

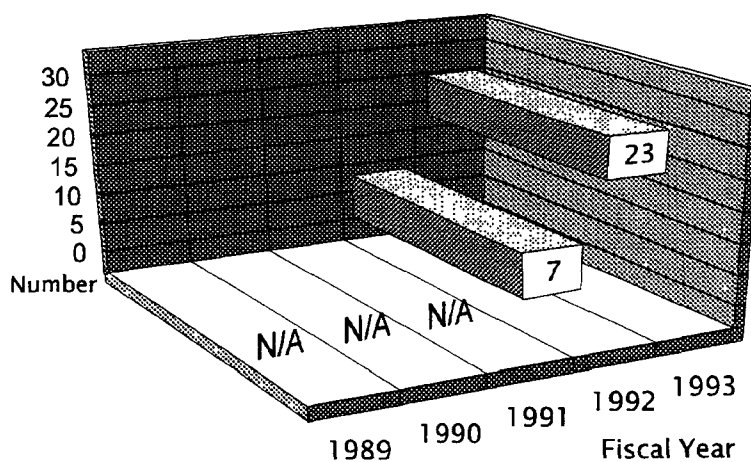
*Attorney: Andrew Lauterback
Investigator: Jennifer Olsen*

AIR

In FY 93, the Region I Air Compliance Program continued its strong federal presence in the core areas of stationary source and asbestos demolition/renovation enforcement and was also aggressive in enforcing newly established regulations relating to the protection of stratospheric ozone (i.e., the chloroflourocarbon, or CFC, program). In addition, the Region maintains a strong emissions tampering inspection presence, referring violators to EPA-HQ for enforcement follow-up.

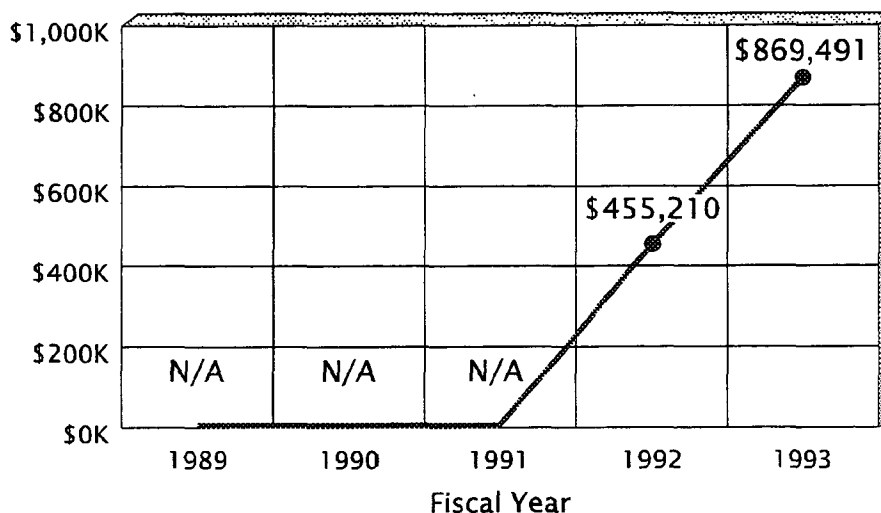
FY 93 was the Region's first full year of implementation of the administrative penalty authority granted EPA under the Clean Air Act Amendments of 1990, issuing a total of 23 administrative penalty complaints (four stationary source, two asbestos and 17 CFC orders). Approximately \$870,000 of administrative penalties were proposed and \$188,000 in penalties were collected in FY 93 through the administrative penalty program. One of the administrative settlements included a supplemental environmental project costing the facility over \$170,000 and consisting of a closed loop recycling project eliminating the use of solvents and the generation of waste CFC.

CAA Administrative Penalty Orders Issued



Note: Implementation of the CAA's administrative penalty program began in FY 92.

CAA Administrative Penalties Proposed



Note: Implementation of the CAA's administrative penalty program began in FY 92.

**HIGHLIGHT: MAJOR MANUFACTURING FACILITY SETTLES
ADMINISTRATIVE CASE AND AGREES
TO ELIMINATE USE OF SOLVENTS**

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

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

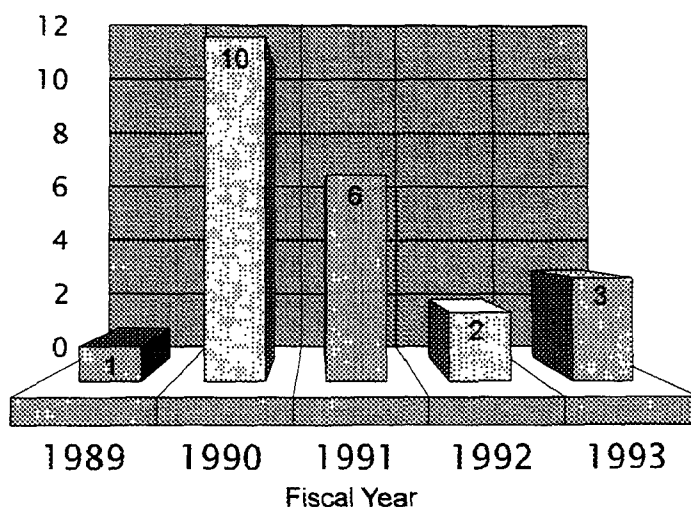
Attorney: Mike Kenyon

Engineer/Scientist: Susan Jewett

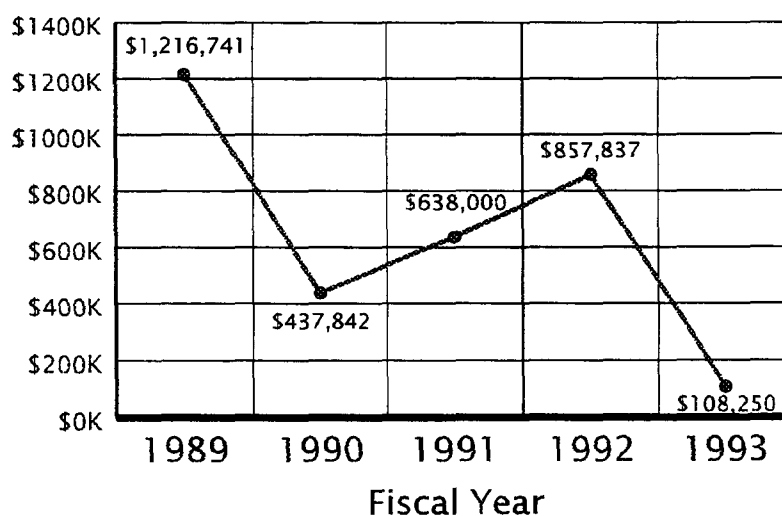
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At the same time as administrative enforcement was established as a significant component of the regional CAA enforcement program, a significant judicial presence also was maintained. In FY 93, the Region referred three new actions to the Department of Justice and also settled three previously filed judicial actions, collecting over \$108,000 in penalties. The Region also participated in a large multi-regional settlement with the Louisiana-Pacific Corporation. This settlement involved the payment of a multi-million

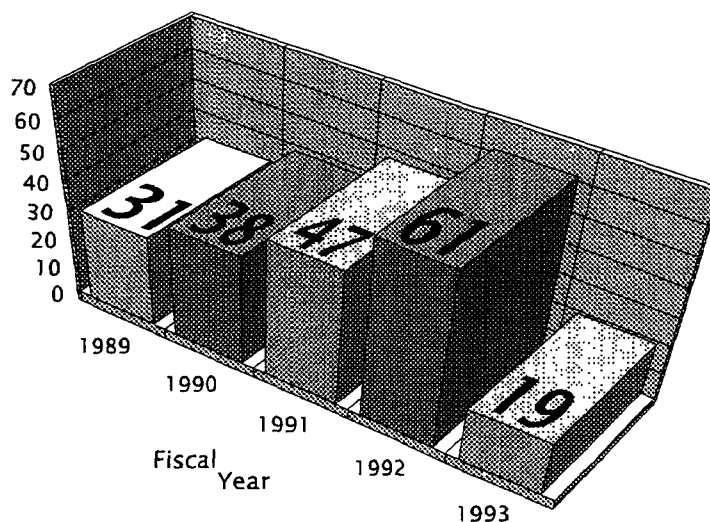
CAA Referrals for Civil Litigation



Penalties Assessed in CAA Judicial Actions



CAA Administrative Non-Penalty Orders Issued



dollar penalty and included a commitment to spend over \$2 million for environmental improvements at the Maine facility which was part of the settlement.

This combination of judicial and administrative penalty enforcement, along with the issuance of other less formal actions such as non-penalty orders, represents a significant change from the way CAA requirements previously were enforced and likely will be repeated by Region I in future years. With the introduction of administrative penalty authority, the number of violators against whom penalties can be sought has greatly increased. As a result, more than twice as many CAA penalty actions were initiated by Region I in FY 93 than in any previous recent year, when judicial action was the only available means to seek a penalty against a violator. In the future, judicial actions will continue to be initiated against the most serious violators and administrative penalty actions taken against the less serious, but still significant violators.

HIGHLIGHT: MASSACHUSETTS COMPANY PAYS \$200,000 PENALTY AND AGREES TO INSTALL CONTROL EQUIPMENT

On August 16, 1993, a settlement between EPA Region I and Archer Rubber Company of Milford, MA was filed with the U.S. District Court settling an action initiated by EPA in July, 1990 alleging violations of the Clean Air Act and the Massachusetts State Implementation Plan (SIP). The complaint alleged that the violations occurred at Archer's Milford facility since 1985 and involved emissions of volatile organic compounds (VOCs) from the company's uncontrolled fabric surface coating operations. Under the terms of the settlement, Archer is obligated to, among other things: (1) pay a \$200,000 penalty, (2) install, test and operate VOC capture and control equipment in compliance with the SIP, (3) keep extensive written records concerning VOC emissions and the use

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of emission controls, (4) report to EPA on a quarterly basis, and (5) pay significant stipulated penalties for each day of each violation of the consent decree terms. The Court approved the settlement on October 12, 1993.

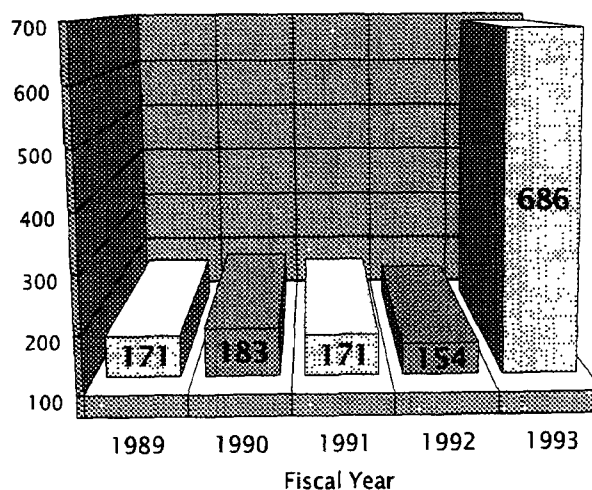
Under the settlement, EPA agreed to withdraw a contractor listing action brought against Archer based on Archer's record of continuing or recurring noncompliance with clean air standards and on prior EPA enforcement actions taken against the company. Contractor listing actions enable EPA to place companies on a List of Violating Facilities and to prohibit federal agencies from utilizing such companies in any federal contracts, grants, or loans. The Archer listing action was based on the same violations as the civil judicial case.

Attorney: Hugh Martinez

Engineer/Scientist: Fred Weeks

A large number of the CAA enforcement actions brought by Region I were against violators of the recently enacted CFC requirements. This aggressive enforcement of the CFC regulations highlighted both the newness and the importance of the CFC requirements in protecting stratospheric ozone and the potential for initially high non-compliance. To send a strong deterrent message to the regulated community, Region I aggressively responded to tips and complaints of knowing releases of CFC during refrigeration servicing and targeted sites that were illegally selling CFC's to unqualified purchasers. Well over 500 inspections were conducted by Region I in FY 93 to determine compliance with the new CFC requirements. Through its aggressive inspection and enforcement activity, Region I was a national leader in this area, initiating over half of the CFC enforcement cases included in the national enforcement initiative announced in the summer of 1993.

