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U.S. EPA Region III
Regional Center for Environmental
Information
1650 Arch Street (3PM52)
Philadelphia, PA 19103

**ENFORCEMENT ACCOMPLISHMENTS
REPORT
FISCAL YEAR 1992**



Regional Center for Environmental Information
US EPA Region III
1650 Arch St
Philadelphia, PA 19103

**Prepared by:
EPA Region III
February, 1993**

Dear Reader:

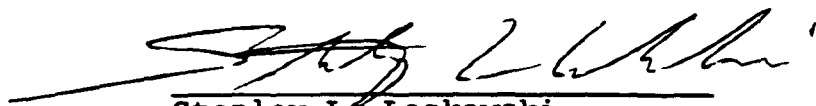
The U. S. Environmental Protection Agency (EPA) Region III and the environmental agencies of Delaware, the District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia regulate hundreds of thousands of sources of pollution in the Middle Atlantic states through a strong and active enforcement program. The goal of the Region III enforcement program is not only to ensure that the regulated community complies with the permits, plans, and regulations but also, most importantly, to see that public health and the environment are consistently protected by our work.

As you review the Region III FY'92 End-of-Year Enforcement Accomplishment Report it will become apparent that this past fiscal year has proven to be a successful one for our enforcement program. We have exceeded some of our past accomplishments and have marked several major milestones in the effort to protect our environment. These milestones include:

- o numerous record-breaking penalties and the continued strong growth of the Region III enforcement program;
- o development of a risk-based, multi-media enforcement program which will reduce the threat to public health and the environment from regulated and unregulated pollution sources in the Region;
- o commitments from private industries and Federal facilities to substantially reduce the releases of pollutants beyond the levels required by law;
- o improved multi-media targeting and inspection capabilities;
- o incorporation of special pollution prevention initiatives into consent orders or as a condition of enforcement settlements; and
- o strong participation in national enforcement initiatives directed against high-risk pollutants and violators.

While we are proud of our efforts in enforcement and our actual achievements in FY'92, we also recognize that we must continue to set our goals high so that we can exceed our expectations in the future.

Thank you for your interest in EPA and our environmental enforcement programs. We also extend our thanks to the dedicated people in Region III and our state colleagues for a successful enforcement year.


Stanley L. Laskowski
Acting Regional Administrator

Dear Reader:

On behalf of all the enforcement personnel in Region III of the Environmental Protection Agency (EPA), I am gratified to highlight the Region's accomplishments in enforcing the nation's environmental laws during the past fiscal year. EPA's regions are the prime implementers of the Agency's enforcement programs, and enforcement is a principal part of what the Region does. During FY'92, Region III posted significant increases in criminal enforcement actions; concluded a number of major cases involving significant air and water pollution with record setting penalties and millions of dollars in pollution control expenditures; initiated an active program for enforcement of the new Oil Pollution Act; negotiated a large number of pollution prevention/waste minimization provisions in enforcement settlements; and increased the value of its settlement of Superfund actions many-fold. All of these accomplishments occurred against a background of continuing enforcement activities in all programs. As a result of improved enforcement targeting and screening, and more effective coordination of enforcement activities among the various environmental media programs, EPA's enforcement activities have become more closely related to the violations of higher risk and greater strategic importance.

Enforcement of environmental laws at the national government level is but a part of overall environmental law implementation in this country. The states of Region III and elsewhere remain the primary enforcers of most of the environmental laws. EPA is ever mindful that the cases taken and matters handled at the national level should be designed to fit into the overall picture in a way which assures that everyone affected by the environmental laws (and that is everyone!) receives a full and fair measure of the benefits these laws are designed to assure. We think we are getting better and more effective at achieving this result. We hope that this document summarizing our accomplishments confirms that belief. In any event, we welcome your evaluation of our enforcement programs and encourage you to share your reactions with us.

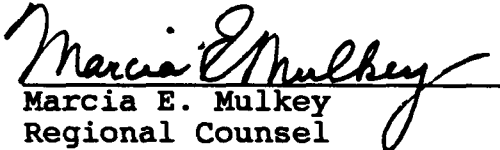

Marcia E. Mulkey
Regional Counsel

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EXECUTIVE SUMMARY

Region III's Enforcement Program for FY'92 remained consistent and strong when comparing the performance of past years. Below are some of the highlights of this program.

- Region III issued 806 administrative enforcement actions during FY'92.
- Forty civil referrals were made by Region III to the Department of Justice.
- FY'92 saw criminal referrals grow to 15; the highest level of criminal referral activity in the history of Region III.
- The Clean Air Act (CAA) enforcement program set five national civil penalty records, including the largest civil penalty in the history of the CAA. The total penalties obtained in CAA settlements exceeded \$14 million.
- Comprehensive Emergency Response, Compensation, and Liability Act (CERCLA) had a very strong year with the issuance of 60 administrative actions, a Region III CERCLA record.
- Gains in the number of enforcement actions taken under the Clean Water Act (CWA) program were significant in FY'92. Included in the total number of 70 administrative actions were 7 administrative complaints and 9 Notices of Violations and Notices of Non-compliance from the Spill Prevention, Containment and Countermeasures program.
- Section 404 of the CWA, showed impressive growth in the past year, increasing the number of Administrative Orders by three-fold.
- The Public Water System Supervision Program and the Underground Injection Control Program (both programs are under the Safe Drinking Water Act) marked an all-time high for the number of Notices of Violations issued.
- The first Region III civil administrative case was issued this year for violations of the worker protection rule under the Toxic Substances Control Act.
- Region III made significant advances under the various Regional multi-media enforcement initiatives: Tier I/Tier II Case Screening, Risk-Based Initiative, Chesapeake Bay Initiative and the Federal Facilities Initiatives.
- Over 40 multi-media inspections were conducted or coordinated in FY'92 which included over 270 individual program inspections.

ABBREVIATIONS

AHERA - Asbestos Hazard Emergency Response Act	of Environmental Resources
CAA - Clean Air Act	PCB - Polychlorinated Biphenyls
CERCLA - Comprehensive Environmental Response, Compensation and Liability Act	PMN - Pre-Manufacture Notification
CWA - Clean Water Act	PRP - Potentially Responsible Party
DMR - Discharge Monitoring Report	PWSS - Public Water System Supervision
DOJ - Department of Justice	RCRA - Resource Conservation and Recovery Act
EPA - Environmental Protection Agency	SDWA - Safe Drinking Water Act
EPCRA - Emergency Planning and Community Right-to-Know Act	SEP - Supplemental Environmental Project
FIFRA - Federal Insecticide, Fungicide, and Rodenticide Act	SIP - State Implementation Plan
FLMOA - Field Level Memorandum of Agreement	SNC - Significant Non- compliance
FY - Fiscal Year	TRI - Toxics Release Inventory
IAG - Inter-Agency Agreement	TSCA - Toxic Substances Control Act
NESHAP - National Emissions Standard for Hazardous Air Pollutant	UAO - Unilateral Administrative Order
NON - Notice of Non-compliance	UIC - Underground Injection Control
NOV - Notice of Violation	UST - Underground Storage Tank
NPDES - National Pollutant Discharge Elimination System	VOC - Volatile Organic Chemical
NSPS - New Source Performance Standards	
OPA - Oil Pollution Act	
PADER - Pennsylvania Department	

ACKNOWLEDGEMENTS

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Jenifer Shannon, with the assistance of the Strategic Planning and Program Integration Branch, prepared this report. This report, particularly the historical data, has been based substantially on the previous work of Larry Merrill. Betty Kamihira and Maria Kelly provided editorial assistance.

I. OVERALL ENFORCEMENT STATISTICS AND TRENDS

This section presents statistics and analyses of trends of the formal enforcement actions taken by EPA Region III. These formal enforcement actions are divided into three basic categories: administrative actions, civil actions, and criminal actions.

A. Administrative Enforcement Actions

Administrative actions include administrative orders and complaints, Notices of Violation (NOVs), and Notices of Non-compliance (NONS). These actions are initiated by EPA to order facilities to comply with regulations or take other actions necessary to protect the health of the public or the environment. Administrative actions are generally taken against violators where the infractions do not warrant civil action. The actions are used to assess penalties sufficient to remove the economic benefit gained by the violator, and to reflect the gravity of the risk which the violation poses to public health or the environment.

During FY'92, Region III issued 806 administrative enforcement actions. The five-year trend analysis for administrative actions is shown in Figure 1.

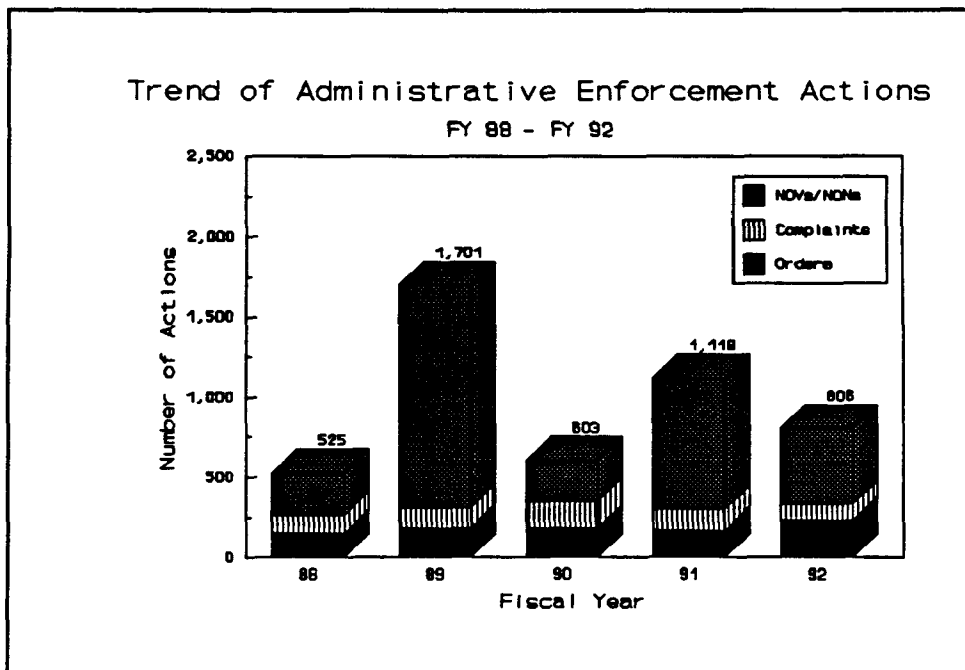


Figure 1

Note: In previous years, the total number of administrative orders included both final orders and proposed orders. In order to avoid double counting this fiscal year, only final orders were included in the Region's total administrative orders.

Table 1 provides a summary of administrative actions for each program. Further information and analysis of program activity is provided in the individual program summaries in Section III.

FY'92 Administrative Enforcement Actions			
<u>Program</u>	<u>Orders</u>	<u>Complaints</u>	<u>NOV/NON</u>
CAA	9	15	14
CAA-Asbestos	3	9	0
CERCLA/ EPCRA Non-313	58	2	0
CWA-NPDES	7	11	1
CWA-404	33	2	0
CWA-SPCC	0	7	9
EPCRA 313	16	6	7
FIFRA	2	11	29
RCRA	22	17	0
RCRA-UST	4	6	0
SDWA	52/33*	1	362
TSCA	42	14	37
TSCA-AHERA	0	10	15
OPA	3	0	0
TOTAL	232	100	474
* SDWA totals include 53 Proposed Orders and 33 Final Orders. Only the Final Orders are included in the Region III total.			

Table 1

B. Civil Enforcement Actions

Civil enforcement actions involve cases which are referred by EPA to the Department of Justice (DOJ) for consideration of filing as civil cases in federal court. EPA pursues civil actions where administrative enforcement authority is not available or appropriate, where administrative actions have not succeeded in achieving compliance, or when more extensive action or penalty is appropriate. Court action is particularly appropriate when the nature of the violation requires the Environmental Protection Agency (EPA) to initiate action to stop further environmental harm or to force clean-ups. In FY'92, 40 civil referrals were made by Region III. Figure 2 shows the number of civil referrals by program for the past three years.

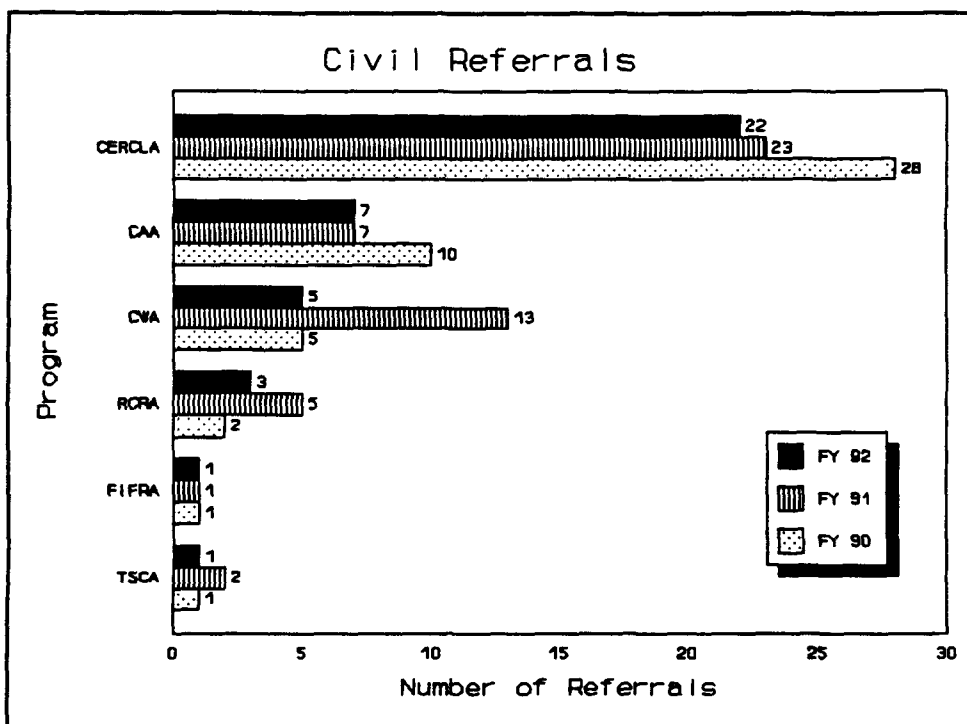


Figure 2

As part of the effort to deter noncompliance, EPA's enforcement programs have developed penalty policies which recoup any economic benefit that a noncomplying facility has realized. Figure 3 shows the total dollar amounts of the administrative and judicial penalties collected over the past five fiscal years.