CAA Inspections Conducted



Note: FY 93 figure includes 540 Mobile Source inspections.

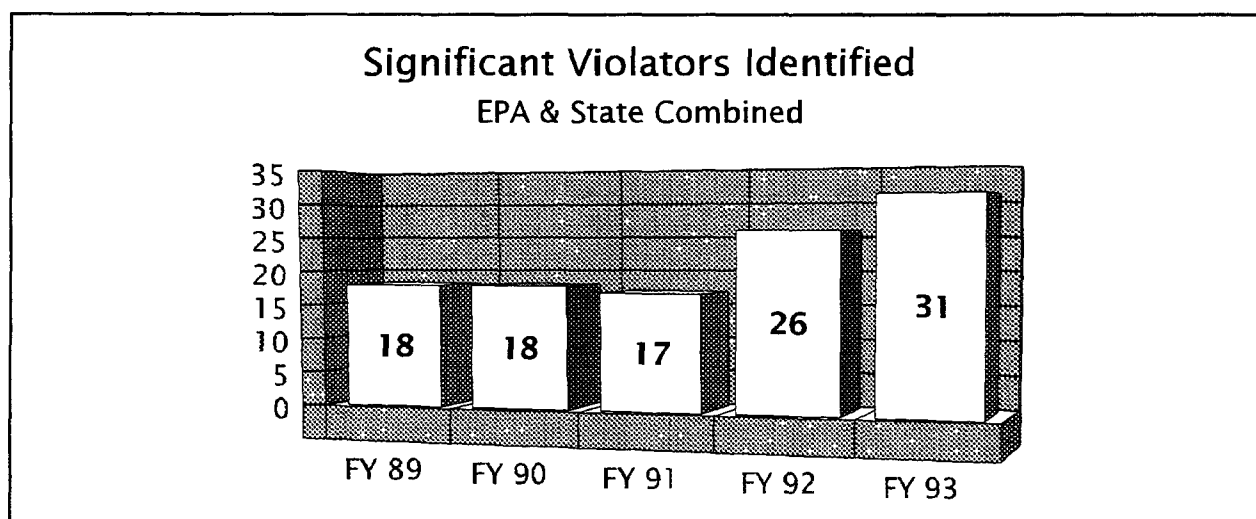
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In addition to CFC enforcement, federal inspection and enforcement activity focused on a number of other areas. One of these was the requirement now applicable to many sources that they install and maintain continuous emission monitors (CEMs) in order to more accurately and reliably monitor facility emissions. Continuous emissions monitoring is now required under various parts of the CAA and many state regulations and permits. EPA and the states worked aggressively in 1993 to establish a program that tracks and reviews CEM submissions and identifies potential emission violations from them. Major accomplishments for 1993 included commitments by the Region I states to review and input CEM data into either an EPA database or the national database, facilitating analysis and enforcement follow-up.

As in past years, the Region devoted considerable effort in FY 93 to ensuring compliance with the federal requirements for asbestos demolition and renovation operations. The Region issued ten administrative orders to facilities found in violation of asbestos requirements and 202 Notice of Deficiency letters to facilities submitting late or insufficient notification to EPA. The Region made great progress in increasing the compliance rate of facilities required to notify EPA of demolition and renovation activities in large part through its Demolition Operator Non-Notifier Tracking Program. A five-year trend analysis shows that the number of demolition notifications received by the Region has tripled since FY 89 from approximately 200 notifications to over 650 notifications in FY 93.

One of the most important components of the regional air compliance strategy is the role played by the Region's state partners. EPA data systems indicate over 2,200 state inspections were conducted in New England under the CAA Section 105 Grant program. In addition, the states share enforcement responsibility for the CAA, issuing 52 stationary source administrative penalties or judicial referrals during FY 93. (Connecticut, Maine and New Hampshire do not have administrative penalty authority, but may collect penalties with consent agreements.) Maine issued six asbestos orders.

Another indicator of the vigor of the joint regional CAA compliance program is the identification of Significant Violators (SV), or major stationary sources in non-compliance. The data indicates an upward trend (82% increase) over the last three years in SV identification. This upward trend is due in part to changes in major source definition which expanded the universe of affected sources and an improvement in SV reporting by the states.



**HIGHLIGHT: MAINE AND MASSACHUSETTS UNDERTAKE INITIATIVE
TO ENFORCE GASOLINE REFUELING REQUIREMENTS**

During FY 93, Maine and Massachusetts conducted compliance inspections and enforcement activities at gasoline bulk terminals and service stations. These facilities can be a significant source of volatile organic compound (VOC) emissions if the controls for their fuel transfer equipment are not functioning properly. Stage I vapor recovery equipment is required for these processes in order to capture VOC emissions which would otherwise escape to the atmosphere. Massachusetts conducted over 200 tanker truck inspections and found approximately 25 percent in violation of the Stage I requirements. After issuing notices of noncompliance to the violating facilities, Massachusetts conducted follow-up inspections and found 100 percent compliance. Maine initiated its compliance and enforcement activities by conducting outreach to over 300 service stations. After conducting compliance inspections, Maine found seven facilities in noncompliance with Stage I requirements, each of which were issued Notices of Violation.

FY 93 ENFORCEMENT ACCOMPLISHMENTS REPORT

State CAA Enforcement Totals: FY 1989 to FY 1993

TYPE OF ACTION	Fiscal Year				
	1989	1990	1991	1992	1993
Civil Referral	0	3	3	11	19
Administrative Orders	26	43	* 13	95	75
Administrative Penalty Orders	N/A	N/A	N/A	7	33
Notices of Violation (Non-Asbestos)	142	106	68	209	440
Inspections	1,580	1,384	1,768	1,890	2,299

* Because of a problem in reporting, the number of administrative orders issued by CT and MA in 1991 is under-reported here.

Note: The increase in the numbers reported for FY 92 and FY 93 is attributable to an improvement in the process for state reporting of enforcement data to EPA.

T-AIR01 VSD

FY 93 ENFORCEMENT ACCOMPLISHMENTS REPORT

State CAA Compliance/Enforcement Totals: FY 93

STATIONARY SOURCE PROGRAM	State						
	CT	ME	MA	NH	RI	VT	TOTAL
Civil Referral	7	1	9	1	1	0	19
Administrative Order	41	10	6	12	1	2	72
Administrative Penalty Order	18	N/A	0	N/A	9	0	27
Notice of Violation	98	17	243	28	9	0	395
Inspections	533	176	544	217	96	54	1,620

ASBESTOS DEMO/RENO PROGRAM	State						
	CT	ME	MA	NH	RI	VT	TOTAL
Civil Referral	0	0	0	0	N/A	N/A	0
Administrative Order	0	0	0	3	N/A	N/A	3
Administrative Penalty Order	0	6	0	N/A	N/A	N/A	6
Notice of Violation	0	15	29	1	N/A	N/A	45
Inspections	110	96	88	81	269	35	679

COMBINED PROGRAMS (TOTALS)	State						
	CT	ME	MA	NH	RI	VT	TOTAL
Civil Referral	7	1	9	1	1	0	19
Administrative Order	41	10	6	15	1	2	75
Administrative Penalty Order	18	6	0	N/A	9	0	33
Notice of Violation	98	32	272	29	9	0	440
Inspections	643	272	632	298	365	89	2,299

NOTES: 1. N/A means Not Applicable.

2. Inspection numbers do not include Stage II gasoline stations unless negotiated into CMS plan (ex: MA).

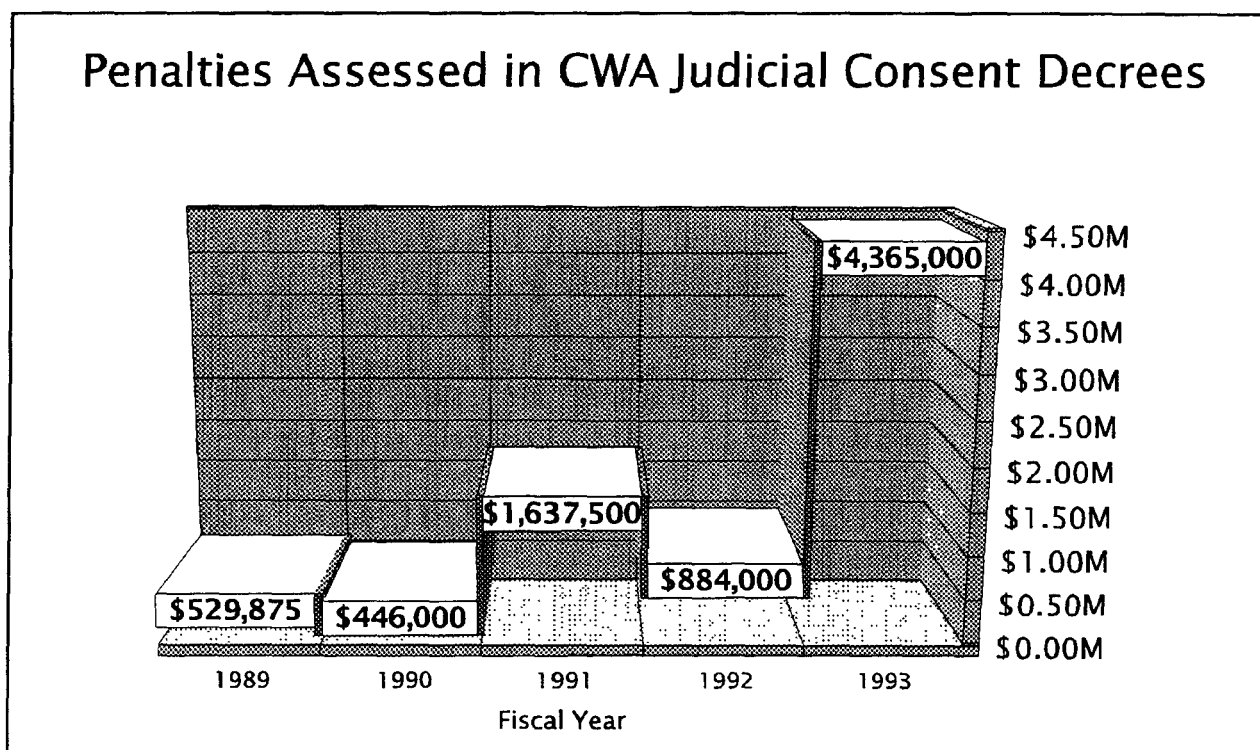
3. Administrative Penalty numbers include non-judicial consent agreements/orders reported by a state.

4. Above numbers are from AFS and NARS except where augmented by a state in response to an EPA letter dated 1/25/94. AFS and NARS will be updated.

T-AIR02 VSD

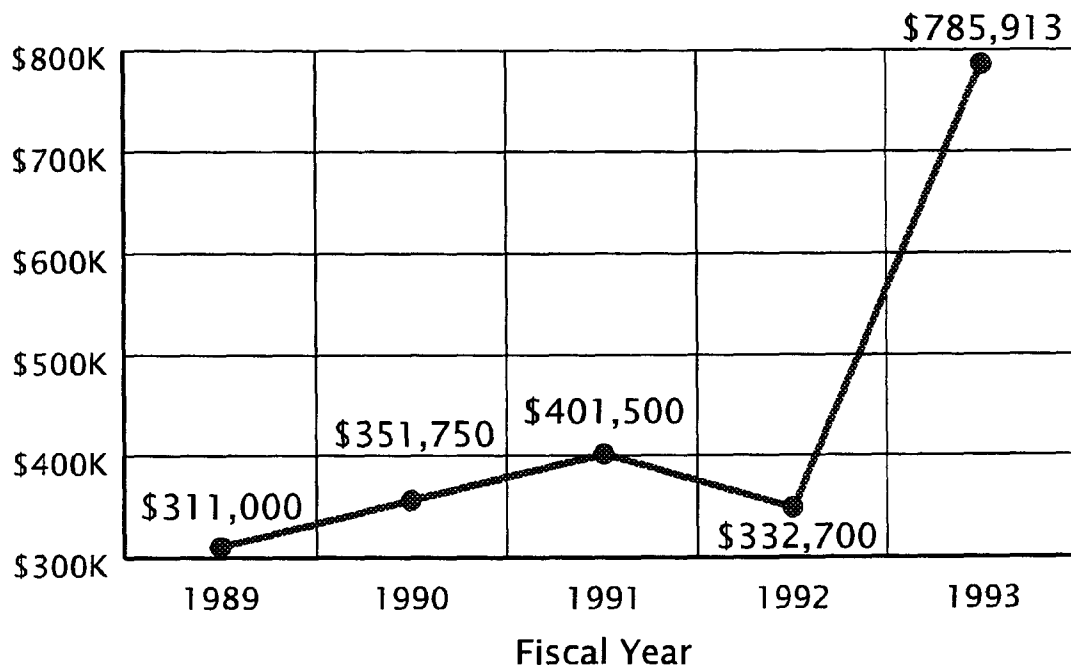
WATER

Fiscal year 1993 was a record year for the EPA Region I Clean Water Act enforcement program in a number of respects. Civil court consent decrees were entered in the major Dexter enforcement action and in three other cases, resulting in the assessment of the record amount of \$4,365,000 in federal civil court penalties (Dexter also paid a \$3,600,000 civil penalty to the State of Connecticut). In addition, twenty-two Clean Water Act administrative penalty cases were settled, resulting in the assessment of an additional \$785,913 in penalties, another record number. As a result of the civil court and administrative penalty programs, the EPA water program thus obtained combined penalties of over five million dollars, contributing significantly to deterrence.