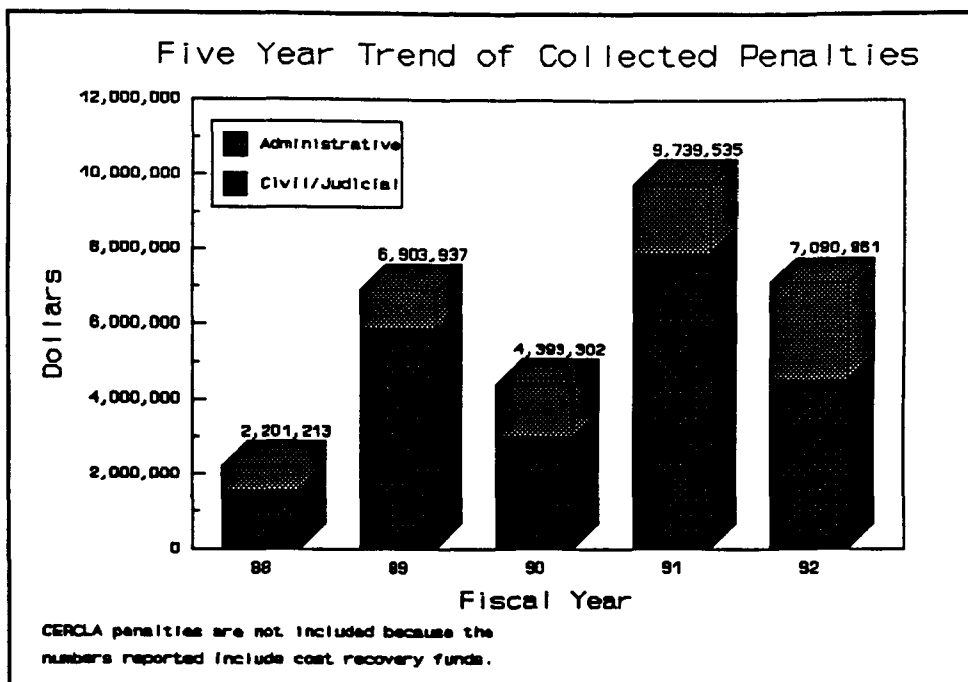


Figure 3

Figure 4 shows the breakdown of the administrative and civil/judicial collected penalties for FY'92 by major individual EPA programs.

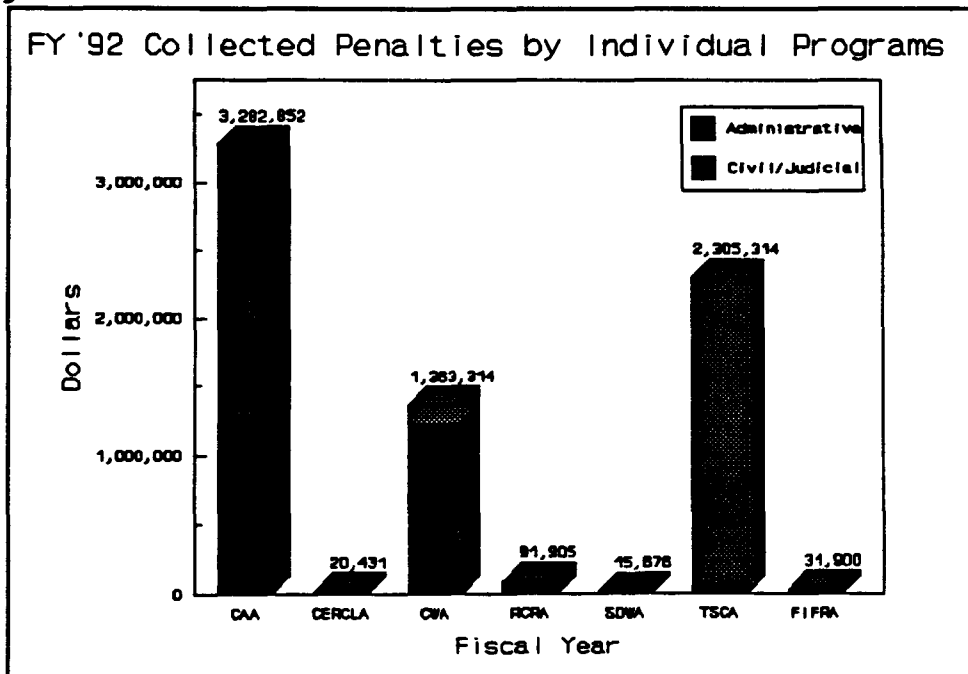


Figure 4

C. Criminal Enforcement Actions

Criminal enforcement actions involve cases sent to the DOJ/U.S. Attorney Offices for investigation and possible prosecution in federal court. The federal environmental laws authorize use of criminal sanctions against individuals who violate environmental standards or statutes in a variety of circumstances. Because of the strong stigma associated with criminal prosecution and the potential for incarceration, criminal enforcement is EPA's strongest remedy; its careful and selective use generates a strong deterrent.

In FY'92 the number of criminal referrals grew from 11 to 15; guilty pleas or verdicts grew from 6 to 17; and significantly, individuals charged grew from 8 to 19. Case summaries can be found in Section V which detail the pleas, fines, and imprisonments for selected criminal enforcement actions during FY'92. This growth in criminal enforcement can be attributed to an increase in resources provided to the criminal program by EPA. The trend of the number of criminal referrals for the past ten years is shown in Figure 5.

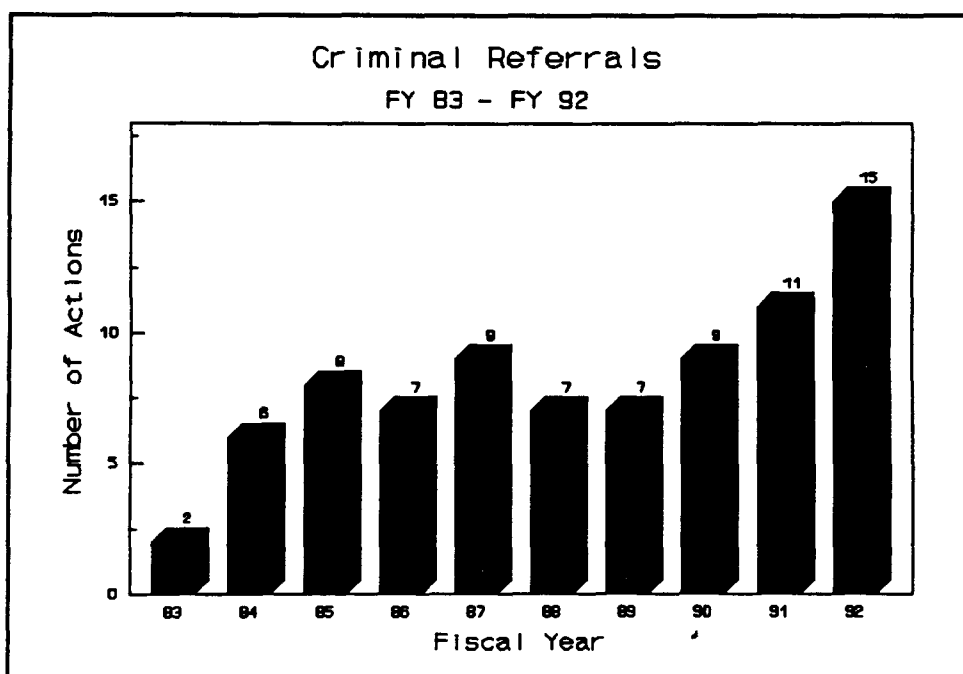


Figure 5

II. STATE ENFORCEMENT ACTIVITY

EPA recognizes that an effective enforcement program requires a coordinated working relationship with state agencies that have enforcement responsibilities. In Region III, many of the EPA's programs are delegated to the states.

Table 2 presents a summary of state enforcement activity by program.

FY'92 State Enforcement Action Statistics						
Category	DC	DE	MD	PA	VA	WV
FIFRA Civil	30	4	2	26	5	0
FIFRA Criminal	0	1	3	0	0	0
FIFRA Other Enforcement Actions	110	101	354	77	46	32
FIFRA Inspections	387	530	1554	1557	1714	465
CAA Civil Referrals	0	0	0	0	1	0
CAA Administrative Orders	0	2	12	17	35	43
CAA Court Consent Orders	0	0	0	5	1	0
RCRA Complaints	0	0	7	7	10	10
RCRA Orders	0	0	3	36	9	26
RCRA Judicial Referrals	0	1	2	1	0	4
RCRA Civil Actions	0	0	0	4	0	9
RCRA Judicial Orders	0	0	0	4	0	0
RCRA Administrative Referrals	0	0	0	2	3	7
SDWA Bilateral Compliance Agreements	0	3	0	25	1	0
SDWA Administrative Orders	0	2	0	14	7	0
SDWA Criminal Filings	0	0	0	1	0	0

Table 2.

Significant State Case Summaries

Allegheny Ludlum pays \$350,000 penalty and agrees to correct illegal discharges and to remediate contaminated groundwater.

On March 23, 1990, the Commonwealth of Pennsylvania, Department of Environmental Resources (PADER) filed a Complaint for Civil Penalties against defendant Allegheny Ludlum Corporation. Allegheny Ludlum owns and operates a facility in Westmoreland and Armstrong Counties, PA, which makes specialty steel products. Allegheny Ludlum has an NPDES permit authorizing discharges into the Kiski River.

In the complaint, PADER alleged discharges unauthorized by Allegheny Ludlum's NPDES permit and discharges in violations of the NPDES permit. PADER filed an Amendment to the complaint in 1992, alleging the unauthorized discharges of scale from an outfall permitted to discharge only non-contact cooling water.

Subsequent to filing the initial complaint in 1990, PADER identified Outfalls 010, 011 and 012 as frequently discharging oil and grease, a pollutant not permitted to be discharged. Outfall 017 was also identified as frequently discharging at a low pH and containing nickel and chromium.

The civil penalty complaint generated two settlement documents signed in November 1992. One document provides for phased payments of a \$350,000.00 civil penalty for violations known to the parties in 1992. The second document is a remediation document whereby Allegheny Ludlum has agreed to investigate and remediate the conditions responsible for the illegal discharges at Outfalls 010, 011, 012 and 017 at the West Leechburg facility. The remediation document also provides that Allegheny Ludlum will clean up oil contaminated groundwater at a different Allegheny Ludlum Facility.

Waste Management of Pennsylvania, Inc. pays \$3.8 million in civil penalties and provides services valued at \$300,000.

In a case imposing one of the largest environmental fines in PA history, Waste Management of Pennsylvania, Inc. agreed to pay \$3.8 million in civil penalties and to provide \$300,000.00 worth of goods and services for violations originating from record falsifications. Waste Management of Pennsylvania, Inc. also developed and implemented institutional and procedural safeguards at its landfills throughout PA to prevent the recurrence of events that lead to the violations. The penalty resulted from violations discovered at Waste Management of Pennsylvania, Inc.'s Lake View

Landfill in Erie County, Erie, PA. PADER first learned about the violations in July 1990, when Waste Management officials told the State that its employees falsified records regarding the amount of waste the landfill had accepted.

After an extensive nine month investigation, PADER determined that Lake View Landfill employees did falsify records and illegally accepted some 38,000 tons of municipal waste in excess of the maximum or average daily permit limits. A Consent Agreement was negotiated and signed on October 4, 1991.

Bankruptcy Court approves settlement requiring payment of \$5.3 million toward cleanup ordered by Pennsylvania.

On November 4, 1991, the United States Bankruptcy Court for the Western District of PA entered an Order in the H. K. Porter bankruptcy proceedings approving a settlement between the PADER and H. K. Porter. Under the settlement, H. K. Porter was required to spend \$5.3 million to comply with an Administrative Order issued by PADER in 1990. The bankruptcy court approved the payment as priority administrative expenses under Section 503 of the Bankruptcy Code. The money was utilized to cleanup an industrial waste dumpsite that had been used by an electrical products manufacturing division of H.K. Porter located in Beaver County on the north bank of the Ohio River. The dumpsite was near the south bank of the Ohio River approximately five miles from the plant. A citizen complaint had resulted in the Agency's discovery of the dumpsite. The case is noteworthy because at the time of the bankruptcy the company was not the owner of the dumpsite, having sold the property twenty years earlier. The funds were insufficient to cleanup the entire site, which was contaminated by lead, PCBs and other hazardous substances.

Bear Tubular Steel restores wetland, pays \$17,500 civil penalty.

In settlement of its appeal of a PADER administrative order to the State Environmental Hearing Board, Bear Tubular Steel agreed to restore one-half acre of rare tidal mudflat on the Delaware River Estuary, and to pay a civil penalty of \$17,500 under the Pennsylvania Dam Safety and Encroachment Act and the Pennsylvania Clean Streams Law. The case was the initial enforcement action taken under a joint initiative of PADER, EPA, the Army Corps of Engineers, and the U. S. Fish and Wildlife Service (USFWS) to Protect wetlands of the Estuary. The USFWS conducts overflights of the Estuary every 3-4 years; when the most recent was conducted in 1990, the Bear Tubular Steel site in Marcus Hook, PA was identified as the most important of the recently-filled wetlands. While the

filled area encompassed only one-half acre, there are only 180 acres of tidal mudflat in the State, making this half-acre particularly precious.

The agencies agreed that this first enforcement action would be taken by PADER, which proceeded to issue an order to Bear to restore the wetland. After eighteen months of pursuing both pre-hearing discovery and settlement negotiations, the company finally submitted an adequate cleanup plan, which was accepted by PADER as the basis for the settlement agreement. In a separate consent assessment, a civil penalty of \$17,500 was paid to settle the company's liability under the two State laws. The company completed the cleanup and restoration in the fall of 1992.

Cooper Industries, Inc. agrees to remediate contaminated ground water to background quality and pays a fine of \$200,000.

On February 4, 1992, PADER and Cooper Industries, Inc., on behalf of itself and its wholly-owned subsidiary Cooper Power System, Inc. (collectively referred to as "Cooper"), entered into a Consent Order and Agreement to install and operate a treatment system to remediate groundwater contaminated with PCB-1260 and to pay a civil penalty of \$200,000.00. In approximately 1985, Cooper merged with McGraw-Edison and became the owner of a plant engaged in the manufacture of Power Switchgear and Power Transformers.

The plant is located in Canonsburg, PA and is adjacent to Chartiers Creek. In approximately 1989, Cooper approached PADER and volunteered that although the use of PCBs at the plant had been discontinued in 1967, an area of groundwater underneath the plant was contaminated with PCBs. Cooper was willing to design and operate a treatment system. PADER, consistent with its long-standing groundwater policy, insisted that Cooper agree to remediate to background (in this case the cleanup standard for PCBs, a non-naturally occurring substance was non-detect). Cooper, however, was unwilling to sign an agreement when it felt that it was technically impossible to meet the cleanup standard. To break the log jam, PADER drafted a unique termination clause for the Consent Order and Agreement.