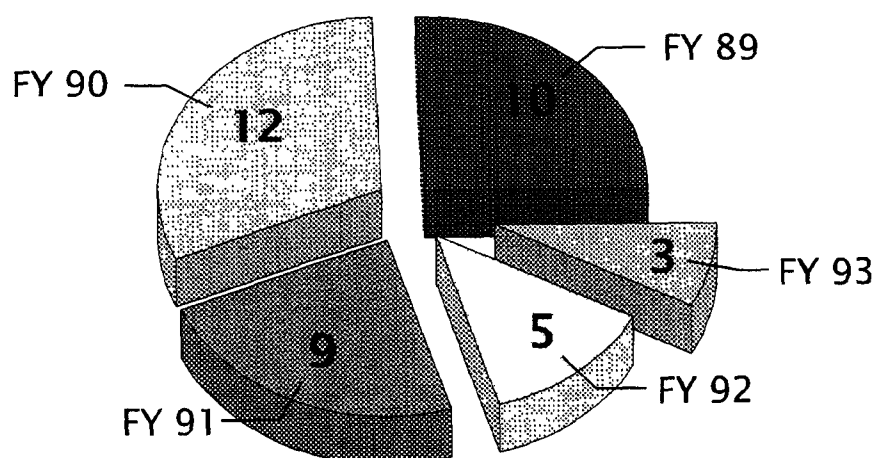


New enforcement actions also were initiated against industrial and municipal violators of Clean Water Act requirements. During FY 93, EPA Region I referred three new civil cases to the Department of Justice, initiated 17 new administrative penalty actions and issued an additional 145 non-penalty administrative orders or information demands. In addition, to address a reduction in the recent number of new enforcement cases, the Region I water program conducted a reassessment of its enforcement inspection program during the spring and summer of 1993. As a result of this reassessment, certain facilities with good compliance records will be inspected less frequently, but where non-compliance is believed to be higher inspections are being increased.

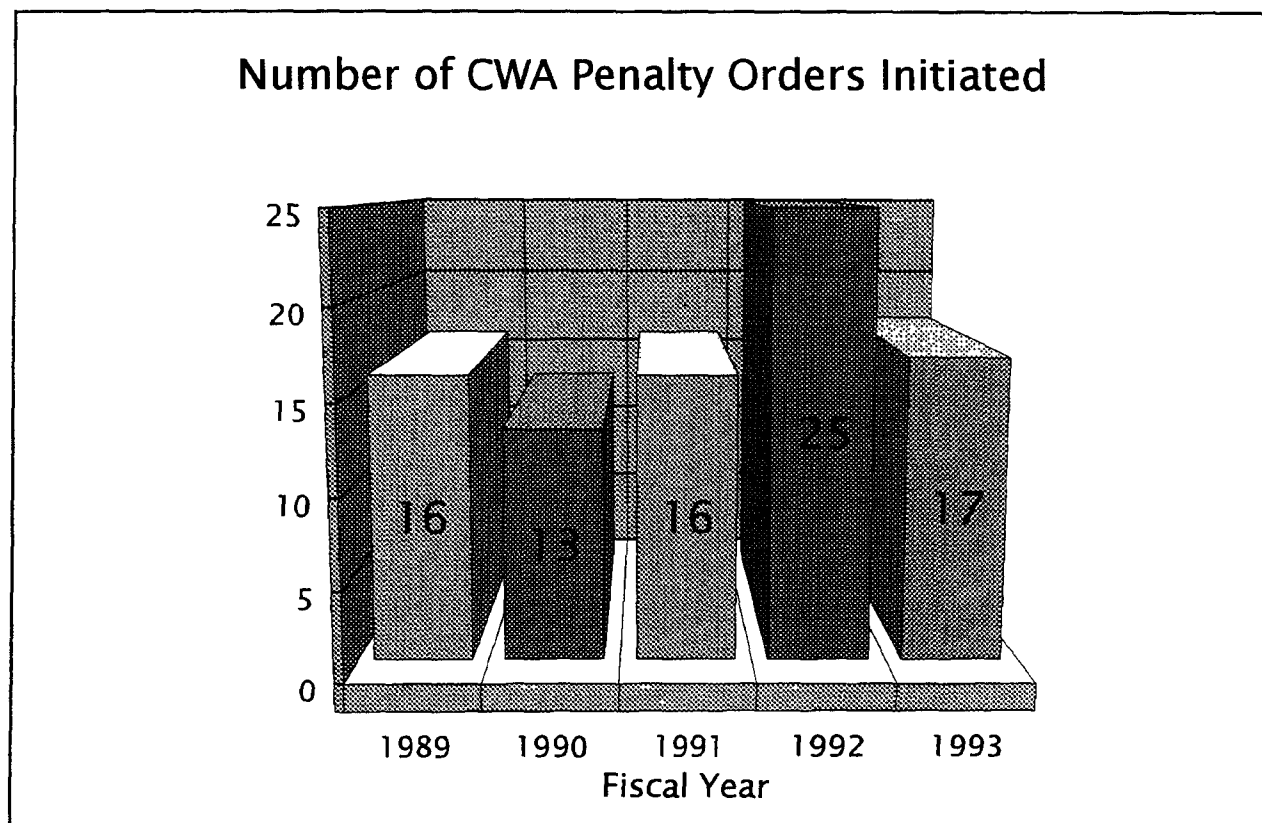
Penalties Assessed in CWA Administrative Actions



CWA Referrals for Civil Litigation



A continued priority of the water enforcement program is ensuring the completion of construction of modern secondary municipal treatment plants in those areas which still have not completed such facilities. Major enforcement efforts continue to be underway involving Boston Harbor; New Bedford, MA; and the South Essex Sewerage District. In addition, a major program to address combined sewer overflows (municipal sewer systems which overflow during wet weather) is underway by the Region.



HIGHLIGHT: BOSTON HARBOR CLEANUP

Challenges to the new extended outfall being constructed as part of the Boston Harbor cleanup were defeated during the past year. The Boston Harbor cleanup plan, which was developed after extensive public hearings and environmental reviews, calls for the construction of a secondary treatment plant by 1999, and the construction of an extended outfall which is to discharge dispersed effluent into Massachusetts Bay. EPA believes that this cleanup plan will both better protect Massachusetts Bay (which currently suffers from the inflow of pollutants which have been discharged into Boston Harbor after only inadequate treatment), and markedly improve conditions at the inner Boston Harbor waters and beaches near the current points of discharge.

This past year, however, EPA was sued by the Bays Legal Fund and by Greenworld, which alleged that there had been violations of the Endangered Species Act in connection with the outfall project. In July, 1993, the U.S. District Court (Mazzone, J.) found that

FY 93 ENFORCEMENT ACCOMPLISHMENTS REPORT

no violations had occurred. The case currently is on appeal to the United States Court of Appeals (First Circuit). In the meantime, since the treatment plant's NPDES permit is up for renewal, EPA agreed to conduct a new biological assessment (in addition to the studies done when the project received its initial environmental review). EPA's assessment was completed in April, 1993. In September 1993, the National Marine Fisheries Service concurred with EPA's conclusions that the outfall project is not likely to jeopardize endangered species.

*Attorneys: Jeffrey Fowley, Kenneth Moraff and Mark Stein
Engineers/Scientists: Richard Kotelly and Brian Pitt*

Another continuing focus of the water program is enforcement against industrial noncompliers. In particular, cases have been brought against "indirect dischargers" (i.e., dischargers to municipal sewers) violating EPA pretreatment requirements, although violators among direct dischargers (i.e., dischargers to rivers, lakes and other surface waters) also have been identified and enforced against.

HIGHLIGHT: PRETREATMENT ENFORCEMENT

Region I this past year continued to focus on industrial pretreatment enforcement in order to more closely control the discharges of toxic substances and other pollutants into the sewers. The Region is concerned that non-compliance rates among "indirect" dischargers (which discharge to the sewers) remain higher than among "direct" dischargers (which discharge directly to surface waters and which have been subject to EPA regulation far longer).

Region I's efforts resulted in the following major settlements during FY 93. The General Mills Company agreed to pay a \$480,000 civil court penalty for local limits violations at its fish processing plant in Gloucester, MA. Similarly, the O'Donnell Company paid a \$375,000 civil court penalty for local limits violations at its fish processing plant in Gloucester. The Mastex Company paid a \$275,000 civil court penalty for pH violations at its textiles plant in Holyoke, MA. The Starrett Company has agreed to pay a \$325,000 civil court penalty for violations of metal finishing and pH limits at its Athol, MA facility. Finally, in the administrative penalty program, the Strathmore Paper Company agreed to pay a \$95,000 penalty for local limits violations at its paper plant in Erving, MA, and Cooper Industries agreed to pay a \$98,000 penalty for violations of metal finishing limits at its plant in Brunswick, ME.

All of these companies also agreed to take the necessary measures to fully comply with the applicable pretreatment requirements.

*Lead Pretreatment Attorney: Edith Goldman
Pretreatment Coordinator: Mark Spinale*

FY 93 ENFORCEMENT ACCOMPLISHMENTS REPORT

Finally, as in past years, EPA's water enforcement program continued to be supplemented this past fiscal year by the enforcement activity of the six New England states. During FY 93, the states referred nine cases for civil court action by their Attorneys General and issued a total of twenty-four administrative compliance orders.

State CWA Enforcement Totals: FY 1989 to FY 1993

TYPE OF ACTION	Fiscal Year				
	1989	1990	1991	1992	1993
Civil Referral	43	24	4	5	9
Administrative Orders	80	53	26	42	24

T-WATER1 VSD

State CWA Enforcement Totals: FY 93

ACTION	State					
	CT	ME	MA	NH	RI	VT
Inspection	246	189	199	97	37	62
AO/APO *	8	0	1	1	8	6
Civil Referrals	7	2	0	0	0	0

* AO/APO: Administrative Order/Administrative Penalty Order.

T-WATER2 VSD

DRINKING WATER

The Safe Drinking Water Act (SDWA) is primarily enforced by the states, which utilize a range of techniques to secure compliance including conducting sanitary surveys, issuing administrative orders (or entering into administrative consent agreements), and referring matters for court litigation. EPA, however, is ultimately responsible for the enforcement of the federal standards protecting public drinking water supplies. In FY 93, EPA Region I referred one matter for civil court enforcement and issued 24 notices of violation, 17 proposed administrative orders, 68 mandatory schedules in "exemption" determinations, and three final administrative orders. Both federal and state enforcement levels were up substantially compared to prior years due to the extensive work involved in implementing the Surface Water Treatment Rule. This rule requires suppliers of drinking water who use surface water sources to install filtration treatment unless they qualify for a waiver.

HIGHLIGHT: ENFORCEMENT AGAINST THE BETHLEHEM VILLAGE DISTRICT

This past year, Region I brought and settled a civil court action against the Bethlehem Village District in New Hampshire for violations of the Safe Drinking Water Act. This was the first case nationally to be referred to enforce the June 29, 1993 deadline for installing filtration under the Surface Water Treatment Rule.

The District had voted not to provide the necessary funding to comply with this rule, but has now voted to comply and is cooperating with state and federal regulators. About \$2,500,000 will be spent on a filtration plant and other system improvements in order to ensure the provision of clean drinking water to the residents of the District. The District also agreed to pay a \$15,000 civil penalty as part of the settlement.

Attorney: Dianne Chabot O'Malley
Engineer/Scientist: Kan Tham

**State SDWA Enforcement Totals:
FY 1989 to FY 1993**

<i>TYPE OF ACTION</i>	<i>Fiscal Year</i>				
	1989	1990	1991	1992	1993
Referrals to Attorney General	2	1	0	2	3
Administrative Orders Issued	48	20	12	24	145

Note: Fiscal year 1993 total includes administrative consent agreements and "exemption determinations" as well as unilateral administrative orders.

T-DRWTR1.VSD

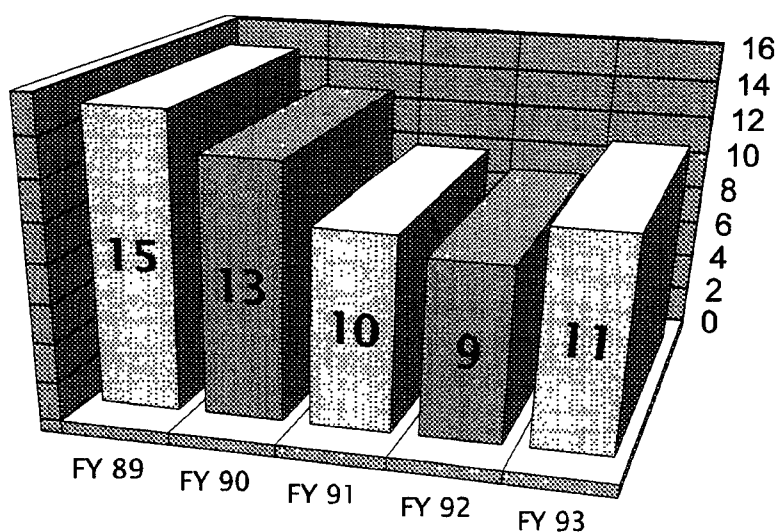
SUPERFUND

FY 93 was another successful year for Region I's enforcement program under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), commonly known as *Superfund*. During FY 93, the Region maintained its efforts to get responsible parties to perform or finance cleanup of hazardous substance disposal sites through vigorous use of the enforcement tools available under the statute and continued to conclude many important enforcement cases. At the same time, the Region has recognized that its enforcement efforts must be fair and equitable as well as vigorous. The Region's FY 93 enforcement efforts were consistent with these themes.

Enforcement is especially important to the Superfund program. Superfund enforcement not only prevents further degradation of the environment, but also actually serves to improve the environment by encouraging site cleanups. Superfund enforcement ensures that parties responsible for hazardous substance pollution pay for cleanups. In addition, vigorous Superfund enforcement serves to prevent the creation of new sites, by forcing parties to dispose of hazardous substances properly, or to reduce or eliminate the generation of hazardous substances in the first instance.

The Region continues to practice the "enforcement first" approach to Superfund site cleanups, encouraging or requiring the responsible parties themselves to conduct the cleanups. This results in private parties taking responsibility for the health and environmental consequences of their past hazardous substance disposal practices, and preserves the Superfund for use at sites where there are no viable responsible parties.

CERCLA Referrals for Civil Litigation



Civil judicial referrals are an important part of the Agency's "enforcement first" approach. Referrals allow EPA to obtain court orders requiring parties to perform work at Superfund sites or reimburse the government for money it has expended to clean up hazardous substance sites. Typical uses for civil judicial referrals are to enter judicial settlements, or to sue parties that have refused to settle their liability for cleanups. The government typically sues non-settlers to ensure that all responsible parties pay their share of the cost of site cleanup. In FY 93 the Region referred eleven new Superfund cases for judicial action, an increase of 38% over FY 92.

Five of these eleven cases were simultaneously settled. These settlements will result in or pay for the cleanup of Superfund remedial sites, typically the largest and most complex hazardous substance cleanups. Among the actions private parties will perform are the cleanup of the municipal landfill at Dover, NH, valued at over \$31,000,000, and the second phase of the Sullivan's Ledge site in New Bedford, MA, valued at \$5,800,000.

HIGHLIGHT: REFERRALS AND SETTLEMENTS RESULT IN CLEANUP OF SULLIVAN'S LEDGE SITE

On April 23, 1993, the Massachusetts federal district court entered the consent decree for the second operable unit at the Sullivan's Ledge Superfund Site in New Bedford, MA. Simultaneously, the Court also entered an amendment to an earlier consent decree for the first operable unit.

The site is an old granite quarry, located in an industrial/suburban area of New Bedford. From about 1935 through the 1970's, the City of New Bedford owned and operated the Ledge as a dump for local industrial wastes and solid wastes.

The settlement requires the settling parties to excavate an ecologically sensitive marsh which lies in the midst of a golf course. They must dispose of the excavated sediments beneath a cap to be constructed at the first operable unit. The expected cost of the remedy is \$ 5,800,000.

Under the consent decree, fifteen entities, including the City of New Bedford, agree to perform the remedy. However, the responsibilities of the parties vary greatly. AVX Corporation agreed to perform all the remedial action and operation and maintenance. The City agreed to perform specific portions of the remedial action and to secure access and institutional controls. Massachusetts was a signatory to both the consent decree and amendment.

The Region is also conducting litigation to recover additional past costs for the first and second operable units. The Region referred the claims for the second operable unit in FY 93.

*Attorneys: Brian Rohan and LeAnn Walls
Remedial Project Manager: Tony Pisanelli*

FY 93 ENFORCEMENT ACCOMPLISHMENTS REPORT

FY 93 saw successful conclusions to some important enforcement litigation in the Region. Litigation can serve the immediate purpose of obtaining site cleanups or reimbursement of the Superfund through court order. In addition, the prospect of complicated Superfund litigation is an unappealing alternative to settlement and provides an incentive for responsible parties to settle their Superfund liabilities. In FY 93, courts entered eleven consent decrees resolving Superfund enforcement cases in the Region.

HIGHLIGHT: OTTATI & GOSS SUPERFUND LITIGATION CONCLUDED

In September 1993, the United States lodged a civil consent decree effectively ending thirteen years of litigation over the Ottati & Goss Superfund Site in Kingston, NH. Under the settlement, Imcera Group, Inc. ("IMCERA") and 355 defendants sued by IMCERA agreed to pay to the United States and the State of New Hampshire a total of \$4,000,000. The settlement resolves claims initially brought under the Resource Conservation and Recovery Act and the Clean Water Act, and amended in 1983 to seek injunctive relief and recovery of past costs under CERCLA Sections 106 and 107 arising from the disposal of hazardous substances at the Site. A variety of different chemicals were found at the Site, including volatile organic compounds (VOCs), acid and base/neutral (ABN) compounds, metals, cyanide, and polychlorinated biphenyls (PCBs).

The Site was placed on the National Priorities List in September, 1981. On January 16, 1987, Region I issued a Record of Decision (ROD) outlining remedial action for the site. The 1987 ROD called for on-site incineration of contaminated soils and sediments and for a pump-and-treat system for contaminated groundwater. Under the terms of settlement, the remedy and associated operation and maintenance for the site will be completed by the United States and the State of New Hampshire.

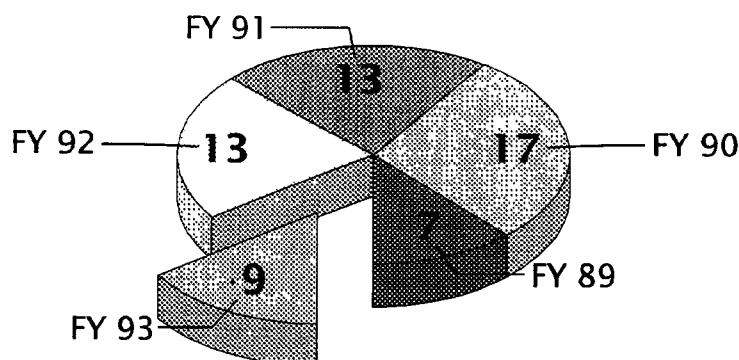
*Attorney: Greg Dain
Remedial Project Manager: Steven Calder*

Administrative enforcement complements judicial enforcement in the Superfund program. In FY 93 the Region issued fifteen final administrative orders requiring parties to conduct cleanup activities, including studies, at sites, to provide information or site access, or reimburse the government for money spent addressing these environmental problems.

Nine of these orders were unilateral administrative orders (UAOs). The UAO continues to be a powerful and effective enforcement tool. The law provides substantial penalties for failure to comply with UAOs.

The Region's CERCLA removal program uses UAOs with great success to obtain cleanups of sites that present imminent threats. The pressing need for cleanup of these sites lends itself to creative use of UAOs, sometimes in conjunction with other enforcement and cleanup mechanisms.

CERCLA Unilateral Administrative Orders



HIGHLIGHT: UNILATERAL ORDER - COST RECOVERY STRATEGY AT INTERNATIONAL DEPOSITORY, INC. REMOVAL SITE

At the International Depository, Inc. (IDI) removal site, the Region achieved an administrative cost recovery settlement under CERCLA § 122(h) for \$1,100,000 with 56 potentially responsible parties. Additionally, after the Region had conducted initial response measures, it issued the site owner, the Rhode Island Department of Transportation, a unilateral administrative order under CERCLA § 106 for approximately half of the necessary cleanup activities at the Site. The result is a successful site cleanup and cost recovery effort.

The IDI site is an abandoned hazardous waste transfer facility that contained approximately three thousand drums of improperly stored waste materials located near the Narragansett Bay in North Kingstown, RI. EPA initially properly containerized the waste materials and disposed of the extremely hazardous materials. The site owner disposed of the remaining drummed wastes, excavated contaminated soil, and decontaminated the building under the unilateral order.

The settling parties under the administrative cost recovery agreement, generators and transporters of hazardous substances sent to the site, will pay EPA \$1,100,000, the majority of EPA's costs incurred at the Site. In an effort to facilitate settlement, the Region developed a volumetric ranking list which the PRP group used to develop its internal allocation scheme. The majority of the settlors are commercial entities, but a number of federal, state and local entities also participated.

Attorney:	Kathleen Woodward
On-scene Coordinator:	Gary Lipson
Enforcement Coordinator:	Mary Dever

FY 93 ENFORCEMENT ACCOMPLISHMENTS REPORT

Region I has historically been a leader in the innovative use of enforcement tools to further important Superfund cleanup objectives. FY 93 was no exception. The Region used an administrative order to implement the ideals of the Superfund Accelerated Cleanup Model (SACM) to speed the cleanup of the Browning-Ferris Industries, Inc. (BFI) Superfund Site in Rockingham, VT.

HIGHLIGHT: ACCELERATED CLEANUP OF BFI/ROCKINGHAM SITE

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

Two subsidiaries of Browning-Ferris Industries, Inc. entered an administrative order to perform the RI/FS in August 1992. During the RI/FS, the Region recognized the opportunity to apply EPA's new presumptive remedy for municipal landfills. In February 1993, the PRPs agreed to initiate an Engineering Evaluation/Cost Analysis for the source control component of the remedy. Based upon the EE/CA, EPA issued an Action Memorandum in September 1993 which selected a multi-layer landfill cap source control for the site. With the ultimate goal of constructing the cap in the summer of 1994, the Region negotiated an administrative order on an extremely expedited schedule, reaching agreement with the two BFI subsidiaries by the end of September.

The environment will benefit from prompt implementation of source control measures, which will reduce further migration of contaminants to the environment, most notably groundwater.

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

Attorney: Andrew Raubvogel
Remedial Project Manager: Edward Hathaway

In FY 93 the Region continued to promote use of alternative dispute resolution mechanisms, *de minimis* settlements, and other settlement tools to resolve Superfund liability fairly, efficiently, and to avoid unnecessary litigation. In June 1993 the Congressional General Accounting Office submitted a report to the House Subcommittee on Transportation and Hazardous Materials, Committee on Energy and Commerce, which showed Region I to be a leader in the use of these settlement devices.