Accordingly, if Cooper is wrong in its present technical assessment and cleans up the groundwater to background then PADER has achieved its environmental goal. If Cooper cannot cleanup the groundwater to background, PADER can use the findings of the Consent Order and Agreement and the groundwater data submitted by Cooper during the life of the Consent Order and Agreement to build a very strong case against Cooper to conduct further remediation. Moreover, the termination clause forces PADER to revisit the efficiency of the treatment system and require, if necessary, the

installation of a better or different remediation system. The creativity exhibited by PADER in this case avoided lengthy litigation, required cleanup of contaminated groundwater and maintained the Agency's flexibility to require improved remediation technology in the future.

III. INDIVIDUAL PROGRAM SUMMARIES

A. Clean Air Act (CAA)

The Air Enforcement Branch in Region III is responsible for enforcing the CAA which applies to over 12,000 stationary sources of air pollution. Air emissions are regulated through the National Emissions Standard for Hazardous Air Pollutant (NESHAP) program, the Prevention of Significant Deterioration program, State Implementation Plans (SIPs), and New Source Performance Standards (NSPS). The six criteria air pollutants are Volatile Organic Chemicals (VOCs), TSP/PM10, lead, SO₂, NO_x, and CO.

Highlights of the CAA enforcement program for FY'92 include the issuance of the largest Arsenic NESHAP Penalty of \$1,825,000 to Corning State College and the largest CAA Penalty of \$6,700,000 to Bethlehem Steel Corporation.

Figure 6 shows the distribution of the CAA administrative actions over the past three years. Although the number of NOV's and NON's has decreased from 25 to 14, this fiscal year the program issued 15 administrative complaints resulting in a substantial increase in administrative enforcement actions. Figure 7 plots the number of the CAA civil referrals from FY'83 through FY'92. Since 1986 the number of referrals has been declining.

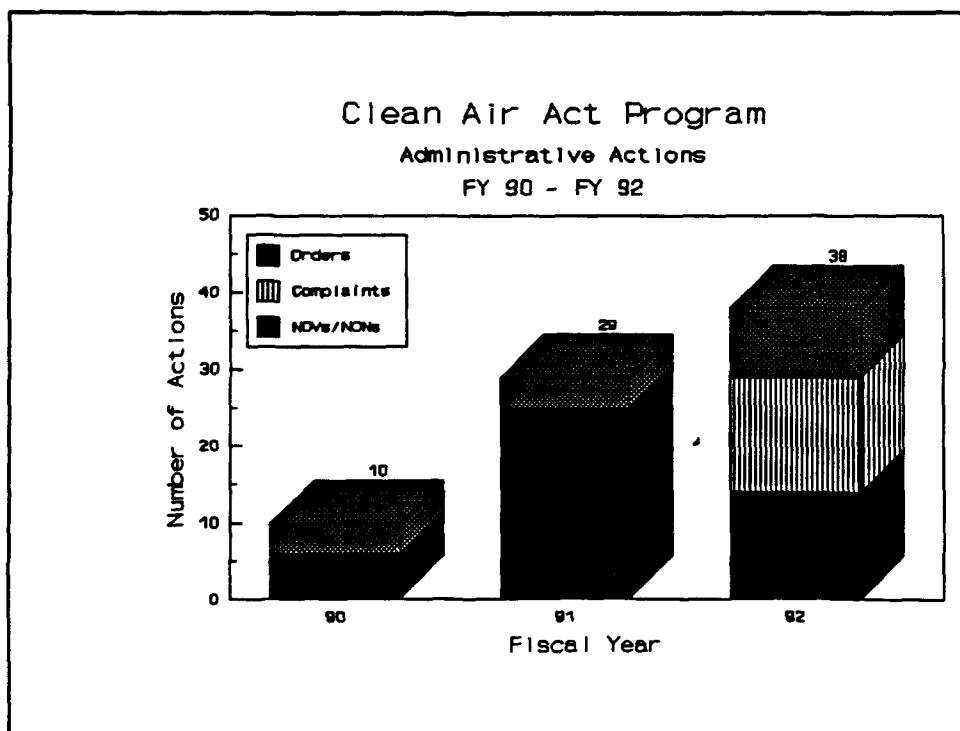


Figure 6

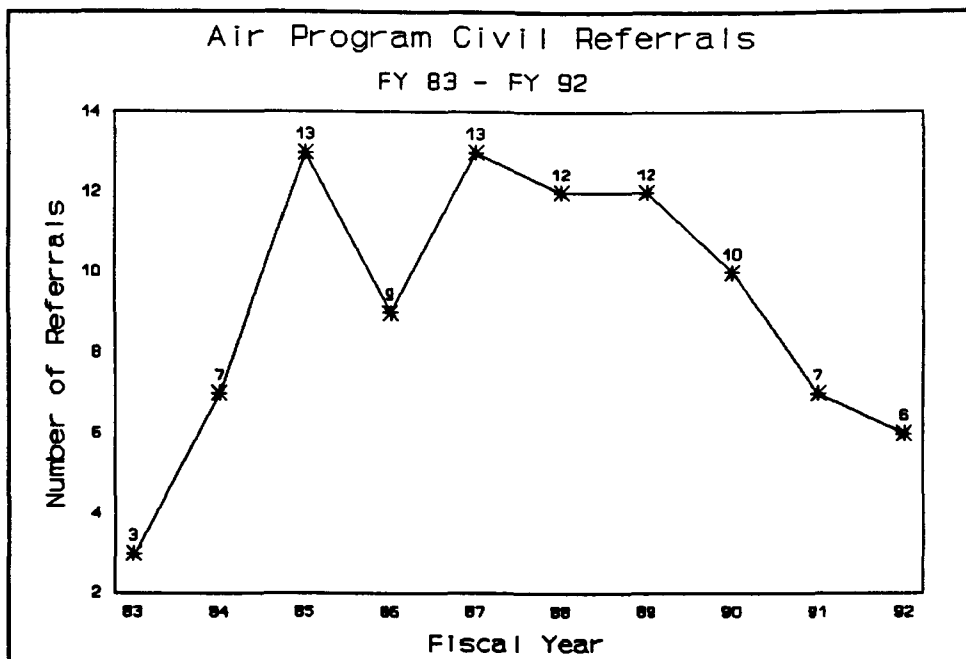


Figure 7

Table 3 summarizes FY'92 compliance rates for major air sources. Figure 8 shows the number of significant violators by pollutant category during FY'92 and Figure 9 displays the percentage of case resolutions by pollutant type. Figures 8 and 9 also demonstrate the emphasis the Region has placed on VOC violations as well as the identification and resolution of permitting violations, including failure to obtain required permits.

FY'92 Air Compliance Rates	
<u>Source Regulation</u>	<u>Compliance Rate</u>
State Implementation Plans	94%
New Source Performance Standards	93%
NESHAPs	81%
New Source Review Permits	84%

Table 2

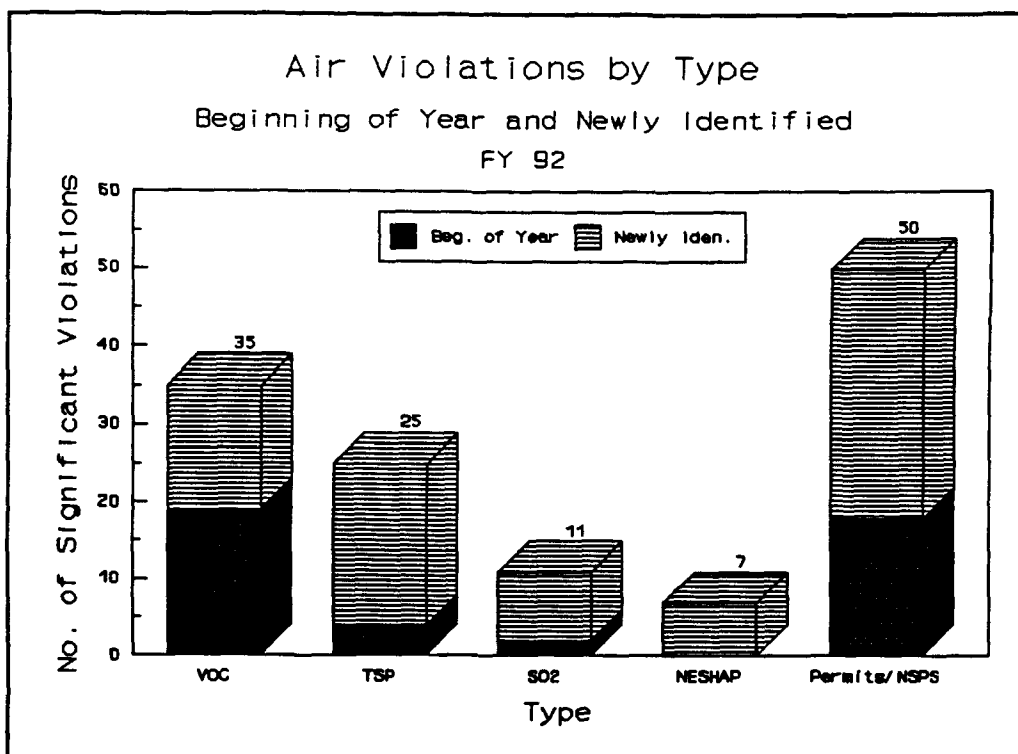


Figure 8

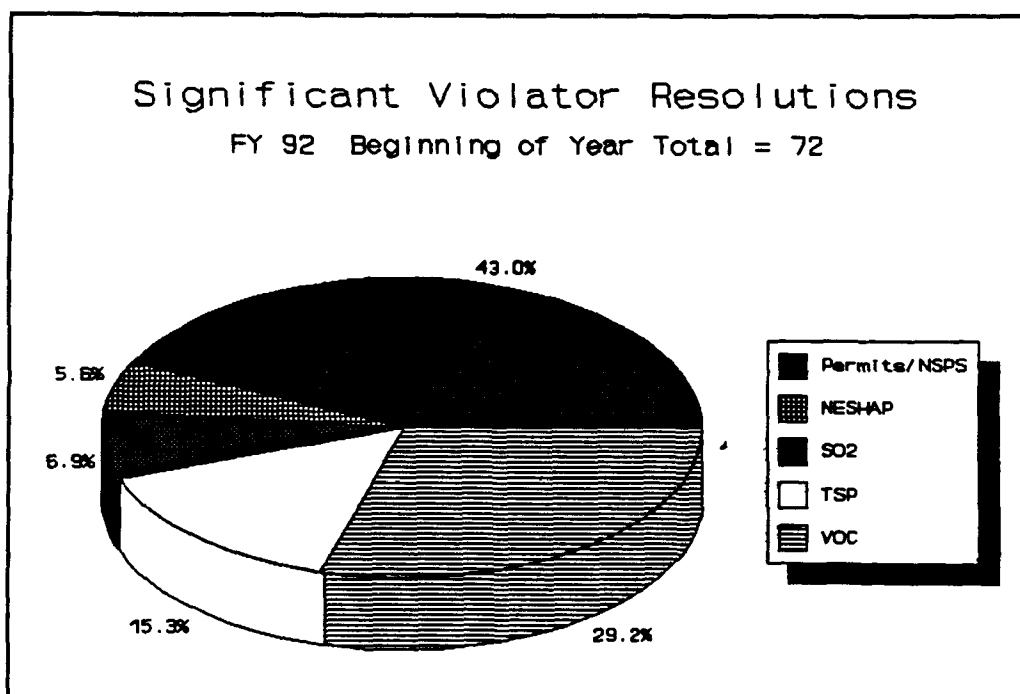


Figure 9

Significant CAA Case Summaries

Bethlehem Steel Corporation consents to largest penalty in CAA history and will make multi-million dollar investment in Bethlehem and Johnstown facilities.

In the case U.S. and Commonwealth of Pennsylvania v. Bethlehem Steel Corporation (E.D. PA), on March 9, 1992, the U.S. lodged two separate partial consent decrees with Bethlehem Steel Corporation (BSC). Through these decrees, the largest penalty in CAA history (\$6.7 million) was imposed for settlement of the CAA civil enforcement action against BSC for two of its facilities located in Johnstown and Bethlehem, PA.

The violations at the Johnstown facility included violations of the NSPS for electric arc furnaces and the PA SIP. In the partial consent decree addressing violations at the Johnstown, Plant, BSC agreed to invest \$1.6 million in pollution control equipment and pay \$1.7 million in civil penalties.

The violations at the Bethlehem facility included excess fugitive emissions from its three coke oven batteries and blast furnace, excess hydrogen sulfide content of the coke oven gas consumed at the facility, and excess sulfur dioxide emission at a boiler in violation of the NSPS. In the partial consent decree addressing violations at the Bethlehem plant, Bethlehem agreed to spend over \$30 million dollars for the installation of new pollution control equipment and the renovation of old equipment. Additionally, BSC agreed to pay a civil penalty of \$6.2 million dollars, of which \$5.0 million is to be paid in cash plus interest and \$1.2 million in the form of a supplemental environmental project. The supplemental environmental project, the replacement of coke oven battery doors, is expected to cost over \$4.0 million and result in an enforceable fugitive emission reduction of over 40% from the coke oven doors.

Bethlehem Steel Corporation brings its MD Coke Plant into compliance and agrees to pay \$3.5 million, the third highest penalty in CAA history.

The third highest penalty under the CAA resulted from a civil enforcement action against Bethlehem Steel Corporation in the case of the U.S. and State of Maryland v. Bethlehem Steel Corp (D. MD). This settlement actually ties for third with a prior 1983 Region III civil action settlement with what was then National Steel Corporation's Weirton Steel Division. The Bethlehem suit involved violations of the Maryland SIP with respect to particulate matter emissions from coke oven batteries. During settlement of this case, Bethlehem agreed to shut down its coke oven batteries, thus

bringing them into compliance. This resulted in eliminating not only all carcinogenic emissions emanating from the batteries, but all emissions. Additionally, the consent decree imposes a civil penalty of \$3.5 million plus interest and requires BSC to comply with all applicable SIPs and CAA permit requirements before resuming operation of the coke oven batteries.

Corning, Inc. et. al. are to pay over \$1.8 million, the largest penalty for a violation of the inorganic arsenic NESHAP.

A consent decree to settle the case of the U.S. v. Corning Inc., Ashahi, Ashahi Glass America, Inc. and Corning Ashahi Video Products (M.D. PA) was entered on May 12, 1992 in U.S. District Court. The consent decree requires the defendants to upgrade the electrostatic precipitators serving the glass manufacturing furnaces at the State College, PA plant. The upgrade will include the installation of automatic voltage controllers, automatic rapper controllers, and a supervisory computer. The defendants are also required to develop and implement a detailed operation and maintenance plan and to conduct certain stack tests and repair and retest if either furnace is found to be out of compliance. In addition, the defendants are required to pay \$1,825,000 in civil penalties. This penalty sum is, by far, the largest civil penalty ever obtained in an inorganic arsenic NESHAP case, and is one of the largest civil penalties obtained in any NESHAP case.

USX pays \$700,000 for PA SIP violations at its Fairless facility.

A consent decree to settle the case of the U.S. and Commonwealth of Pennsylvania v. USX, Inc. was entered on January 21, 1992, in U.S. District Court. The consent decree provided for the installation of emission controls at a sinter plant at USX's Fairless Hills, PA plant, and requires compliance demonstration and maintenance at the sinter plant, open hearth shop, and blast furnaces at the plant. In addition, USX is required to pay \$700,000 in civil penalties. Subsequent to its execution of the consent decree, USX ceased operation of the sources at the plant covered by the decree.

EPA recovers penalties during bankruptcy proceeding in re: Wheeling-Pittsburgh Steel Corporation.

In this case, the U.S. successfully pursued satisfaction of unsatisfied civil penalty judgments against Wheeling-Pittsburgh for prior CAA (SIP) and RCRA violations at Wheeling-Pittsburgh plants in WV, PA, and OH, in the context of a Chapter 11 bankruptcy proceeding. The unsatisfied civil penalty totaled \$5,086,552 (all

of which, except for \$17,500, were CAA penalties) and the U.S. recovered 66.9% of that sum (\$3,403,457). The terms of the settlement are reflected in an original stipulation approved by the U.S. Bankruptcy Court on May 11, 1989, and in an amended stipulation approved by the Bankruptcy Court on April 26, 1991. This case was not reported in FY'91.

Sharon Steel to comply with coke by-product NESHAP and pay \$300,000.

A consent decree to settle this benzene NESHAP case, U.S. v. Sharon Steel Corporation/Monessen, Inc. (W.D. PA), for a coke by-product recovery plant was lodged on August 5, 1992 and subsequently entered on October 30, 1992. The consent decree will require Sharon Steel/Monessen to expeditiously complete the installation of controls necessary for compliance with the NESHAP for benzene emissions from coke by-product recovery plants at the former Wheeling-Pittsburgh coke plant in Monessen, PA, and will further require Sharon Steel/Monessen to pay civil penalties of \$300,000.

Chevron to pay largest benzene NESHAP penalty to date.

A consent decree to settle the case of the U. S. v. Chevron U.S.A. Inc. (E.D. PA) involving equipment leaks was entered on September 15, 1992. The consent decree requires Chevron to pay civil penalties of \$1,000,000 for violations at Chevron's (formerly Gulf Oil Corporation's) Philadelphia, PA petroleum refinery, to conduct a comprehensive benzene NESHAP audit, to demonstrate compliance at its benzene control device, and to maintain compliance with the benzene NESHAP.

University City Housing Company agrees to immediate clean-up of asbestos contaminated apartment complex.

A civil complaint was filed by the DOJ on behalf of EPA Region III on January 27, 1992 in the U.S. District Court for Eastern PA in the case of the U.S. v. University City Housing Company et. al. (E.D. PA) for violations of Section 112 of the CAA asbestos NESHAP regulations.

The complaint stemmed from an asbestos shingle removal project conducted from November 1991 to January 1992 at the 600 unit Salem Harbor Apartment Complex in Andalusia, PA. The improper removal led to widespread contamination of the grounds and increased public health risk from exposure to friable asbestos containing material.

Together with the complaint, the DOJ filed an application for an immediate temporary order requiring University City Housing

Company and Total Construction Incorporated to immediately abate the imminent hazards posed by asbestos containing materials at the site. However, DOJ and EPA agreed to allow the court to defer consideration of the immediate order when University City Housing stated on the record before the Judge that they would immediately undertake a proper clean-up of the asbestos debris.

In addition to the immediate clean-up of the debris, the government also seeks proposed civil penalties of up to \$25,000 per day for each violation of the asbestos NESHAP regulations 40 C.F.R. Part 61 Subpart M.

Compliance order issued requiring remediation of asbestos material and contaminated grounds.

A compliance order was issued against Publix, Inc. of Parkersburg, WV on July 2, 1992 requiring the company to perform short and long term remediation of asbestos containing material in and around the facility site.

Publix, Inc. owns and operates a large multi-functional industrial complex in Parkersburg, WV. They have conducted periodic asbestos renovation/removal projects at the site for several years. Upon discovery in June 1992 of widespread asbestos containing debris at the site, Region III issued a compliance order requiring Publix to immediately address the most serious health risks and to perform longer term remediation of the remaining health threats.

B. Comprehensive Emergency Response, Compensation, and Liability Act (CERCLA)

Under the CERCLA, EPA is authorized to clean-up toxic or hazardous contaminants at active, closed or abandoned sites, and strives through litigation, to recover the costs of clean-up from responsible parties or to compel them to clean up the sites. Clean-up funds come from a "Superfund" created by taxes on chemicals and hazardous wastes.

Figure 10 displays the number of CERCLA civil and administrative actions issued over the ten-year period from FY'83 to FY'92. This year marks the issuance of the highest number of administrative actions (60) for Region III.

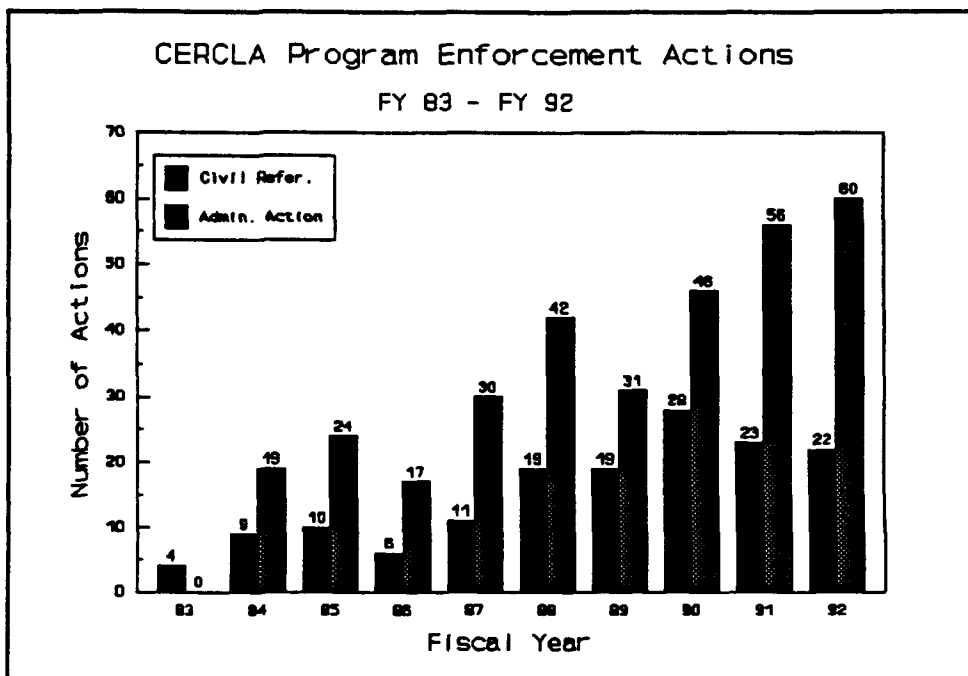


Figure 10

Significant CERCLA Case Summaries

EPA coordinates with Coast Guard to issue unilateral order based on authorities of the CWA, RCRA, and Intervention of the High Seas Act.

The sudden disappearance of over four hundred drums of the hazardous substance arsenic trioxide from the ship Santa Clara, in route to Baltimore in the Atlantic Ocean, captured news headlines and resulted in the closure of fishing beds in January 1992. The Coast Guard became interested in asserting jurisdiction over the vessel, and securing appropriate vessel clean-up and drum recovery. They contacted EPA, and Region III staff provided support in guiding the Coast Guard in the novel practice of using Superfund authority for the effective enforcement and oversight of the arsenic trioxide drum recovery.

EPA approved expenditure of Superfund monies for the drum search, and worked out an Inter-Agency Agreement (IAG) with the Coast Guard, so that the Coast Guard could continue the search in the Atlantic for the drums and other containers.

EPA prepared an enforcement case, U.S. v. MV Santa Clara (D. SC), which was filed by the DOJ in May 1992 in the District of SC where the vessel had come to port. In this case an in rem maritime lien was placed against the vessel for the Coast Guard's and EPA's response costs and for a general Superfund cost recovery action for those costs, which had run over \$800,000.

Region III also coordinated closely with the Coast Guard in crafting a unilateral order, based on the authorities of Section 106 of the CERCLA, Section 311(c) of the CWA and Section 5 of the Intervention on the High Seas Act, for the owners of the vessel to take over the search at their own expense under Coast Guard direction. This Order, the first of its kind, was issued by the Coast Guard in February 1992. The vessel owners, Kyriakopoulos International, S.A., a Peruvian corporation, and the vessel operators, Empresa Naviera Santa, S. A., a Panamanian company, took over the response work as directed under the Order and performed it under Coast Guard oversight. They successfully recovered over 320 drums.

CERCLA consent decrees lodged for remedial design, remedial action, and cost recovery for Whitmoyer Laboratories.

On April 22, 1992, EPA referred three civil actions and two proposed consent decrees under the CERCLA §§ 106 and 107 to the DOJ for the Whitmoyer Laboratories Superfund site, Lebanon County, Jackson Township, PA.

On September 16, 1992 the DOJ lodged the two consent decrees under the CERCLA §§ 106 and 107 in Federal District Court for the Middle District of PA for the Whitmoyer Laboratories, Inc. Superfund site. The first proposed consent decree between the United States, Rohm and Haas Co. and SmithKline Beecham Corp., requires the implementation of remedial design and remedial action in accordance with Records of Decision for Operable Units 2 and 3 and reimbursement of \$250,000 in past response costs. The selected remedy, which involves the cleanup of extensive arsenic contamination of soils, sediments and groundwater and the disposal of arsenic contained in a "vault" located onsite, is estimated to cost approximately \$125 million. The second proposed consent decree, between the United States and the Estate of Clarence W. Whitmoyer, Sr., requires the Estate to pay \$2.9 million in past response costs, plus fifty percent of any amount remaining in the residual estate trust after the accounting.

Whitmoyer Laboratories, Inc. was founded in 1934 by Clarence W. Whitmoyer, Sr. to manufacture veterinary pharmaceuticals. Rohm and Haas bought Whitmoyer Laboratories in 1964 and operated it until 1978 when it was sold to Beecham (now SmithKline Beecham). SmithKline Beecham operated the facility until 1982. The two consent decrees together, totalling \$127.15 million, resolve 98.3% of the estimated value of the United States' claims.

Litigation for Superfund costs at oil recycling site.

Several significant court developments occurred in the litigation of the U.S. v. Berks Associates, Inc., et al. (E.D. PA) for Superfund costs regarding the Douglassville used oil recycling site located in Berks County, PA. In April 1992, Senior Judge E. Mac Troutman granted the United States' motion to dismiss counterclaims alleging that EPA was liable as a site generator/operator because of EPA's 1972 clean-up activities related to Hurricane Agnes. On September 9, Judge Troutman granted the United States' proposed case management order for this complex case, thereby setting a tight deadline to comply with the new civil justice reform plan of the Eastern District, and allowing the government to proceed expeditiously with formal discovery. Finally, on September 14, Judge Troutman granted the U.S.' motion to strike over eighty affirmative defenses, including a defense related to divisibility of harm. The opinion construes the Third

Circuit's recent U.S. v. Alcan liability language favorably for the United States.

Region III issues unilateral administrative orders for the remedial design/remedial action for Superfund site.

On August 13, 1992, the Regional Administrator of EPA Region III signed two CERCLA § 106 Unilateral Administrative Orders (UAO) for the remedial design/remedial action to be conducted on Operable Units 1 and 2 at the Dorney Road Landfill Superfund site in Allentown, PA. The first UAO added four Potentially Responsible Parties (PRPs) to the list of those participating in Operating Unit 1's construction of a cap for the landfill. The order mirrored an earlier UAO requiring seven other PRPs to build the cap, and used language such as "coordinate and cooperate" in order to hold the four additional parties to the same standard set in the first UAO despite whether parts of the work required by the order had already been completed. The work to be performed by the PRPs has a present worth value of approximately \$14 million dollars. The second UAO was signed by the Regional Administrator on the same day; it addressed Operating Unit 2's groundwater remedy and was issued to ten PRPs. The work to be performed under the second order has a present worth value of approximately \$500,000.

EPA and the Richmond, Fredericksburg and Potomac Railroad Company sign agreement for expedited response action at the Potomac Yard site.

The Potomac Yard site is a former rail switching and maintenance yard operated by Richmond, Fredericksburg and Potomac Railroad Company (RF&P) and is located in Alexandria, VA. Initial environmental investigations, including a preliminary assessment/site investigation and an environmental assessment indicated the presence of certain hazardous substances onsite. Further evaluation of the property was determined necessary before a decision could be made on whether to propose the site to be included on the National Priorities List. Because the site was proposed for the construction of a National Football League stadium, the site operators, RF&P, were willing to quickly conduct the additional studies, as well as any clean-up that may be warranted as a result of those studies.

The administrative order, entered into by EPA and RF&P, combines the elements of a removal assessment, an expanded site investigation for listing considerations, and a remedial investigation. Physical, onsite clean-up will be conducted under an engineering evaluation/cost analysis as set forth in 40 C.F.R. § 400.15 (b). The principals of the Superfund Accelerated Clean-up Model, calling for the performance of comprehensive expedited response action, are clearly reflected in the work required by this

agreement.

Regional Administrator signs administrative order on consent with 170 de minimis parties at Tonolli Corporation Superfund site prior to the issuance of a record of decision.

The Regional Administrator has signed an administrative order on consent pursuant to the CERCLA. The consent order is intended to resolve the liabilities of 170 de minimis parties for response costs incurred at the site.

A PRP was eligible to participate in the settlement if the volumetric contribution of hazardous substances to the site was less than 1% of the total volume of hazardous substances and if toxic or other hazardous effects of the hazardous substances contributed by the PRP was minimal in comparison to the cumulative toxic or other hazardous effects of the hazardous substances sent to the site.

EPA has identified 532 PRPs at the site; 432 are de minimis parties: of these 170 have signed the consent order. Because this settlement was proposed prior to the issuance of a Record of Decision (ROD), EPA estimated the future costs of the remedy by reviewing RODs for 13 Superfund sites which involved similar wastes and disposal practices. The 170 settling de minimis have agreed to pay \$3,491,233. Of this amount, \$2,471,701 would reimburse EPA for past response costs incurred at the Tonolli Corporation Superfund site and the balance will be used to finance future work at the site.