This fiscal year the Regional Superfund program concentrated on use of alternative dispute resolution (ADR) to facilitate Superfund settlements. In FY 93 the Region nominated four matters for ADR. The Region remains committed to ADR use in appropriate circumstances.

HIGHLIGHT: REGIONAL ADR EFFORTS IN FY 93

During FY 93, Region I worked on several fronts to promote the use of ADR to settle cases and to enhance community involvement in controversial environmental decisions. These efforts have taken the form of educating regional management and staff about ADR techniques and their possible applications (both in the context of regularly scheduled meetings and through individual case screening sessions); educating the private bar about EPA's receptivity to ADR through presentations at conferences and bar association meetings; representing EPA on an American Arbitration Association task force on environmental mediation; and continuing to nominate cases for ADR in a broadening range of circumstances.

The success of these efforts has been evident in increased general inquiries by both EPA case lawyers and members of the private bar about the appropriateness of mediating specific cases, as well as by the success of the Region's ADR efforts in a number of complex Superfund cases, each with a distinct set of challenges. The settlement for the cleanup of the Sullivan's Ledge Site was achieved through mediated negotiations. It represents the Region's first Superfund mediation success, and has become a model for other Superfund mediations. In the Savage Well and Nyanza cases, these efforts resulted in mediation agreements; mediated settlement negotiations have occurred in both cases. In addition, the convening process is progressing at the Iron Horse Park site, with a particular focus on allocation issues. Finally, the Region is moving ahead with efforts to convene a mediated process, in large part to facilitate community involvement, in the highly controversial Pine Street Site in Burlington, VT. Following an outpouring of opposition to EPA's proposed plan for the Pine Street Site, the Region is exploring uncharted territory by pursuing the use of ADR during the remedy selection process. This mediation is being structured both to allow for greater community involvement in EPA's decision-making process and to achieve a settlement with the responsible parties for performance of the cleanup.

Alternative Dispute Resolution Coordinator: Elissa Tonkin

COMMUNITY RIGHT-TO-KNOW

Under the Emergency Planning and Community Right-to-Know Act (EPCRA), Region I continued to demonstrate a strong enforcement presence. Specifically, Region I's enforcement activities continued to focus on facilities that failed to submit required annual toxic chemical release inventory forms to EPA and appropriate state authorities by the annual July 1st reporting deadline. The Region also continued to direct its enforcement attention to facilities that failed to provide timely notification to government authorities of accidental releases of hazardous chemicals and that failed to submit annual inventories of hazardous chemicals to state and local authorities.

EPCRA Administrative Complaints: FY 1989 to FY 1993

COMPLAINT STATUS	Fiscal Year				
	1989	1990	1991	1992	1993
Issued	15	25	24	19	17
Settled	0	14	23	17	20

T-CRTK01 VSD

The vast majority of Region I's enforcement actions arose under the administrative penalty provisions of EPCRA. In FY 93, the Region issued 17 administrative complaints, proposing a total assessment of \$1,059,660 in penalties. Region I also referred its first EPCRA action to the Department of Justice.

Besides issuing a significant number of administrative complaints, Region I continued to resolve most of the complaints filed during the previous years. During FY 93, the Region settled 20 administrative actions, for an increase of 3 settlements over FY 92. The Region not only settled more cases between FY 92 and FY 93, it also collected more in total penalties. In FY 93, the Region recovered assessed penalties of \$528,019, while in FY 92, the Region assessed a total of \$347,487. A comparison of the two years shows that the FY 93 penalties assessed exceed the FY 92 penalties assessed by \$200,532, or 62%.

**Penalties in EPCRA Administrative Actions:
FY 1989 to FY 1993**

	<i>Fiscal Year</i>				
	1989	1990	1991	1992	1993
Proposed	\$515,000	\$1,599,040	\$1,541,040	\$631,603	\$1,059,660
Assessed	\$0	\$386,940	\$424,638	\$347,487	\$528,019
Total Value of SEPs	\$0	\$95,000	\$127,800	\$209,475	\$449,614

T-CRTK02 VSD

While the penalties assessed represent a dramatic increase in administrative settlements, the figures do not include monies dedicated to supplemental environmental projects (SEPs). Region I has actively encouraged innovative provisions for supplemental environmental projects. During FY 93, the Region negotiated SEPs valued at \$449,614. This is \$240,139 (46%) more than the amount spent on SEP projects in FY 92.

**HIGHLIGHT: ADVANCE COATING COMPANY
ADMINISTRATIVE COMPLAINT FILED**

On March 26, 1993, Region I issued an administrative civil complaint under Section 325(c) of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), to Advance Coating Co. of Westminster, MA for violations of Section 313 of EPCRA. Advance Coating principally manufactures polyester resins and organic chemicals for the glass fiber fabrication industry. Advance Coating processed in excess of the threshold amounts of acetone, maleic anhydride, phthalic anhydride and styrene monomer in 1987, 1988 and 1989 and was consequently required to submit Form Rs for each chemical by July 1 of the following year. Because of Respondent's failure to submit the Form Rs, the complaint proposes a penalty for \$156,000 for failing to submit Form Rs for each chemical used by the Company.

*Attorney: Tanya Nunn
Engineer/Scientist: Linda Marinilli*

**HIGHLIGHT: COLFAX, INC.
ADMINISTRATIVE COMPLAINT FILED**

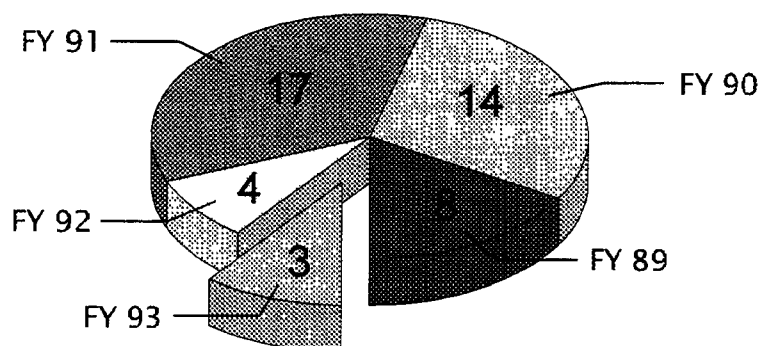
On September 16, 1993, Region I issued a complaint against Colfax, Inc. of Pawtucket, RI alleging violations of EPCRA. Colfax, Inc. manufactures food products such as vegetable oils, vegetable shortenings and animal fats for the food processing industry. EPA's complaint alleges that Colfax failed to submit to the Local Emergency Planning Committee (LEPC), the State Emergency Response Commission (SERC), and the local fire department, Material Safety Data Sheets (MSDSs) for six hazardous chemicals, including two extremely hazardous substances, or a list of hazardous chemicals stored at its facility, on or before October 17, 1987 or within 90 days of the date that the chemical first exceeded its threshold quantity, as required by Section 311 of EPCRA. In addition, no Tier I or Tier II forms were filed with the SERC, the LEPC, and the local fire department for calendar years 1989, 1990 and 1991, as mandated by Section 312 of EPCRA. Because of the violations found at the facility, EPA proposed a penalty of \$86,480.

*Attorney: Andrea Simpson
Engineer/Scientist: Donald Mackie*

HAZARDOUS WASTE

Under the Resource Conservation and Recovery Act (RCRA), Region I administers an enforcement program consisting of both administrative and judicial components. Administratively, the program focuses on the issuance of administrative complaints assessing penalties against violators of the Agency's hazardous waste management regulations. In FY 93, the Region issued five such complaints that proposed penalties in the amount of \$425,306. In addition, the Region made three civil referrals for the remediation of contaminated facilities.

RCRA Administrative Complaints Issued



During FY 93, Region I achieved settlements of a record dollar value for administrative and judicial RCRA penalties. Under the terms of the twelve administrative consent agreements, the Region assessed penalties totaling \$572,028. This past fiscal year also represents the results of Region I's redoubled efforts in identifying innovative supplemental environmental projects as part of the settlement process. Because of these efforts, the RCRA program approved five SEPs valued at \$1,433,051 during FY 93, up from two SEPs in FY 92 worth \$191,000. These endeavors resulted in a \$1,242,051 increase in SEP values, which is more than 7.5 times the prior year's value. The drop in penalties assessed (see graph on page 37) may be attributable to the increase in SEP dollars.

HIGHLIGHT: PIONEER PLASTICS CORPORATION COMPLAINT/SETTLEMENT

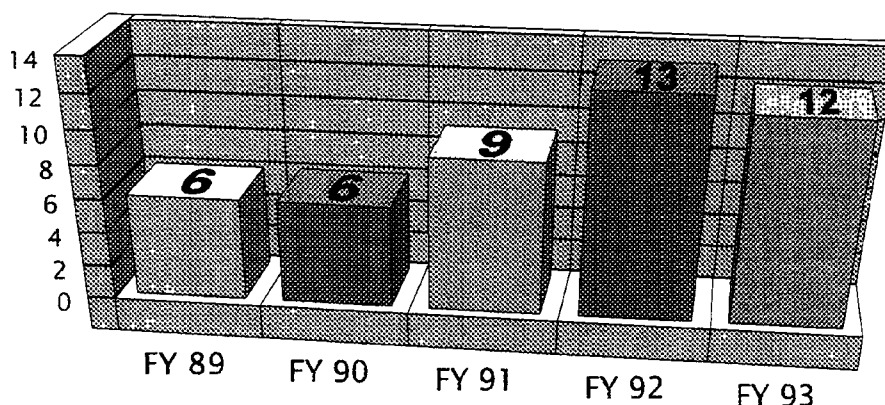
On February 1, 1993, EPA brought an enforcement action under Section 3008 of RCRA against Pioneer Plastics Corporation, of Auburn, ME, a manufacturer of decorative laminates, for violating the Maine Hazardous Waste Regulations and federal land disposal restrictions. The complaint proposed the assessment of a penalty in the amount

FY 93 ENFORCEMENT ACCOMPLISHMENTS REPORT

of \$291,169. On September 9, 1993, Pioneer Plastics Corporation and EPA entered into a settlement agreement of the Region's 1993 RCRA administrative action against the company. EPA and Pioneer agreed to settle this matter for \$198,054.

Attorney: Tanya Nunn
Engineer/Scientist: Elaine Stanley

RCRA Consent Agreements and Orders Issued



HIGHLIGHT: ROSE HILL SUPERFUND SITE ORDER

On March 26, 1993, the Region issued a unilateral administrative order to the Town of South Kingstown and the Town of Narragansett, ordering specified activities at the Rose Hill Regional Landfill Superfund Site in South Kingstown, RI. The order was issued pursuant to Section 7003(a) of the Resource Conservation and Recovery Act. The Rose Hill Regional Landfill Site is a solid waste landfill located on approximately 70 acres on Rose Hill Road, South Kingstown, RI. The Site was listed on the National Priorities List on October 4, 1989.

Sampling visits conducted by EPA during the summer of 1992 detected concentrations of volatile organic compounds (VOCs), including approximately 4,000 parts per million (ppm) of vinyl chloride, and indicated the presence of combustible gases, including methane, in soil gas in the vicinity of residential dwellings abutting the Landfill. Based upon these investigations, EPA personnel determined that site conditions warranted a time-critical removal action to abate, minimize, or mitigate the danger to the public health posed by exposure to vinyl chloride or an explosion caused by methane gas.

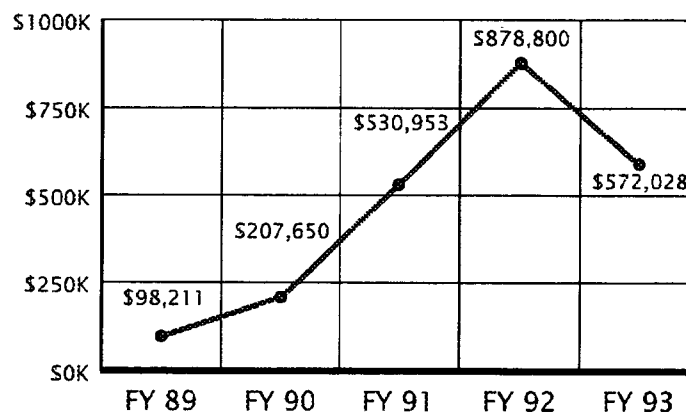
Respondents, the Towns of South Kingstown and Narragansett, RI, owned and operated the landfill when solid and hazardous wastes were disposed of there. The Respondents are subject to the jurisdiction of Section 7003(a) of RCRA because they caused or contributed to the disposal of solid and hazardous wastes at the Site.