C. Clean Water Act (CWA)

A significant increase in the number of enforcement actions taken under the CWA program for FY'92 is shown in Figure 11. Included for FY'92 enforcement actions are seven administrative complaints and nine NOV/NONs from the Spill Prevention, Containment and Countermeasures (SPCC) program.

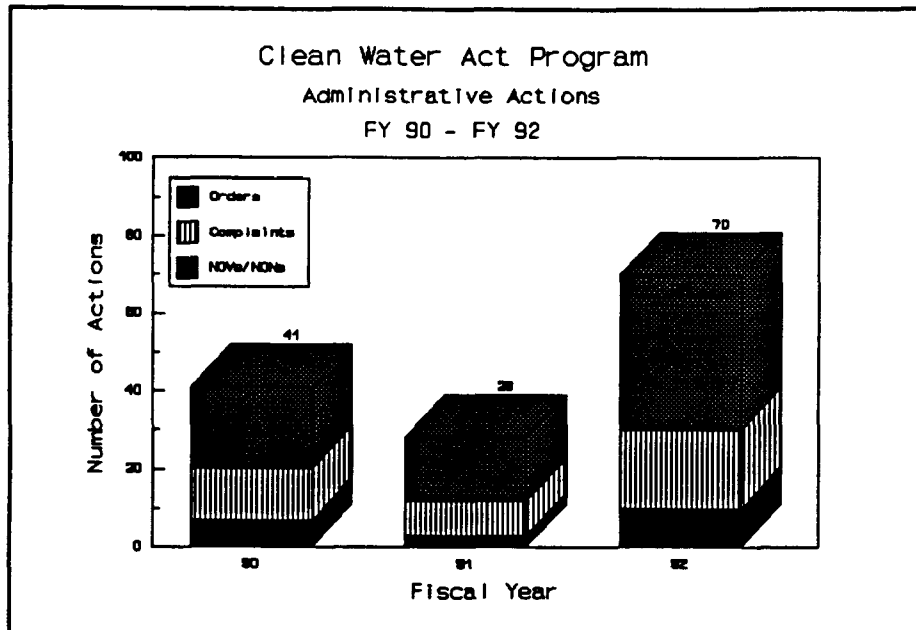


Figure 11

CWA enforcement supports the National Pollutant Discharge Elimination System (NPDES) program, which is the permit program regulating both direct and indirect discharges to the nation's navigable waters. The NPDES program enforces against wastewater discharge facilities that are in non-compliance with construction schedules, permit effluent limitations, previous enforcement orders, or that discharge without a permit. There are over 12,000 municipal, industrial, and federal facilities subject to NPDES requirements in Region III. Figure 12 shows the ten-year trend of NPDES enforcement actions.

Section 404 of the CWA regulates the discharge of dredge and fill material into navigable waters. Enforcement emphasizes redress for unpermitted discharge in environmentally sensitive areas and seeks restoration of, or compensation for environmental damage. This year, 132 wetland enforcement cases were resolved. These resolutions were obtained mostly through voluntary compliance means and Region III led all ten regions in this compliance effort. IAGs with the State College and Annapolis Offices of the U.S. Fish and Wildlife Service assisted greatly in these efforts, which have resulted in the protection of over 122 acres of wetlands in the

Region. Figure 13 shows the ten-year trend for Section 404 enforcement actions. This year marks an all-time high for the number of Section 404 administrative actions.

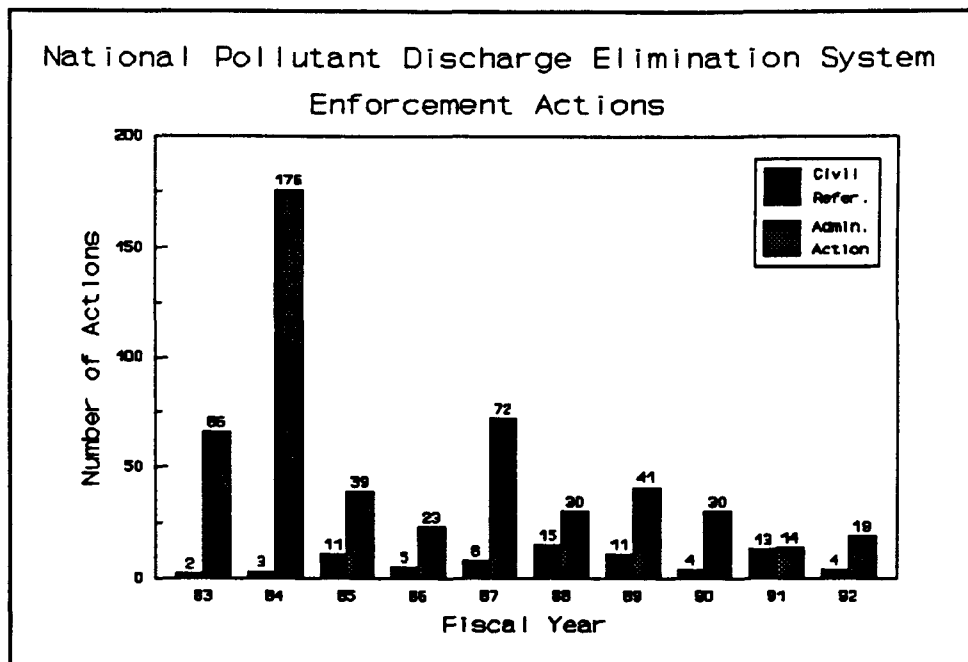


Figure 12

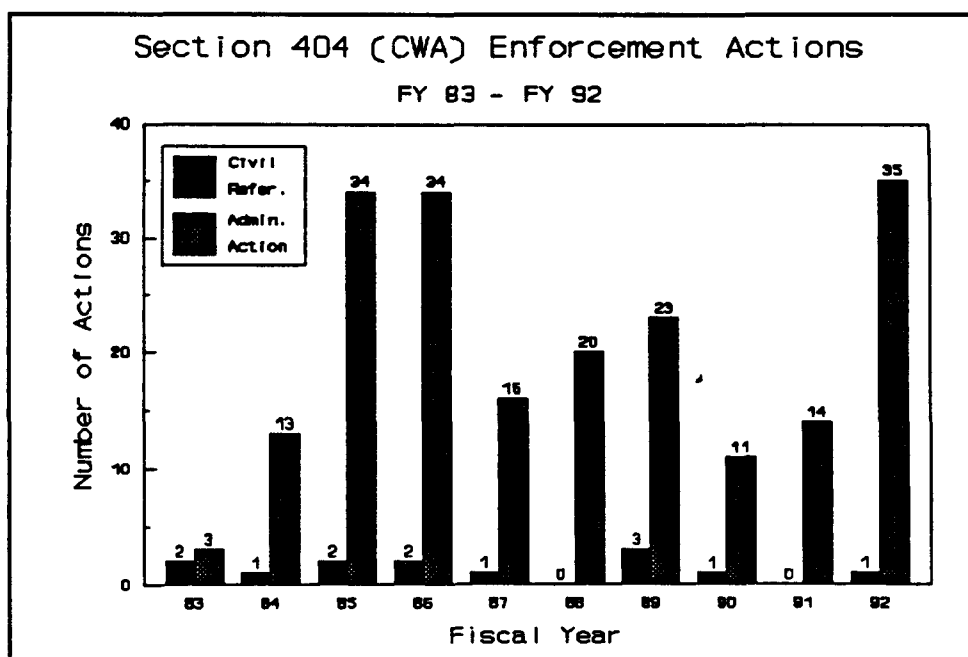


Figure 13

This year a new Field Level Memorandum of Agreement (FLMOA) with the Pittsburgh District Corps of Engineers was developed and finalized. The FLMOA gives EPA lead enforcement responsibility in several western PA counties. Also, a FLMOA was initiated with the Norfolk District Corps of Engineers.

Significant CWA Case Summaries

EPA Region III issues nation's first order for abatement of endangerment under the Oil Pollution Act (OPA) amendments of the CWA.

EPA and the Pennsylvania Petroleum Products Company, Inc. entered into an administrative order by consent for the containment, recovery and disposal of oil that was released from the facility during a fire in November 1991. As a result of that fire, oil released from the facility infiltrated the city stormwater system which discharges into the Delaware River. The order required the submission of a response action plan and schedule for developing and implementing appropriate clean-up actions to abate the uncontrolled release of oil and to protect public health and welfare (including natural resources), to safely demolish remaining onsite structures, and to pay costs incurred by EPA for oversight of the order.

EPA Region III issues first complaint under newly-promulgated consolidated rules of practice for Class I administrative penalty actions.

On March 21, 1992, in the case of the U.S. v. Darrell Lingle, EPA issued an administrative penalty complaint seeking a penalty of \$10,000 for the unauthorized filling of wetlands. This is the first complaint in the Nation to be issued under the newly-promulgated consolidated rules of practice for Class I administrative penalty actions. The complaint alleges that Mr. Lingle discharged fill into 1.5 acres of wetlands without a permit from the U.S. Army Corps of Engineers, as required by Section 404 of the CWA.

First penalty action in Sussex County, DE since EPA assumed primary enforcement authority under a FLMOA.

On April 17, 1992, EPA issued an administrative order against Gulfstream Development Corporation to stop violations and restore wetlands at the Bahamas Beach Cottages Subdivision. At the same time, EPA issued a Class I administrative penalty order for \$7,500 for violations that included placing fill in a tidally influenced ditch and grading for pond construction in a freshwater meadow. This was the first penalty action in Sussex County since EPA assumed primary enforcement authority there under a FLMOA with the Philadelphia Corps District signed April 23, 1991. On August 20, 1992, the Regional Administrator issued a decision and order assessing a penalty of \$13,500 after Gulfstream Development Corporation failed to file a timely answer to EPA's complaint. The penalty assessed was \$6,000 more than proposed in the complaint, which had not considered economic benefit in calculating the penalty. On September 18, 1992, Gulfstream Development Corp. appealed the penalty to the U.S. District Court in DE. This case will be among the first to address the procedures in 40 C.F.R. Part 28, which govern the administrative assessment of small penalties under several statutes including the CWA.

\$550,000 penalty against Shenango, Inc. for NPDES permit violations.

A CWA consent decree addressing violations of NPDES permit effluent limitations and monitoring and reporting requirements by coke and iron producer Shenango, Inc. was lodged in District Court (W.D. Pa.) on April 28, 1992. The decree provided for the payment of \$550,000 in civil penalties, compliance with the permit, and the implementation of remedial measures including the installation of appropriate treatment and the cessation of any discharges from specified outfalls.

Region III seeks penalty from the City of Philadelphia for 301 violations at the City's prisons.

On May 21, 1992, the United States filed a civil complaint in District Court (E.D. Pa.) on behalf of EPA against the City of Philadelphia regarding violations of Section 301 of the CWA at the City's prisons. The complaint charges that on various occasions the City responded to backups of sewage at the House of Corrections and the Detention Center by intentionally pumping raw sewage into the Pennypack Creek. The complaint also contends that there have been additional, unintentional discharges of raw sewage from an overflow point into the Pennypack Creek. The City is not authorized by any of its NPDES permits to discharge sewage from the prisons into the creek. The complaint seeks injunctive relief to prevent further discharges and penalties.

Penalties in excess of \$550,000 sought from PA municipal sewage pretreatment plants for failure to properly implement local pretreatment programs.

In the case of the U.S. v. Chambersburg, PA; Doylestown, PA; Greater Hazelton, PA; New Kensington, PA; Milton, PA; Upper Merion, PA; Hamburg, PA; St. Marys, PA; and SW Delaware County, PA, Region III filed nine separate administrative penalty actions under Section 309(g) of the CWA on March 13, 1992, against municipal sewage treatment plants in PA for failure to properly implement local pretreatment programs as mandated by the CWA and their NPDES permits. Pretreatment programs assure that industrial waste that is discharged to sewage treatment plants does not pass through the plants and degrade the receiving waters, does not interfere with the treatment plant's ability to treat, does not contaminate the sewage sludge, and does not endanger plant workers. EPA is asking for total penalties amounting to more than \$550,000.

D. Resource Conservation and Recovery Act (RCRA)

The RCRA enforcement program supports a comprehensive regulatory and corrective action program to ensure the safe treatment, storage, and disposal of hazardous wastes. Solid wastes, if land disposed, are regulated through state programs under Subtitle D. The total number of RCRA regulated facilities in Region III exceeds 7,400. Figure 14 shows the distribution of the types of enforcement actions taken under RCRA authority for the past three years.

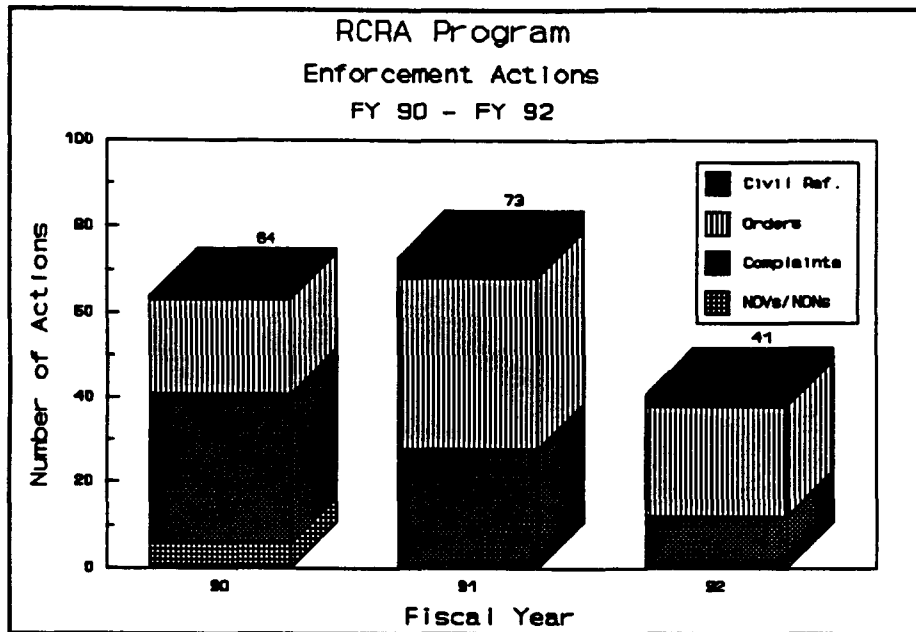


Figure 14

The RCRA also governs Underground Storage Tanks (USTs) which contain chemical and petroleum products or hazardous wastes. The UST program of the state of MD has been approved by EPA under Subtitle I of the RCRA, effective July 30, 1992. This constitutes the first approved state UST program in Region III. Henceforth, MD's program will operate in lieu of the federal program, and the State will have primary enforcement responsibility with respect to requirements of its program.

During FY'92, Region III continued to require hazardous waste facilities to undertake corrective action under Subtitle C of the RCRA. Using both Section 3008(h) and 3013 of the RCRA and a combination of both unilateral and consent orders, Region III issued ten corrective action orders. Seven of the orders required a study to determine the nature and extent of site contamination and an evaluation of corrective measures to address the contamination. Three orders required implementation of the corrective measure EPA selected to clean-up the site.

Significant RCRA Case Summaries

UAO issued pursuant to the authorities conveyed by the OPA.

On May 28, 1992, the Regional Administrator of EPA Region III issued a UAO, pursuant to Sections 311(c) and (e) of the CWA, as amended by the OPA of 1990, to the Sovereign Oil Company of Pennsylvania, Inc. and to Edward Roth and Steven Roth, president and vice-president of the company respectively. The order required respondents to undertake a removal action at the Sovereign Oil Facility, located in Philadelphia, PA, to prevent the migration of oil from the facility into the city sewer system and from there into the Delaware River. Despite repeated efforts by the City and PADER, respondents had refused to undertake the clean-up of numerous oil spills that had occurred at the facility. Finally, both the City and PADER requested assistance from EPA in addressing the problems posed by the facility. This order is one of the first UAOs issued by EPA pursuant to the authorities conveyed by the OPA.

Region III enters into an UST administrative settlement containing a Supplemental Environmental Project (SEP).

On February 11, 1992, the Regional Administrator signed a consent order which finalized the settlement of a RCRA Section 9006 administrative complaint for violations of release detection regulations for 15 USTs by Aluminum Company of America (ALCOA) at its facility in Lebanon, PA. The complaint ordered compliance with the release detection regulations and proposed a civil penalty of \$24,839.

Region III negotiated a settlement which required ALCOA to implement a SEP at the facility and pay a portion of the penalty. The project involved the closure and removal of eight additional 30,000 gallon UST systems originally installed to store petroleum. The estimated cost of the project was \$290,000. In addition, ALCOA paid a civil penalty of \$6,500.

Judgment entered for action seeking recovery of RCRA oversight costs.

In a precedential decision of national significance on March 30, 1992, judgment was entered for the United States and against Rohm and Haas Company, Rohm and Haas Delaware Valley, Inc., Chemical Properties, Inc. and Bristol Township Authority by the U.S. District Court for the Eastern District of PA in a CERCLA cost recovery action. The Court awarded EPA, pursuant to CERCLA, oversight costs incurred by the RCRA program (in addition to costs incurred by the CERCLA program). This decision enables the Agency to successfully pursue reimbursement of costs incurred under the

RCRA in remediating hazardous waste sites under the CERCLA Section 107. The Court's decision was appealed by the defendants to the United States Circuit Court for the Third Circuit on June 1, 1992. In this case, EPA will, if the District Court decision is affirmed, recover \$401,348.78 plus interest representing 100% of past costs and all future costs incurred.

U.S. Third Circuit Court of Appeals renders a favorable decision on the definition of a surface impoundment in RCRA enforcement action.

On May 12, 1992, the United States Court of Appeals for the Third Circuit rendered a precedential decision affirming the District Court's order granting EPA's motion for summary judgment. This case involves an administrative enforcement action against Beazer East, Inc., Follansbee, WV for violations of Subtitle C of the RCRA. The issue is whether certain aeration basins fall within the wastewater treatment exemption or are categorized as surface impoundments. If the basins are surface impoundments, they are subject to groundwater monitoring requirements.

The Court found that EPA's interpretation of the "provide structural support" language (that the unit must be completely self-supporting when removed from the ground and filled to capacity) was entitled to deference because of "the complex nature of environmental statutes and regulations and the specialized knowledge necessary to construe them."

This decision upholds the Agency's distinction between tanks and surface impoundments and will facilitate compliance by the regulated community and enforcement.

Regional Administrator signs UST agreement for Cheatham Annex Emergency Fuel Storage site, the Commonwealth of VA.

An IAG for the VA Department of Emergency Services, VA Emergency Fuel Storage Facility, Cheatham Annex, was signed by the Regional Administrator on April 2, 1992. The 460-acre fuel storage facility has extensive fuel oil contamination of soil, sediment, and ground water. The Commonwealth of VA agreed to develop, submit to EPA for approval and implement a supplemental site characterization, an ecologic assessment workplan, and a corrective action plan for soil and groundwater remediation pursuant to 40 C.F.R. Part 280. In addition, the Commonwealth agreed to submit to EPA a plan to comply with Subtitle C of the RCRA.

Federal Judge affirms magistrate's recommendation in RCRA Section 3008, 3013 case against Municipal and Industrial Disposal Company, and imposes \$505,250 in penalties.

On August 20, 1992, a Federal District Court Judge in Pittsburgh, PA affirmed the magistrate's penalty recommendations in Municipal and Industrial Disposal Co. v. Reilly (W.D. PA), a defensive case involving a counterclaim by the United States. On one counterclaim count, the Court affirmed entry of judgment in the amount of \$25,250, the penalty Administrative Law Judge Greene had imposed on Municipal and Industrial Disposal Company in 1988 for violations of the RCRA groundwater monitoring requirements. Additionally, the Court affirmed the magistrate's recommendation on another count, imposing a penalty of \$2,000 per day on William Fiore, the company's owner, for non-compliance with a RCRA Section 3013 order issued in 1987. The order required Fiore to study his hazardous waste disposal facility to determine if hazardous waste was leaking into the environment, including a nearby river. The Court upheld the magistrate's determination that Fiore had not attempted to comply in good faith, and that he had sufficient assets to pay a \$480,000 penalty. Fiore is currently in state prison for hazardous waste, bribery and attempted murder convictions. The Court had previously entered summary judgment in the United States' favor on the company's appeal of the administrative decision.

EPA uses administrative order while directing clean-up at Pickett Road Terminal site in Fairfax, VA.

Using an administrative order on consent for emergency protective measures that was issued September 23, 1991, EPA Region III continued during FY'92 to direct the clean-up of oil at the Pickett Road Terminal site. The respondent, Star Enterprise, Inc. is a joint venture partnership organized under the New York Partnership Act. The venture is held jointly between Saudi Refining, Inc. and Texaco Refining and Marketing (East), Inc. Star has reportedly spent over \$27 million thus far on the clean-up. The oil has migrated in the sub-surface from beneath Star's Facility at 3800 Pickett Road in the City of Fairfax into nearby residential communities, Stockbridge and Mantua, in Fairfax County, Virginia. Since May 1991, when the Virginia State Water Control Board asked EPA to lead the response to the clean-up, the EPA's goal has been to control and stabilize the movement of the plume of oil beneath the ground and to begin the process of recovery of free product. EPA has had a continual presence since that time, carrying out some response activities directly and by directing Star Enterprise via the administrative order on consent and subsequent amendments that also cited OPA authorities. Long term clean-up actions will be the subject of a new order now in preparation, which is expected to use both RCRA and OPA authorities.

E. Safe Drinking Water Act (SDWA)

A number of efforts were made during FY'92 to improve the enforcement capability of Region III for the SDWA program. A Total Quality project was initiated to investigate the use of EPA's emergency authority under Section 1431 of SDWA for handling health endangerments, and the first case using the emergency authority was completed.

Figure 15 shows the trend of administrative enforcement actions taken for the Public Water System Supervision (PWSS) program for the past six years. This fiscal year marks an all time high in the number of NOV's issued (not including the short form NOV's issued for Total Coliform Rule violations).

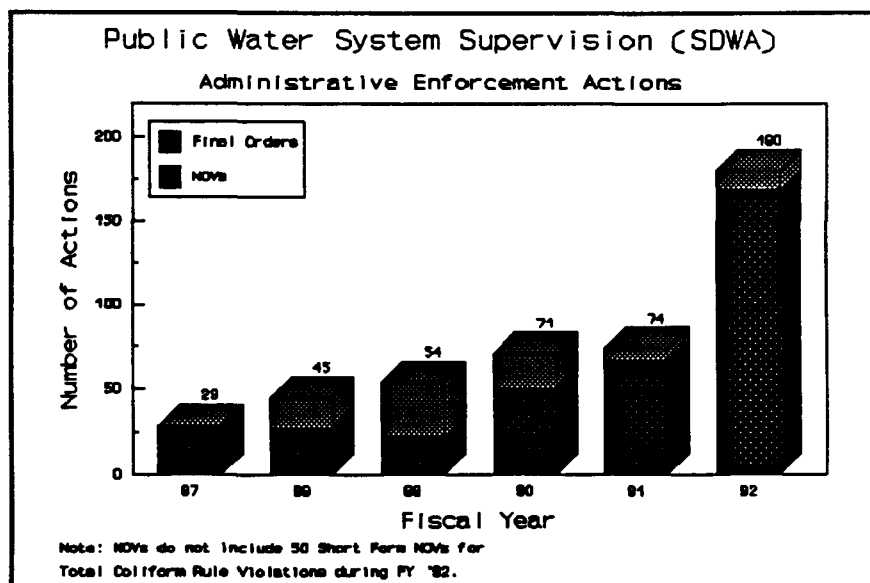


Figure 15

The PWSS program establishes a regulatory basis for public water systems and requires EPA to set drinking water standards including maximum contaminant levels for a variety of pollutants. For the first time in Region III, three final administrative orders were issued to public water systems in VA for failure to comply with the fluoride maximum contaminant level.

The Underground Injection Control (UIC) program establishes a regulatory program for underground injection practices for five classes of wells. An enforcement strategy for addressing Class V UIC well cases was developed, a database computer program was developed for tracking Class V well compliance and enforcement, and a new record for issuing Class V enforcement actions was attained. Figure 16 shows the trend of administrative enforcement actions

taken over the past five years for the UIC program. As with the PWSS program, this year marks the issuance of the highest number of NOV's for the UIC program.

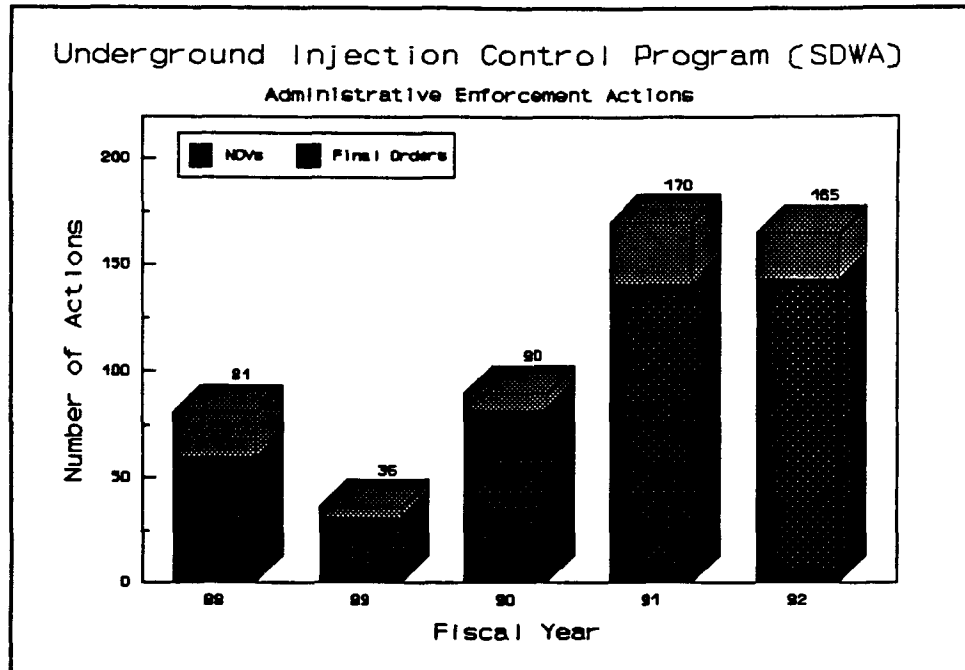


Figure 16

Significant SDWA Case Summary

Emergency order requires oil production company to furnish carbon filtration to home owners.

The Region issued a \$1431 emergency order requiring an oil production company, Belden and Blake Corporation of Canton, Ohio, to furnish carbon filtration to six endangered home owners in Custer City, PA. The Company's facility had an improperly abandoned well containing benzene that was leaking and was believed to be the source of ground water contamination. The Company committed to maintain the carbon filtration units until a public water supply line could be extended to the homes.

F. Toxic Substances Control Act (TSCA)/Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)/Emergency and Community Right-to-Know Act (EPCRA)

The TSCA regulation of existing and new chemical substances encourages the manufacture and use of substances that pose only reasonable effect on human health and the environment. The TSCA program issues actions to the violators of the Polychlorinated Biphenyls (PCB) and asbestos programs which fall under the Asbestos Hazard Emergency Response Act (AHERA) as well as pre-manufacturing notifications and reporting rules.

EPA regulates the use of pesticides under the authority of the FIFRA by requiring that all pesticides sold and used in the U.S. be registered with EPA. The FIFRA is designed to provide pre-market clearance of pesticides and post-market surveillance of pesticides and pesticidal devices. According to the statute, the states have primary enforcement responsibility for pesticide use.

The EPCRA establishes requirements for federal, state, and local government and industry regarding emergency planning and "community right-to-know" reporting on hazardous and toxic chemicals. This legislation builds upon EPA's Chemical Emergency Preparedness Program and numerous state and local programs aimed at helping communities to meet their responsibilities in regard to potential chemical emergencies. Most EPCRA enforcement actions are taken due to violations of Section 313 concerning a failure to comply with the Toxic Chemical Release reporting requirements.

Figure 17 shows the administrative complaints issued for the different toxic and pesticides programs over the past eight years. The asbestos complaints include those issued under the TSCA AHERA and CAA.