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The unilateral administrative order requires the implementation of work designed to mitigate or minimize the danger or threat to the public health, welfare and the environment posed by methane and vinyl chloride. In particular, the administrative order and its attached scope of work require the Respondents to install, maintain, and monitor methane alarms and to install a residential gas mitigation system.

Attorney: Mark Lowe
On Scene Coordinator: Dean Tagliaferro
Remedial Project Manager: David Newton

Penalties Assessed in RCRA Consent Agreements



HIGHLIGHT: MONSANTO CHEMICAL COMPANY SETTLEMENT

On June 21, 1993, EPA entered into a Consent Agreement and Order with Monsanto Company in Springfield, MA to resolve a RCRA administrative penalty action. Monsanto will pay a minimum cash penalty of \$26,750. Monsanto will also perform a Supplemental Environmental Project (SEP) at a minimum cost of \$160,500. Monsanto will receive an \$80,250 credit toward settlement upon completion of the SEP. As part of the SEP, Monsanto has proposed to install equipment to its melamine resin manufacturing process that would enable the company to recover methanol from the methanol-rich distillate waste stream that is currently generated at a rate of three million pounds per year. Monsanto estimates that the recovery will result in a 60% reduction of the waste stream, a 1.8 million pound per year reduction.

Attorney: Douglas Luckerman
Engineer/Scientist: Bryan Olson

HIGHLIGHT: TERADYNE INC. SETTLEMENT

On July 19, 1993, Teradyne Inc. and EPA entered into a settlement of the Region's 1991 RCRA enforcement action against the company. This matter was settled for a penalty of \$50,000 and performance of two Supplemental Environmental Projects (SEPs). Teradyne, a manufacturer of soldering products, will expend approximately \$800,000 for the purchase and installation of solvent replacement units, one at the Nashua facility (approximate cost of \$350,000), and one at the Boston facility (approximate cost of \$450,000). Teradyne has certified that it is presently in compliance with RCRA requirements.

*Attorney: Tanya Nunn
Engineer/Scientist: Elaine Stanley*

HIGHLIGHT: ENGELHARD CORPORATION ORDER

On September 9, 1993, Region I issued a Consent Order, pursuant to Section 3008(h) of RCRA, to the Engelhard Corporation. The Engelhard facility was involved in the rolling of steel and titanium, the fabricating of uranium fuel elements, and the manufacturing of precious metals into wire and flatstock. In the Consent Order, Engelhard agreed to perform the following activities at its Plainville, MA facility: 1) investigate and determine the nature and extent of contamination that has resulted from site activities at 20 Areas of Concern; 2) implement four stabilization measures to stabilize certain releases or limit exposures to hazardous wastes and/or hazardous constituents; and 3) propose cleanup standards (Media Protection Standards). The stabilization measures, which will be performed early in the process, include installation of a ground water pump and treat system and the removal and/or treatment of highly contaminated soils in the southern portion of the facility.

Voluntary investigations conducted by the company before issuance of the Consent Order revealed significant contamination at the facility, which has now ceased operations.

*Attorney: Andrea Simpson
Engineer/Scientist: Robert Brackett*

The RCRA enforcement efforts focused on multi-media actions during FY 93. Of the five multi-media actions settled during FY 93, each had a RCRA component. The largest multi-media settlement involved the **United Technologies Corporation (UTC)**. Region I collected the largest settlement in RCRA history from United Technologies Corporation. UTC agreed to pay \$5,301,910 (RCRA penalty: \$3,701,910 and Water penalty: \$1,600,000) and to conduct an audit of its environmental management systems at 26 facilities. The **Dexter Corporation** agreed to settle a RCRA and Water action for \$13,000,000. The penalties associated with RCRA violations total \$3,800,000. The facility also

FY 93 ENFORCEMENT ACCOMPLISHMENTS REPORT

acquiesced to closing portions of the facility and to perform some corrective action work at the facility. The total value of the RCRA injunctive relief exceeds \$10,000,000. EPA assessed \$90,000 under RCRA and \$10,000 under the CWA and obtained approximately \$1,500,000 worth of injunctive relief from MTD Products, Inc. and Columbia Manufacturing Company, Inc. AVCO/Textron Lycoming agreed to settle a joint RCRA and TSCA action for \$151,625 (\$84,500 for the TSCA violations and \$67,125 for the RCRA violations), and to complete a SEP worth approximately \$434,800. Furthermore, Coastal Metal Finishing, Inc. agreed to pay an administrative penalty in the amount of \$100,00 to settle a RCRA/EPCRA enforcement action.

UTC, Dexter, and Columbia were settled by judicial consent decree, and Avco and Coastal were administrative settlements.

EPA Region I RCRA Inspections: FY 1989 to FY 1993

STATE	Fiscal Year				
	1989	1990	1991	1992	1993
Connecticut	43	49	65	24	17
Maine	7	3	5	2	2
Massachusetts	13	19	28	28	24
New Hampshire	4	3	1	5	0
Rhode Island	2	3	9	8	14
Vermont	0	3	5	0	0
TOTALS:	69	80	113	67	57

Source: RCRIS, the RCRA program data management system data as of 12/20/93. Data reflects number of inspections conducted, not facilities inspected.

FY 93 ENFORCEMENT ACCOMPLISHMENTS REPORT

While Region I has its own enforcement program, the majority of the enforcement in the RCRA Program is carried out by the New England states' environmental agencies. In FY 93, there was an increase in the number of administrative actions and a decrease in civil referrals. The states issued 338 informal actions and conducted over 1,200 inspections.

State RCRA Enforcement Totals: FY 1989 to FY 1993

TYPE OF ACTION	Fiscal Year				
	1989	1990	1991	1992	1993
Notices of Violation	398	488	508	384	338
Orders	108	102	59	35	37
Referrals for Civil Actions	18	18	37	26	16
Criminal Actions	0	2	1	0	0

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PESTICIDES

FY 93 was record-setting in terms of penalties assessed and an all around very busy year for the pesticide program in Region I. During this period, EPA pesticide staff, in cooperation with inspectors from the State Lead Agencies, conducted twelve inspections pursuant to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). Under the terms of Cooperative Agreements, the designated State Lead Agencies (SLA) are delegated primary enforcement responsibilities concerning all FIFRA use-related inspections and do the bulk of the field work.

Region I initiated a total of 23 enforcement actions for violations of FIFRA during FY 93. These actions included: fifteen Notices of Warning, four administrative civil complaints, two formal pesticide product recalls, and two Stop Sale, Use and Removal Orders. These actions allege violations of either FIFRA's registration requirements, regulations governing false and misleading claims, or pesticide product misbranding.

In issuing four administrative civil complaints in FY 93, EPA proposed the largest fines ever, in terms of total dollar value (\$110,500), for the Region I pesticide program. EPA entered into a consent agreement with one respondent which assessed a final penalty of \$17,500. EPA also entered into three additional consent agreements with recipients of Civil Complaints carried over from FY 92. These three agreements assessed final penalties totaling \$4,872.

HIGHLIGHT: REGION I PESTICIDE PROGRAM SETS PENALTY RECORD

In FY 93, the Region I pesticide program established a new program record when it issued four administrative civil complaints with proposed penalties totaling \$110,500. These penalties ranged in value from \$21,000 to \$37,000 and addressed a number of the more serious FIFRA violations, including product container misbranding, sale and/or distribution of unregistered pesticides, and numerous allegations for selling pesticides while making claims which were not accepted by EPA during the registration review process.

FIFRA requires that all pesticides be registered by EPA before they can be sold and/or distributed in the US, and has very specific language requirements which a container label must (and must not) bear. FIFRA also limits any claims made by the product to only those which can be adequately supported with test data submitted at the time of application for registration. FIFRA establishes maximum penalties of \$5,000 per violation per day.

Attorney: Greg Dain

Engineers/Scientists: Bob Kalayjian and Sharlene Speizer

FY 93 ENFORCEMENT ACCOMPLISHMENTS REPORT

As part of a national initiative which picked up steam in FY 93, the Region I office worked in close partnership with EPA HQ and the State Lead Agencies to guarantee that hospital disinfectants, particularly those which claim to work at "cold" temperatures, were in fact efficacious. EPA targeted and collected a number of these products and conducted laboratory tests to ensure they satisfied their claims. As a result of this initiative, the EPA Region I office issued two Stop Sale, Use and Removal Orders and followed up with two Formal Recalls against two separate Region I distributors of these cold sterilizing solutions, actions which resulted in the immediate removal of these ineffective products from the market as well as from those hospital establishments which had been using them. The recall is considered one of the highest level FIFRA enforcement actions and had not been used in Region I for several years.

The six EPA Region I states were also very busy with their pesticide enforcement programs during FY 93. Overall, the State Lead Agencies (SLAs) conducted a total of 2,196 pesticide-related inspections or approximately 145% of their cooperative agreement grant projections. Five of the six SLAs exceeded their commitments by at least 15%.

Also, Region I SLAs initiated a total of 467 enforcement actions. The majority of these actions consisted of the issuance of a written "notice of warning" and involved violations of recordkeeping and marketplace requirements. The Region I State Lead Agencies also collected over \$79,000 in penalties for pesticide-related violations during FY 93.

State FIFRA Enforcement Totals: FY 1989 to FY 1993

TYPE OF ACTION	Fiscal Year				
	1989	1990	1991	1992	1993
Civil Complaints	12	* 125	14	18	3
Referrals for Criminal Action	2	0	1	1	0
Inspections	2,496	2,573	2,203	2,039	2,196

* Includes eight referrals to the Connecticut Attorney General, 63 civil complaints issued by Maine for Diquat misuse, and two referrals to the Massachusetts Attorney General.

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TOXIC SUBSTANCES

In FY 93, the Region maintained a strong presence in enforcing the Toxic Substances Control Act (TSCA). The Region issued or settled enforcement actions for violations of polychlorinated biphenyl (PCB) regulations, chemical manufacturing and importing provisions (Core TSCA) and asbestos-in-schools requirements. The 23 cases issued in FY 93 proposed penalties in excess of \$2,400,000. In the Core TSCA program, the Region settled its first enforcement actions and issued its first complaint for violations of TSCA's testing rules.

HIGHLIGHT: COMPLAINT ISSUED TO ALTANA, INC. FOR VIOLATION OF CHEMICAL TESTING RULES

On September 30, 1993, Region I issued its first Toxic Substances Control Act (TSCA) Section 4 civil administrative complaint to Altana, Inc., of Wallingford, CT, proposing assessment of a penalty of \$75,000. BYK-Chemie USA, an independent operating division of Altana, Inc., self-disclosed the violations of TSCA Section 4 testing rules resulting from the importation of four subject chemicals without notice to the Agency or participation in required toxicity testing on the chemicals.

Attorney: Cindy Lewis
Engineer/Scientist: Kim Schweisberg

TSCA Administrative Complaints Issued: FY 1989 to FY 1993

TYPE OF CASE	Fiscal Year				
	1989	1990	1991	1992	1993
PCBs	18	19	24	16	19
ASBESTOS	3	14	4	5	0
CORE TSCA	N/A	N/A	2	3	4

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TSCA Section 4 testing rules are promulgated to gather toxicity information on chemicals already existing in commerce. Companies that manufacture or import chemicals with unknown risk have an obligation to participate in the chemical-specific testing. This information is needed to assess ongoing risks to human health and the environment and to determine if further regulation on the manufacture, use or disposal of the chemicals is necessary.

Also in FY 93, the Region continued to actively pursue incorporation of supplemental environmental projects (SEPs) in case settlements. Case settlements in FY 93 included a total of more than \$1,000,000 in penalties. In addition, respondents agreed to spend more than \$450,000 to undertake SEPs intended to benefit the environment or human health.