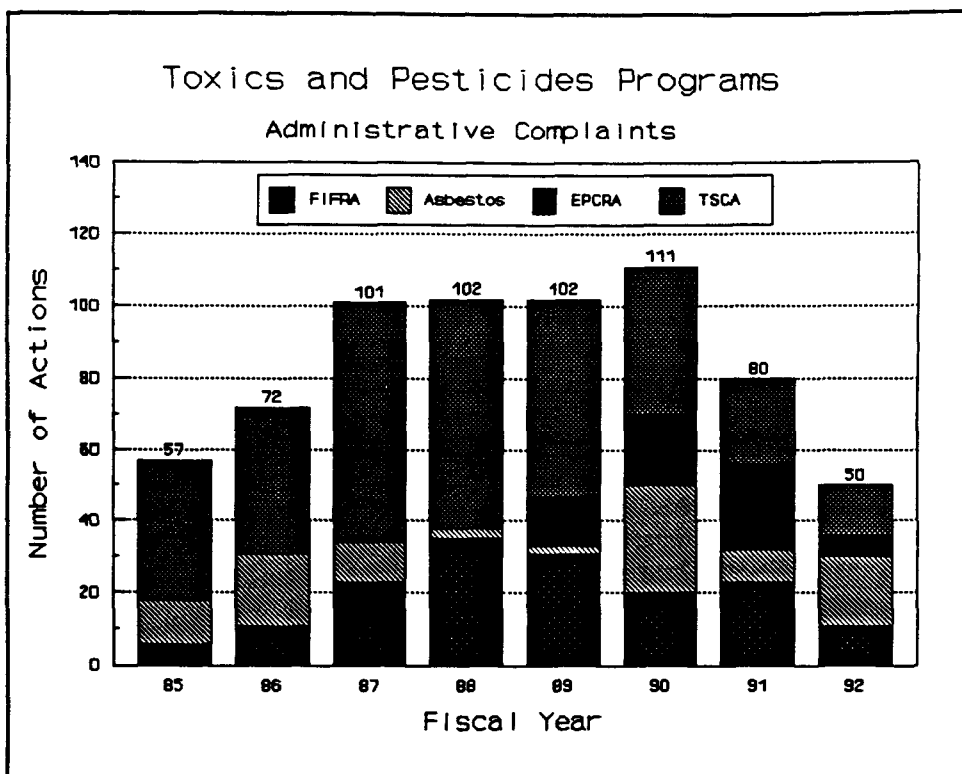


Figure 17

Significant TSCA Case Summaries

At estimated cost of \$600,000, Bryn Mawr College replaces all PCB transformers.

Region III signed a consent agreement and consent order memorializing a settlement with Bryn Mawr College for violations of TSCA and the PCB Rule. The agreement and order provided for a civil penalty of \$126,240 and takes into account a completed SEP in which the college removed or retrofilled all of its PCB transformers before the end of their useful life. The college documented expenditures for the project totalling nearly \$600,000.

Largest TSCA penalty in Region III history, \$900,000 assessed against Allied Colloids, Inc.

On September 29, 1992, the Regional Administrator signed a consent order assessing a penalty of \$900,000, the largest TSCA penalty in Region III history, against Allied Colloids, Inc. (ACI) for violations of Sections 5 and 13 of the TSCA. Penalties were

assessed for failure to submit proper notices and documentation. In addition, ACI must conduct an audit of its past compliance with the TSCA, report additional violations discovered during the audit, and pay stipulated penalties for these violations up to a cap of \$1,000,000.

First Region III civil administrative case issued for violations of worker protection rule under TSCA.

Norristown State hospital was the first civil administrative case issued by Region III for violations of the Asbestos Abatement Project, Worker Protection Rule under the TSCA. Violations included failure to conduct initial air monitoring to determine the airborne concentration of asbestos, failure to provide a respirator program, failure to provide special lockers for workers' street clothes, and failure to perform annual medical examinations. A consent agreement and consent order was issued on February 18, 1992. A civil penalty of \$1500 was imposed.

Significant FIFRA Case Summary

Administrative complaint filed against Avril, Inc. for a FIFRA violation.

On January 21, 1992, an administrative complaint was filed against Avril, Inc., Odenton, MD, for violations of Section 12(a) (1) of the FIFRA. The complaint alleges that Avril sold and distributed an unregistered and misbranded pesticide and seeks a penalty of \$35,000.

Significant EPCRA Case Summaries

Salem Tube, Inc. is assessed \$295,000 for violation of EPCRA § 313.

On December 31, 1991, the Director of the Air, Radiation and Toxic Division signed an administrative complaint with a proposed penalty of \$295,000 against Salem Tube, Inc., Greenville, PA, for fifteen violations of Section 313 of the EPCRA. The penalties are sought for failure to file Form R reports for five toxic chemicals in a timely manner in 1987, 1988, and 1989.

In resolving EPCRA §313 violation, Sheppard Co. will recycle/reuse wastewater recovering 20,000 gallons of oil/year

On March 3, 1992, the Regional Administrator signed a consent agreement and final order resolving an EPCRA Section 313 case against R.H. Sheppard Co., Inc., located in Hanover, PA. The settlement consists of a cash payment of \$5,000 and a penalty credit of up to \$34,000 for performance of a SEP which requires the respondent to undertake a major modification of its manufacturing process through the construction and installation of an ultrafiltration and reverse osmosis treatment of the process wastewater, recycle/reuse the treated wastewater as a coolant and recover approximately 20,000 gallons of usable heating oil.

IV. MULTI-MEDIA ENFORCEMENT

Multi-media enforcement has been highlighted both at the national and regional level as a priority. In response to the increased importance of multi-media enforcement, various Region III programs developed individual strategies toward multi-media enforcement, namely - Tier I/Tier II, Risked-Based Initiative, Chesapeake Bay Initiative, and the Federal Facilities Initiative. These various strategies met with success during FY'92, but were also found to be in need of better management and development.

In FY'92, in order to develop a more coordinated multi-media enforcement program, senior management at Region III established a Quality Action Team (QAT) to create a more efficient and responsive multi-media enforcement process. The QAT process will be implemented in FY'93. The major features of the new Multi-Media Enforcement Initiative are:

- The various multi-media enforcement initiatives will be folded into one well-coordinated and integrated process.
- Staff understanding of the Regional multi-media enforcement process will be improved through a detailed definition of the process.
- Multi-media case selection will be based upon criteria developed from Regional, program, Headquarters, and state priorities.
- A computerized case docket will be used by program staff to facilitate coordination of single-media cases on a routine basis.
- A computerized tracking system will monitor multi-media case development and disposition.

The following sections describe the significant accomplishments of Region III's multi-media efforts during FY'92.

A. Multi-Media Inspections

Approximately 42 multi-media inspections were conducted or coordinated this year by Regional Environmental Services Division staff. They were targeted mostly through the various Regional multi-media initiatives and the enforcement screening process. During these 42 multi-media inspections, a total of over 270 individual program inspections were conducted. These inspections have provided valuable experience for Regional staff and provided excellent opportunities to enhance our skill.

B. Tier I/Tier II: Case Screening

Region III established a comprehensive case screening program which achieved its goals of identifying potential multi-media enforcement cases, improving civil/criminal coordination, and enhancing docket management and the use of innovative enforcement techniques. The entire Region III significant noncompliance case inventory, over 225 cases, was screened during FY'92 in a series of program-specific screening meetings. From these meetings, over 55 cases were evaluated for potential multi-media enforcement action during multi-program screening meetings attended by senior program enforcement managers. The Region maintains an active potential multi-media case inventory of over 55 cases.

C. Cross Media Risk-Based Initiative

The Risk Based Enforcement Initiative seeks to identify risks and potential risks at Region III facilities and reduce or eliminate those risks through the creative use of all of the Agency's authorities and influence. A Risk-Based Enforcement Workgroup was created in FY'91, in direct response to the Administrator's call for a new approach within EPA to set priorities based on human health and environmental risks. The approach inherently requires crossing traditional media lines and therefore also furthers the Administrator's goal of increasing multi-media efforts within the Agency.

Over the past two years, the Workgroup has functioned much as a laboratory, developing, testing and refining approaches to implement risk based multi-media enforcement in Region III. The multi-media process that has been developed by the Workgroup will serve as the template for Region III multi-media enforcement efforts in FY'93. This Workgroup process consists of the following basic steps: (1) identify a pool of sites with high potential for unaddressed risks; (2) select sites from the pool for risk reduction projects; (3) perform a risk screening to identify significant risk situations at selected sites; (4) identify technical fix(es) for each significant risk situation at selected sites, (5) identify all sources of leverage available to the Agency to obtain implementation of the identified fix(es); (6) develop a strategy to use the leverage to obtain the fix; (7) implement the strategy; and (8) re-assess/revise the strategy/report accomplishments.

FY'92 Accomplishments:

- By the end of FY'92, all of the cases selected in FY'91 had been fully characterized. Formal enforcement actions taken include: 1 referral (Neville); 8 administrative actions at 3 facilities (Neville, USX Fairless Hills, Rhone Poulenc); and 1 informal action (Union Carbide).

To date, 6 administrative actions have been settled or resolved. A voluntary remedial action was also completed (Westvaco). Additionally, a series of enforcement actions are targeted for Wheeling Pittsburgh Steel in FY'93.

- Ten new sites were targeted in FY'92. For each of these sites: a Project Manager and team members, both from the EPA and the State, were selected for each site; initial screening inspections were conducted at all 10 facilities; follow up activities were initiated at seven sites. Informal risk reduction activities have been initiated at several of the sites.
- The process for targeting high risk sites was refined using toxicity/potency adjusted TRI data, media specific risk indicators, geographic priorities and media specific compliance databases.
- The concept of a "multi-media screening inspection" was developed and implemented. Screening inspections included an examination of plant processes, a review of TRI reports, completion of a multi-media screening checklist and visual inspection of the physical plant. Screening inspections were used to verify the suitability of facilities targeted in the site selection process and identify follow up activities.
- A multi-media training program consisting of a full day instructional program and training manual was developed for new Project Managers.
- Better working relationships were developed with the States. States participated as active team members and provided assistance in site selection, site investigation and strategy development.

D. Chesapeake Bay/Federal Facilities Initiatives

In a continuing focus on multi-media compliance within the Chesapeake Bay watershed, Region III made significant progress in the NPDES, RCRA, UST, UIC, TSCA, Air, and Federal Facilities program areas. In the NPDES Program, Bay SNC rates at 2% fell well below the Regional average rate of 8.6% and the national rate of 9%. In an expanded phase of the Chesapeake Bay Federal Facilities Multi-Media Compliance Initiative, the Region brought the total number of Federal Facilities with violations occurring within any of the media program areas, down to a total of only three facilities Baywide.

Further progress in the Chesapeake Bay restoration effort requires having risk based environmental priorities. The

identification of such priorities focuses Regional direction to target enforcement resources. In order to maintain a sense of orderly accomplishment, Region III developed a Chesapeake Bay Risk-Based Targeting Strategy in FY'92. The Bay Targeting Strategy is a guide for using data in a multi-media approach to more precisely target enforcement program actions to address the priority areas of environmental concern in the Chesapeake Bay watershed.

At the August 1992 Chesapeake Bay Executive Council meeting, EPA's Administrator announced plans for a comprehensive state and federal Multi-Media Initiative for the Chesapeake Bay using the Targeting Strategy. Early implementation phases of the Initiative were begun in the Federal Facilities, NPDES, RCRA, UST, SPCC and Air Programs.

E. Significant Multi-Media Case Summaries

Civil complaint issued in *U.S. v. Horsehead Resource Development Company and Horsehead Industries*

On January 6, 1992, the United States filed a civil complaint in U.S. District Court under RCRA, CAA and the CWA against the above-referenced defendants. The defendants operate an electric arc furnace dust reclamation facility in Palmerton, PA. The complaint seeks up to \$25,000 per day for each violation. The violations are alleged to have occurred over a period in excess of 5 years. The complaint also seeks appropriate injunctive relief under all three statutes.

Westvaco volunteers to reduce dioxin and chloroform emissions.

Westvaco, a pulp and paper mill in Covington, VA, was selected as a Risk-Based Enforcement Candidate because of large quantities of chloroform, a carcinogen, being released via a permitted stack discharge, and the high levels of dioxin found in the fish downstream of the facility which resulted in a health advisory.

Using CERCLA and AIR information gathering authorities, EPA obtained sufficient information to conduct independent air modelling to evaluate the actual risk associated with the chloroform emissions. In addition, EPA conducted an on-site inspection to evaluate dioxin contaminated waste handling practices.

Westvaco proposed, outside the scope of any formal EPA enforcement proceeding, to conduct an investigation of the on-site soils, sediments and ground/surface water. The sampling and analysis revealed low levels of dioxin along the haul road to the landfill. Westvaco has paved and curbed this portion of the road

so that surface water is diverted to a catch basin and transported to the wastewater treatment plant.

The steps that Westvaco has taken to reduce both dioxin and chloroform emissions appear to be working. The dioxin concentrations in both the wastewater and sludge have been significantly reduced.

Multi-Media enforcement actions taken against Neville Chemical.

An enforcement strategy was developed in FY'91 resulting in a series of actions being taken by the Region. At the end of FY'91, EPA administrative actions were issued by the Air Enforcement and TSCA PCB program. In FY'92, the RCRA program prepared a judicial referral to address RCRA violations which has been forwarded to the Department of Justice. In addition, the CERCLA Program performed a removal assessment in November, 1991 in response to staff concerns regarding both current operating practices and past releases at the facility. While it was determined that a removal action was not appropriate, the site is being evaluated for inclusion on the NPL. EPA coordinated its response with the State of Pennsylvania which has an existing State Order to address groundwater contamination.

Bethlehem Steel, Sparrows Point, MD is target of first joint State/EPA multi-media effort in Region III.

The Sparrows Point facility has been targeted as the first joint State/EPA multi-media effort in Region III. Both EPA and Maryland have formed multi-media project teams. These teams have undertaken a cooperative effort to identify and prioritize risks at the facility which both Agencies would like the company to address. FY'92 accomplishments include: completion of the RCRA Facility Assessment; completion of a database to evaluate spill reports; provision of funds to Maryland to assess groundwater quality at the site; initiation of assessments of air releases, wetlands and waste minimization at the facility; and completion of preliminary site characterization by both agencies.

EPA issues administrative actions against USX, Fairless.

During FY'91, a series of administrative actions were issued pursuant to violations in the TSCA and Wetlands programs, and Consent Decree violations under the Clean Water Act. In FY'92, \$65,000 in penalties were collected under TSCA and \$23,000 in stipulated penalties were paid for the Consent Decree violations.

The Wetlands complaint was subsequently dropped. In addition, a draft RCRA 3008(h) Consent Order was issued to the company which requires USX to conduct a remedial investigation and corrective measures study at the existing facility. The order requires USX to address past leaks of PCBs and Wetlands concerns as well as to conduct interim measures at an adjacent facility. This order will be finalized in FY'93.

Air Force signs Federal Facility Compliance Agreement.

An EPA multi-media compliance inspection, reported in 1991, showed numerous RCRA violations at the Langley Air Force Base in Virginia. A NON and compliance schedule issued in September 1991 laid out a detailed plan for permitting or closing previously unpermitted storage units, improved record-keeping, comprehensive training, and Land Disposal Restricted compliance. Following several months of negotiation, a Federal Facility Compliance Agreement was signed with the Air Force in April 1992. The agreement required a pollution prevention program to be initiated within 90 days. The Air Force Base has complied with all requirements of the agreement.