HIGHLIGHT: SETTLEMENT WITH THE HOUSING AUTHORITY OF NEW HAVEN, CT INCORPORATES INNOVATIVE AUDITING AND TRAINING PROGRAM

On August 10, 1993, EPA Region I approved the settlement of claims alleged in a civil administrative complaint issued in December, 1990 against the Housing Authority of the City of New Haven, a federally funded low-income housing provider. The complaint alleged violations of regulations governing polychlorinated biphenyls ("PCBs") uncovered during an inspection in June, 1990, of an unoccupied, seven-building, low-income housing complex known as the Elm Haven Extension Housing project in New Haven. Specifically, the Housing Authority was cited by EPA for failing to properly dispose of PCBs, failing to maintain records concerning PCBs, and failing to properly mark and store PCB transformers. The Elm Haven complex was built in the 1950s and demolished in 1990.

The settlement requires the Housing Authority, in lieu of paying a penalty, to spend at least \$112,000 on an environmental compliance program designed to protect public housing residents from future environmental risks through better identification and reporting of potentially hazardous conditions involving pollutants such as PCBs, asbestos, lead, pesticides, and rodenticides. The settlement requires the Housing Authority to hire an environmental consultant to train Housing Authority personnel at all levels in recognizing and reporting environmental problems, as well as to perform an environmental audit of all 32 Housing Authority properties. This settlement evidences EPA's commitment to principles of environmental justice and provides a direct benefit to the low-income tenants whom Respondent serves.

*Attorney: Hugh Martinez
Engineer/Scientist: Marianne Milette*

**HIGHLIGHT: SETTLEMENT WITH UNIVERSITY OF NEW HAMPSHIRE
INCLUDES \$62,500 PENALTY, PCB REMOVAL
AND TRAINING PROGRAM**

On March 10, 1993, the Agency settled a TSCA administrative action against the University of New Hampshire in Durham, NH for violation of PCB regulations. The case was settled for a penalty of \$62,500 and a supplemental environmental project (SEP) with an estimated value of \$271,000. The project included removing and disposing of three PCB transformers and 28 PCB-contaminated transformers, and sponsoring, organizing, presenting and financing a one-day seminar on the management of PCBs for area schools, colleges and universities.

The removal of all PCB items from the University eliminates the possibility of future

**Penalties in TSCA Administrative Actions:
FY 1989 to FY 1993**

CATEGORY	Fiscal Year				
	1989	1990	1991	1992	1993
PCBs					
Proposed in Complaint	\$1,186,800	\$2,671,000	\$1,386,800	\$1,731,500	\$1,625,600
Assessed	\$231,600	\$242,800	\$1,226,300	\$429,405	\$635,600
ASBESTOS					
Proposed in Complaint	\$32,000	\$136,500	\$28,400	\$96,000	\$0
Assessed	\$0	\$12,400	\$31,100	\$8,600	\$47,875
CORE TSCA					
Proposed in Complaint	—	—	\$1,333,900	\$405,000	\$794,000
Assessed	—	—	—	—	\$447,889

Note: There is no direct correlation between penalties proposed in complaints and penalties assessed in any given year. The penalties assessed are often achieved in settlements of cases commenced in prior years.

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violations and potential releases into the environment at this facility. The seminar for area schools, colleges and universities will help to ensure the future compliance of this portion of the regulated community that has exhibited a poor compliance history.

Attorney: Tom Olivier
Engineer/Scientist: Tony Palermo

State Activities under TSCA

While none of the New England states are formally delegated the authority to manage the programs implemented under TSCA, the states play an important role in the PCB and asbestos-in-school programs.

Under the PCB program, the states of Maine, New Hampshire and Connecticut perform the majority of the PCB inspections in their respective states. They conducted a total of 203 inspections in FY 93. They also assisted EPA in case development activities. Under the asbestos program, all six New England states conduct inspections. In FY 93, they performed 263 inspections under federal grants.

Decentralization to the states of the PCB and asbestos programs remains a priority in Region I. The PCB grants for Maine, New Hampshire and Connecticut include, or will include, funds for case review and case development activities and for the issuance of Notices of Non-Compliance. In the asbestos program, Connecticut and Rhode Island have been granted waivers which allow them to conduct the program under state regulations. The states of New Hampshire and Maine are working towards asbestos program waiver. All six New England states have approved asbestos accreditation programs for the training and licensing of asbestos workers.

FEDERAL FACILITIES

Federal statutes mandate that federal agencies comply with federal, state, and local environmental pollution control requirements in the same manner and degree as other regulated entities. Reflecting EPA's commitment in this area, the Agency established the program goal that EPA shall help ensure that federal facilities achieve compliance rates in each media program which meet or exceed those of major industrial and major municipal facilities. EPA believes federal agencies are obligated to demonstrate leadership in compliance activities and thereby act as examples to the rest of the regulated community. In addition, EPA enforces Section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly referred to as Superfund, which requires that the federal government comply with the hazardous waste cleanup requirements of the statute and regulations to the same extent as private entities.

While federal agencies are subject to the same requirements as private parties for environmental compliance, there are complexities associated with the Agency taking traditional enforcement actions. For example, EPA generally cannot bring civil judicial suits or assess civil penalties against federal agencies (although EPA can bring such actions against contractors at government-owned contractor-operated facilities). In recognition of these and other restrictions, Executive Order 12088 was issued.

Executive Order 12088 established a three-tier approach for EPA to follow in ensuring that federal agencies comply with environmental requirements by providing that EPA:

- Enforce environmental regulations using typical enforcement methods and/or interagency dispute resolution procedures;
- Provide technical assistance and information to federal facilities concerning their environmental compliance responsibilities; and
- Participate in the budget review processes of other federal agencies to ensure that they direct adequate resources to environmental pollution control. The Office of Management and Budget (OMB) A-106 Circular specifically addresses pollution abatement planning and budget review.

In addition, EPA has published a Federal Facilities Compliance Strategy. The Strategy provides a framework for all EPA media programs to ensure federal facilities are fully integrated in state and federal compliance monitoring and enforcement efforts.

An important exception to the prohibition against EPA assessing penalties against facilities is the Federal Facility Compliance Act. This law, which was enacted in 1992, authorizes EPA to seek penalties in administrative enforcement actions against federal facilities for violations of the Resource Conservation and Recovery Act (RCRA).

FY 93 ENFORCEMENT ACCOMPLISHMENTS REPORT

Nationally, the Federal Facilities Program was managed by the Office of Federal Facilities Enforcement within the Office of Enforcement. In Region I, there are two focal points for the federal facility program: the Multi-Media Federal Facility Program and the Superfund Federal Facility Program.

I. Multi-Media Federal Facility Program

The Region I Multi-Media Federal Facility Program goals and activities include the following:

1. In coordination with the Region I media programs and the states, ensure compliance with federal and state environmental laws at federal facilities in the Region.

An internal Federal Facility Workgroup with representatives from all media areas continues to be active. Potentially environmentally significant federal facilities were targeted for multi-media inspections. In FY 93, Region I continued to emphasize a multi-media enforcement approach under which the regional and state staffs conducted comprehensive facility-wide inspections to determine whether the facilities were in compliance with environmental laws.

The Region conducted six multi-media federal facility inspections in FY 93 which uncovered numerous serious violations, particularly under TSCA and RCRA. The Region in concert with the states is currently in the process of requiring the facilities to come into compliance. The Region has conducted sixteen multi-media inspections of federal facilities since 1990.

In FY 93, Region I initiated its first two RCRA administrative enforcement actions under the Federal Facility Compliance Act. The actions were against the Rhode Island Air National Guard and the Naval Construction Battalion Center, Davisville, RI.

In FY 93, Region I added an environmental justice ranking factor to its prioritization and ranking system for multi-media inspections of federal facilities. This ranking factor identifies high minority and/or low income areas at federal facilities located in Region I. In FY 94, the Region will begin using the environmental justice ranking factor in its selection of federal facilities for multi-media inspections.

2. Manage and utilize the Federal Facility Tracking System in Region I.

The Federal Facility data base is a compliance record of the EPA/State inspections, violations, enforcement actions, permits, and compliance rates for the 400 federal facilities the Region is currently tracking. Region I chaired the National Federal Facility Tracking System User Task Force and continues to play a major role in developing and upgrading the Tracking System. The Region has updated and incorporated five years' worth of enforcement data in the Tracking System. This data is provided to EPA enforcement managers and federal facilities.

3. Act as the regional point of contact for federal facilities in Region I and provide active outreach and technical assistance to facilities.

The Region regularly provides statutory, regulatory, and policy updates, information on EPA training programs, and pollution prevention initiatives to federal facility environmental managers through regional conferences, mailings, and EPA briefings. Bi-annual meetings between the Air Force and Navy regional operations offices and the Region are held to discuss compliance issues. All site-specific technical assistance is provided by the media program staff.

HIGHLIGHT: MULTI-MEDIA INSPECTION AT FEDERAL FACILITIES

In FY 93, Region I conducted multi-media inspections at six federal facilities in New England: New London Naval Submarine Base; Westover Air Force Base; Naval Construction Battalion Center, Davisville; U.S. Coast Guard Academy; Brunswick Naval Air Station; and South Weymouth Naval Air Station. The inspections were conducted under the EPA Office of Enforcement National Multi-media Enforcement Initiative, and included reviews for compliance with the Clean Water Act, the Clean Air Act, the Resource Conservation and Recovery Act, and the Toxic Substances Control Act. The Region also plans to conduct six multi-media federal facility inspections in FY 94.

Multi-media Federal Facilities Program Coordinator: Anne Fenn

HIGHLIGHT: RCRA ADMINISTRATIVE ENFORCEMENT ACTIONS AGAINST TWO FEDERAL FACILITIES

In FY 93, Region I brought its first two RCRA administrative enforcement actions against federal facilities under the Federal Facility Compliance Act. The Region issued an administrative complaint against the Rhode Island Air National Guard (RIANG) for violations of RCRA land disposal restrictions and certain provisions of the State's hazardous waste laws. The complaint did not propose a penalty because the violations occurred before the effective date of the Act's penalty provisions. The Region and RIANG entered into a Consent Agreement and Order in which RIANG agreed to comply with all applicable federal and state hazardous waste laws.

The Region also issued an administrative complaint against the Naval Construction Battalion Center, Davisville, which included a proposed civil penalty of \$101,062. The complaint alleged numerous RCRA violations, including failure of the facility to properly conduct hazardous waste determinations, to retain copies of notices on site for certain shipments of waste restricted from disposal, to provide annual hazardous waste training to employees who manage hazardous waste, to maintain a written training program and other required records for employees who handle or manage hazardous waste, to label hazardous waste containers with the dates of accumulation, and to conduct weekly container inspections.

*Attorneys: Tanya Nunn and Douglas Luckerman
Engineer/Scientist: Ken Rota*

**HIGHLIGHT: COMPREHENSIVE GROUNDWATER MONITORING
AND EVALUATION INSPECTION CONDUCTED AT
U.S. ARMY ENGINE PLANT, STRATFORD, CT**

In FY 93, Region I conducted a comprehensive groundwater monitoring and evaluation inspection (CME) at the Textron-Lycoming U.S. Army Engine Plant, a government-owned contractor-operated facility located in Stratford, CT, as part the National CME initiative established by EPA Headquarters Office of Waste Programs Enforcement. This inspection was conducted as part of a national effort to ensure that the nation's most significant and environmentally sensitive federal facilities are complying with all federal groundwater monitoring and assessment requirements.

Engineer/Scientist: Ken Rota

II. Superfund Federal Facility Program

Under Superfund, EPA is required to establish a Federal Agency Hazardous Waste Compliance Docket and to evaluate the facilities on the docket for inclusion on the National Priorities List. Region I has over forty federal facilities on the docket. Because of the size and complexity of the facilities, and the need to obtain information on the nature of contamination from the facilities, the evaluation process is time-consuming. The Region completed the evaluation of fourteen federal facilities in FY 93 in addition to evaluations for nineteen facilities completed in FY 90-92.

As a result of the evaluations completed to date, nine federal facilities in Region I have been listed on the National Priorities List (NPL). In addition, in FY 93, EPA proposed six other Region I federal facilities for listing on the NPL, and solicited public comment on the proposed listings. The Agency expects to issue its final determination on the proposed listings in FY 94.

Section 120 of CERCLA requires EPA to enter into an Interagency Agreement (IAG) with facilities listed on the NPL and to afford state and local officials and the public the opportunity to participate in the planning and selection of cleanup actions.

Because of the size of the federal facilities, the large number of contaminated sites on the facilities, and the number of parties involved in the negotiations, the IAGs are complex documents. They provide for the clean-up of the facility by the federal department that owns the facility, with oversight by EPA and, in cases where the state is a formal party, by the state. The IAGs contain schedules for the cleanup process at the facility, with stipulated penalties against the federal entity for failure to meet the schedules. They also contain dispute resolution provisions with the EPA Administrator as the final authority, and which can be enforced by citizens under the CERCLA citizen suit provisions.

Region I has completed negotiations and signed IAGs at eight federal facilities in the Region. The Region expects to complete IAG negotiations in 1994 with the Naval Submarine Base, New London, CT, the remaining Region I federal facility on the NPL. Substantive investigation and cleanup activities are underway at all nine facilities.

**HIGHLIGHT: STIPULATED PENALTIES ASSESSED AGAINST
AIR FORCE AT LORING AIR FORCE BASE NPL SITE**

Loring Air Force Base, located in Limestone, ME, is an NPL Superfund Site and is also a closure base under the Defense Base Closure and Realignment Act of 1990. The Air Force is conducting the cleanup under an Interagency Agreement (IAG) which includes the Air Force, EPA and Maine as parties. On May 19, 1993, the Air Force agreed to pay stipulated penalties in the amount of \$50,000 for failure to meet enforceable IAG deadlines for deliverables. The Air Force also agreed that in the future EPA may assess stipulated penalties under the FFA for any documents which are technically incomplete. This was the Region's first assessment of stipulated penalties against a federal facility under an IAG and reflects the Region's efforts to ensure that Department of Defense components will submit technically complete documents in a timely manner at federal facility NPL sites.

*Attorney: Robert DiBiccaro
Engineer/Scientist: Johanna Hunter*

**HIGHLIGHT: SUPERFUND RECORDS OF DECISION
SIGNED IN FY 93**

In FY 93, seven Records of Decision were signed for Region I federal facilities on the National Priorities List. Region I cleanup decisions for these sites are as follows: Naval Construction Battalion Center, Davisville - PCB remediation; Naval Education and Training Center, Newport - McAllister Point Landfill capping; Brunswick Naval Air Station - Sites 5 & 6 asbestos remediation and Site 8 disposal site remediation; Pease Air Force Base - ground water remediation and Landfill 5 capping; and Otis Air National Guard Base/Massachusetts Military Reservation - Landfill 1 capping.

*Attorneys: Beth Tomasello and Robert DiBiccaro
Engineers/Scientists: Michael Daly, Meghan Cassidy and Paul Marchessault*

HIGHLIGHT: BASE CLOSURE UPDATE

There are five Region I federal facilities on the National Priorities List which have been scheduled to close under recent base closure legislation: Pease Air Force Base; Loring Air Force Base; Fort Devens Army Installation; Naval Construction Battalion Center, Davisville; and Army Materials Technology Laboratory. Region I continues to play a national leadership role on base closure issues. The Region is working with the other EPA regional offices, EPA Headquarters, states, the Department of Defense, and reuse/development authorities. Region I has allowed the transfer of parcels of land at

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closing bases only after ensuring that the environmental cleanup will proceed unimpaired or that the parcel is uncontaminated.

Attorney: Robert DiBiccaro

Engineer/Scientist: Mary Sanderson

In FY 93, Region I began developing its regional implementation plan under EPA's Model Accelerated Cleanup (MAC) program. In anticipation of new resources that are expected to support the base closure initiative, the Region began preparing to hire additional technical team members as well as additional project managers to fully staff the five NPL closing bases that are a part of this program in Region I.

SUMMARY ENFORCEMENT TABLES: FY 89 - FY 93

**Region I Administrative Penalty Enforcement Actions
Initiated: FY 1989 to FY 1993**

ACTION	Fiscal Year				
	1989	1990	1991	1992	1993
Clean Air Act ¹	—	—	—	7	23
Clean Water Act	16	13	16	25	17
Emergency Planning and Community Right-to-Know Act	15	25	24	19	17
Federal Insecticide, Fungicide and Rodenticide Act	4	5	4	3	4
Resource Conservation and Recovery Act	8	14	17	4	3
Toxic Substances Control Act	21	33	30	24	23
TOTALS:	64	90	91	82	87

¹ FY 1992 was the first year of implementation of administrative penalty authority under the Clean Air Act.

FY 93 ENFORCEMENT ACCOMPLISHMENTS REPORT

Region I Administrative Non-Penalty Enforcement Actions Initiated: FY 1989 to FY 1993

ACTION	Fiscal Year				
	1989	1990	1991	1992	1993
Clean Air Act	31	38	47	61	19
Clean Water Act	34	49	* 98	* 163	* 147
Comprehensive Environmental Response, Compensation and Liability Act	18	22	13	13	15
Safe Drinking Water Act	1	8	3	3	88
TOTALS:	84	117	161	240	269

* Includes Requests for Information

T-SUM02 VSD

Region I Administrative Penalty & Non-Penalty Enforcement Actions Initiated: FY 1989 to FY 1993

ACTION	Fiscal Year				
	1989	1990	1991	1992	1993
Clean Air Act	31	38	47	68	42
Clean Water Act	50	62	* 114	* 188	* 164
Comprehensive Environmental Response, Compensation and Liability Act	18	22	13	13	15
Emergency Planning and Community Right-to-Know Act	15	25	24	19	17
Federal Insecticide, Fungicide and Rodenticide Act	4	5	4	3	4
Resource Conservation and Recovery Act	13	17	17	14	** 5
Safe Drinking Water Act	1	8	3	3	88
Toxic Substances Control Act	21	33	30	24	23
TOTALS:	153	210	252	332	358

* Includes Requests for Information. ** Includes two non-penalty enforcement actions.

T-SUM03 VSD

FY 93 ENFORCEMENT ACCOMPLISHMENTS REPORT

Region I Civil Referrals for Litigation: FY 1989 to FY 1993

ACTION	Fiscal Year				
	1989	1990	1991	1992	1993
Clean Air Act	1	10	6	2	3
Clean Water Act	10	12	9	5	3
Comprehensive Environmental Response, Compensation and Liability Act	15	13	10	9	11
Resource Conservation and Recovery Act	4	4	5	3	3
Safe Drinking Water Act	0	0	0	1	1
Toxic Substances Control Act	0	0	2	0	0
Emergency Planning and Community Right-to-Know Act	0	0	0	0	1
TOTALS:	30	39	32	20	22

T-SUM04 VSD

**Region I Criminal Referrals to the Department of Justice:
FY 1989 to FY 1993**

<i>ACTION</i>	<i>Fiscal Year</i>				
	1989	1990	1991	1992	1993
Referrals	8	8	7	10	7

T-SUM05 VSD

FY 93 ENFORCEMENT ACCOMPLISHMENTS REPORT

**Comparison of EPA Region I and the New England States'
Enforcement Activity in FY 93**

	Total Number of Actions Initiated by the Six New England States		Number of EPA Region I Actions	
	Administrative Complaints/ Orders	Civil Referrals	Administrative Complaints/ Orders	Civil Referrals
Air	75	19	42	3
Drinking Water	* 145	3	88	0
Hazardous Waste	37	16	5	3
Water	24	9	17	3
Pesticides	35	3	4	0
TOTALS:	316	50	156	9

* Includes "exemption determinations"

T-SUM06 VSD

APPENDIX A: LIST OF ACRONYMS

ABN	<u>A</u> cid and <u>B</u> ase/ <u>N</u> eutral compounds
ADR	<u>A</u> lternative <u>D</u> ispute <u>R</u> esolution
AFS	<u>A</u> IRS <u>F</u> acility <u>S</u> ubsystem
AIRS	<u>A</u> erometric <u>I</u> nformation <u>R</u> etrieval <u>S</u> ystem
CAA	<u>C</u> lean <u>A</u> ir <u>A</u> ct
CEM	<u>C</u> ontinuous <u>E</u> mission <u>M</u> onitors
CERCLA	<u>C</u> omprehensive <u>E</u> nvironmental <u>R</u> esponse, <u>C</u> ompensation and <u>L</u> iability <u>A</u> ct (commonly known as <i>Superfund</i>)
CFC	<u>C</u> hloro <u>f</u> luoro <u>c</u> arbons
CID	<u>C</u> riminal <u>I</u> nvestigation <u>D</u> ivision (EPA)
CME	<u>C</u> omprehensive <u>G</u> roundwater <u>M</u> onitoring and <u>E</u> valuation inspection
CMS	<u>C</u> ompliance <u>M</u> onitoring <u>S</u> trategy
CWA	<u>C</u> lean <u>W</u> ater <u>A</u> ct
DEP	<u>D</u> epartment of <u>E</u> nvironmental <u>P</u> rotection (state)
EE/CA	<u>E</u> ngineering <u>E</u> valuation/ <u>C</u> ost <u>A</u> nalysis
EPCRA	<u>E</u> mergency <u>P</u> lanning and <u>C</u> ommunity <u>R</u> ight-to- <u>K</u> now <u>A</u> ct
FIFRA	<u>F</u> ederal <u>I</u> nsecticide, <u>F</u> ungicide and <u>R</u> odenticide <u>A</u> ct
IAG	<u>I</u> nteragency <u>A</u> greement
IDEA	<u>I</u> ntegrated <u>D</u> ata for <u>E</u> nforcement <u>A</u> nalysis
LEPC	<u>L</u> ocal <u>E</u> mergency <u>P</u> lanning <u>C</u> ommittee
MAC	<u>M</u> odel <u>A</u> ccelerated <u>C</u> leanup program
METS	<u>M</u> ulti-media <u>E</u> nforcement <u>T</u> ickler <u>S</u> ystem
MSDS	<u>M</u> aterial <u>S</u> afety <u>D</u> ata <u>S</u> heets
NARS	<u>N</u> ational <u>A</u> sbestos <u>R</u> egistration <u>S</u> ystem
NESHAP	<u>N</u> ational <u>E</u> mission <u>S</u> tandard for <u>H</u> azardous <u>A</u> ir <u>P</u> ollutants
NPDES	<u>N</u> ational <u>P</u> ollutant <u>D</u> ischarge <u>E</u> limination <u>S</u> ystem
NPL	<u>N</u> ational <u>P</u> riorities <u>L</u> ist
NSPS	<u>N</u> ew <u>S</u> ource <u>P</u> erformance <u>S</u> tandards
OMB	<u>O</u> ffice of <u>M</u> anagement and <u>B</u> udget
PCB	<u>P</u> olychlorinated <u>B</u> iphenyl
PRP	<u>P</u> otentially <u>R</u> esponsible <u>P</u> arty
RCRA	<u>R</u> esource <u>C</u> onservation and <u>R</u> ecovery <u>A</u> ct
RFA	<u>R</u> CRA <u>F</u> acility <u>A</u> ssessment
RI/FS	<u>R</u> emedial <u>I</u> nvestigation/ <u>F</u> easibility <u>S</u> tudy
ROD	<u>R</u> ecord of <u>D</u> ecision
SACM	<u>S</u> uperfund <u>A</u> ccelerated <u>C</u> leanup <u>M</u> odel
SDWA	<u>S</u> afe <u>D</u> rinking <u>W</u> ater <u>A</u> ct
SEP	<u>S</u> upplemental <u>E</u> nvironmental <u>P</u> roject
SERC	<u>S</u> tate <u>E</u> mergency <u>R</u> esponse <u>C</u> ommission
SIP	<u>S</u> tate <u>I</u> mplementation <u>P</u> lan (state)
SLA	<u>S</u> tate <u>L</u> ead <u>A</u> gencies

FY 93 ENFORCEMENT ACCOMPLISHMENTS REPORT

SV	<u>S</u> ignificant <u>V</u> iolators
TRI	<u>T</u> oxics <u>R</u> elease <u>I</u> nventory
TSCA	<u>T</u> oxic <u>S</u> ubstances <u>C</u> ontrol <u>A</u> ct
UAO	<u>U</u> nilateral <u>A</u> ddministrative <u>O</u> der
VOC	<u>V</u> olatile <u>O</u> rganic <u>C</u> ompound