Federal Facility Compliance Agreement reached for Quantico Marine Base.

Annual RCRA inspections by VA and EPA at Quantico Marine Base in VA during 1988 through 1990 revealed numerous RCRA violations, including unpermitted hazardous waste storage at the military training base on the Potomac River. The NON, issued in November 1990, required prompt correction of these violations, which also included inadequate waste minimization and improper storage practices. A Federal Facility Compliance Agreement was signed in January 1992, completing a lengthy negotiation which involved participation by senior officials of EPA and the Navy. The agreement required development and implementation of a pollution prevention plan. This was one of the few remaining cases included in the Chesapeake Bay Enforcement Initiative announced by Administrator Reilly in December 1989.

EPA and Navy sign agreement for the Naval Surface Warfare Center in Dahlgren, VA.

EPA and the Department of the Navy signed a Federal Facility Compliance Agreement on May 22, 1992, to address RCRA violations at the Naval Surface Warfare Center, Dahlgren Division, Dahlgren, VA. Under terms of the compliance agreement, the Navy is required to correct all RCRA violations within a specific timeframe. This enforcement action was a component of the Chesapeake Bay compliance

initiative to target facilities whose violations directly impact the water quality of the Bay.

The compliance agreement specified a number of corrective actions to be taken and a timetable for their implementation. The Navy was required to submit for approval by the VA Department of Waste Management and review by the EPA the following items: (1) a waste analysis plan, including methods for evaluating explosive-contaminated waste, and procedures to inspect and analyze shipments of hazardous waste; (2) a groundwater monitoring plan and designs for a groundwater monitoring system installed to sample, on a quarterly basis, all upgradient and downgradient wells, for a minimum of at least four consecutive quarters; (3) all information in its possession regarding the concentrations of lead in the soil in areas where land application of sludge has occurred; and (4) a Pollution Prevention/Waste Minimization Program to reduce the quantity and/or toxicity of the wastes generated at the facility.

V. CRIMINAL ENFORCEMENT PROGRAM

The Philadelphia Criminal Investigation Division (CID) works in coordination with the program offices when criminal activity is suspected or when referrals of criminal cases are warranted. The statistics for this year are shown in Table 5.

In FY'92, the Philadelphia CID Office has continued to participate in a number of environmental task forces which have been initiated in most judicial districts throughout the Region.

FY'92 Criminal Enforcement Statistics	
Criminal Referrals	15
Corporations Charged	4
Individuals Charged	19
Corporations Sentenced	3
Individuals Sentenced	10
Corp. Guilty Pleas or Verdicts	6
Individual Guilty Pleas or Verdicts	11
Total Fines Imposed: \$246,000	
<u>Sentences Included</u>	
Imprisonment:	73 Months
Probation:	264 Months
Community Service:	1500 Hrs

Table 3

Significant Criminal Case Summaries

Sentencing in *U.S. v. Metro Container Corporation, et al.* (E.D. PA).

On May 1, 1992, Lewis Maslow, former CEO of Metro Container Corporation and its subsidiary, Metro-Enterprise Container Corporation, was sentenced to serve one year, one day jail, three years probation, and 300 hours community service for each count of the five felony counts of his conviction. The sentences are to run concurrently. Maslow claimed to be without financial resources, so no fine was imposed. On October 29, 1991, Maslow was convicted of two counts of conspiracy, of operating Metro.Container in violation of pretreatment standards, of illegal disposal of hazardous waste and of filing a false financial statement with EPA.

No fines were imposed on Metro Container Corporation and its subsidiary, Metro-Enterprise Container, as both remain in bankruptcy with no discernible assets. Both corporations were convicted on October 29, 1991 of two counts of conspiracy to violate the CWA and RCRA.

On May 1, 1992, Steven M. Zubrin, former maintenance supervisor of Metro Container Corporation, was sentenced to serve

sixty days in a community treatment center, three years probation and 500 hours of community service for each count of five felony counts on which he was convicted July 22, 1991. The sentences are to run concurrently. No fine was imposed. Zubrin was convicted of two counts of conspiracy, illegally disposing of hazardous waste, operating the Metro facility in violation of pretreatment standards, and illegally discharging pollutants into waters of the United States.

Sidney S. Levy, former President of Metro Container and Metro-Enterprise Container, passed away prior to his sentencing. Maslow, Levy, and Zubrin were responsible for the burying of hundreds of drums of hazardous waste on company property and inside the company plant, as well as, discharging of thousands of gallons of pollutants into Stoney Creek, a tributary of the Delaware River, and discharging off-spec industrial waste water into the local Public Owned Treatment Works.

Charges filed in Khian Sea case.

A federal grand jury has indicted two men for lying to a grand jury investigating the disposal of municipal incinerator ash aboard the ill-fated Khian Sea's two-year sail around the world. The two-count indictment, returned in the District of Delaware, charges that William P. Reilly, of Annapolis, MD, and John Patrick Dowd, of Washington, DC lied to the grand jury when they denied knowing what had happened to the ash. The grand jury alleges that the two men knew that the ash had been dumped overboard in the Indian Ocean. Reilly and Dowd were officers of the company which acted as agents for the operators and owners of the Khian Sea. The Khian Sea picked up 15,000 tons of incinerator ash, a non-hazardous solid waste, in Philadelphia, in September, 1986, and made numerous attempts to dispose of the ash in the Caribbean and elsewhere until the ash went overboard in October of 1988.

RCRA, CERCLA, and CWA charges filed in U.S. v. Electrochemical Company, Inc., et al.

On September 21, 1992, the United States Attorney for the Middle District of PA, filed five criminal Informations charging four individuals and a corporation with felony violations of environmental statutes and various Title 18 Defense Fraud offenses. The charges arise out of an investigation of Electrochemical Company, Inc. (ECI) of York, PA, an electroplating and metal finishing business which electroplated parts for the Department of Defense. All of the defendants have agreed to plead guilty.

Frank H. Leaman was the President and principal owner of ECI. Leaman is charged with one count of violating the CERCLA, one count of violating the RCRA, and a number of Title 18 violations. ECI,

the corporate defendant is charged with one CWA pretreatment count. Russell L. Walker, and ECI maintenance supervisor is charged with one count of violating the CERCLA. Glenn L. Stover, Jr., an ECI production manager, and John Gibble, and ECI shift supervisor were charged with various Defense Fraud violations.

Sentencing in U.S. v. York Metal Finishing Company, (E.D. PA).

On September 18, 1992, York Metal Finishing Company, Philadelphia, PA, and its owner, Edwin A. Walter, were sentenced by U.S. District Court Judge Robert F. Kelly, Eastern District of PA. Restitution in the amount of \$120,000 was assessed to York Metal Finishing Company, and Edwin A. Walter was sentenced to probation for five years and fined \$100,000 with confinement of from six to twelve months.

York Metal Finishing Company operates an electroplating facility in Philadelphia, PA. Information had been received from Philadelphia's Water Department that the company was discharging untreated wastewater into the City's sewer system in violation of the CWA.

Guilty verdict in U.S. v. Samuel Gratz (E.D. PA).

On September 30, 1992, a Federal jury found Samuel Gratz guilty of all charges following a six-day trial. Gratz was found guilty of one count of illegal transportation of hazardous waste to an unpermitted facility, one count of illegal transportation of hazardous waste without a manifest, one count of unpermitted storage of hazardous waste, and one count of unpermitted discharging of pollutants into navigable waters of the United States. Gratz, former President of Lannett Company, Inc., a pharmaceutical manufacturer located in Northeast Philadelphia, was indicted on these RCRA and CWA charges on March 24, 1992.

This investigation began in September 1991 and included a consent search of the Lannett Company premises and an extensive investigation of Lannett, its subsidiary, Astrochem Corporation and Samuel Gratz. It was determined that in May 1987, Gratz had Lannett employees transport hazardous waste from the Astrochem facility located in northern NJ to Lannett's facility in Philadelphia. This same hazardous waste was stored at Lannett from June 1987 until August 1991. The hazardous wastes moved and stored at Gratz's direction were both acutely hazardous wastes such as phosgene and sodium cyanide, as well as, characteristic wastes that were ignitable, reactive and corrosive. Through the investigation it was determined that between May 1987 and July 1989, Gratz directed Lannett employees to dump some of the chemical wastes being stored down a storm drain which discharged directly into the Delaware River.

Indictment of Walter Baker and Matthew Girdich (W.D. of PA).

On October 7, 1992, a Federal Grand Jury indicted Walter Baker and Matthew Girdich on charges of making false statements on Discharge Monitoring Reports (DMRs). The indictments were sought by the U.S. Attorney's Office for the Western District of PA in Pittsburgh.

Baker was indicted on 11 counts of false statements for DMRs filed between June 1988 and June 1989. Baker is the current Assistant Director of the Water Pollution Department of the Municipality of Penn Hills, PA. Girdich, who preceded Baker as Assistant Director, was charged with five similar counts occurring during the period September and November 1987.

The Municipality of Penn Hills operates five treatment plants permitted under the NPDES program. Over the past several years, four of the plants were found to be operating outside of compliance during inspection by Allegheny County and PADER review. Non-compliance areas include monitoring, reporting, sampling and analysis, sludge handling, and bypassing.

Guilty verdicts in U.S. v. Barry Hess, Salvatore Sortino and George Frew (E.D.PA).

On November 10, 1992, a Federal jury found Salvatore Sortino guilty on one count and George Frew guilty on two counts of violations of the CWA. At the same time, a third defendant, Barry Hess, was found not guilty of one count of Title 18 Section 1001, relating to the submission of a false DMR. Frew was found not guilty on one additional CWA count and Sortino was found not guilty on one additional CWA count with a third count unresolved. A total of six additional CWA counts against the three defendants were dismissed by the judge.

All three men worked in managerial positions at the Easton, PA Wastewater Treatment Plant. Hess was the plant superintendent from a contracted management firm, J. M. Montgomery, Inc., Frew was the Supervisor of Maintenance and Sortino was the Supervisor of Operations. The charges stemmed from an operation in January, 1991, when the chlorine contact tank at the plant was cleaned out and approximately 14 to 20 tons of sludge and related materials were washed through an outfall pipe, directly into the Delaware River. There was no sampling, inadequate and illegal removal techniques, and no reporting of the six day incident.

VI. SPECIAL ENFORCEMENT INITIATIVES

Special Enforcement Initiatives are used by the EPA at both the regional and national levels as a way to focus on specific sites, geographic areas, pollutants, or industrial sectors with noteworthy environmental problems. Once specific enforcement initiatives are identified, the Agency clusters or groups individual cases together to gain maximum deterrence through publicity and facility-specific impact.

In FY'92, Region III continued to be an active participant in the EPA Initiatives Program at both the regional and national levels.

A. Benzene Initiative

Region III was responsible for eight of the 11 actions filed or issued nationally on August 4, 1992. Originally, there were over 20 potential cases being evaluated by the various program offices (RCRA, Superfund, Water, and Air). The final date for filing all actions under this national initiative was August 4, 1992. The filed or issued actions include the following:

Chevron U.S.A, Philadelphia, a consent decree to settle this benzene NESHAP case (equipment leaks) was entered on September 15, 1992. The consent decree requires Chevron to pay civil penalties of \$1,000,000.

Sharon Steel Corporation/Monessen, Inc., a consent decree to settle this benzene NESHAP case (coke by-product recovery plant) was lodged on August 5, 1992. The consent decree requires Sharon Steel/Monessen to pay civil penalties of \$300,000.

Six administrative penalty complaints/orders were issued to the following companies: County of Allegheny, Greater Pittsburgh Airport (RCRA proposed penalty of \$35,800); Shell Oil Company, two stations (RCRA proposed penalty of \$11,932 for each station); BP Exploration & Oil, Inc., two stations (RCRA proposed penalty of \$3,938 for each station); and Chevron U.S.A. Inc. (CAA proposed penalty of \$35,000 for violations of the benzene equipment leaks NESHAP).

B. CAA New Administrative Authority Initiative

A national initiative was conducted on May 20, 1992 to file a cluster of cases under the new CAA administrative authority. The Region initiated five air pollution control-related administrative penalty cases as part of this activity for a total proposed penalty amount of \$277,600. These administrative penalty complaints/orders were issued to the following companies:

Miles Inc., New Martinsville, WV, for alleged violations of the NESHAP for benzene storage vessels (proposed penalty of \$48,600);

Star Enterprises, Inc., Delaware City, DE, for alleged violations of continuous emission monitoring requirements at its Delaware City petroleum refinery (proposed penalty of \$40,000);

BP Oil Company, Inc., Marcus Hook, PA, for alleged violation of continuous emission monitoring requirements at its Marcus Hook petroleum refinery (proposed penalty of \$60,000);

Beans Lime and Stone, Inc., Cabins, WV, alleged particulate matter violations of WV SIP (proposed penalty of \$40,000);

S&S Landfill, Clarksburgh, WV, for improper disposal of asbestos waste material, failure to adequately protect the public, and failure to furnish records, in violation of Asbestos NESHAP (proposed penalty of \$89,000).

C. FIFRA Disinfectant Pesticidal Initiative

On September 30, 1992, Region III issued seven separate administrative penalty complaints and six Notices of Violation to various companies for FIFRA pesticides violations in a coordinated effort to target producers and distributors of unregistered disinfectant pesticidal products within Region III. EPA's complaints allege that the producers of distributors were selling unregistered pesticides, producing pesticides at unregistered facilities, and/or mislabelling their pesticidal products, in violation of FIFRA requirements. The complaints seek a total of \$268,100 in penalties. The companies issued the administrative penalty complaints were the following: Brotech Corporation, Bala Cynwyd, PA (\$144,900); Polyscience, Inc, Warrington, PA (\$17,200); Mateson Chemical Corp., Philadelphia, PA (\$16,000); Thrift Drug, Pittsburgh, PA (\$45,000); O'Neill Industries, Philadelphia, PA (\$20,000); Atlantic Aquatics, Inc., Berlin, MD (\$22,200); and ICI Americas, Inc., Wilmington, DE (\$20,000).

The six Notices of Violation were filed against: Air-Shields Vickers, Hatboro, PA; Oaktree Chemicals, Langhorne, PA; Spectrum International, Trevese, PA; Sterling Supply Corp, Philadelphia, PA; Atlantic Pressure Washers, Inc., Glen Burnie, MD; and Sorber Chemicals of Holdrege, DE.

D. PA Municipal Sewage Treatment Plant Initiative

Region III filed nine separate administrative penalty actions

under Section 309(g) of the CWA on March 13, 1992, against municipal sewage treatment plants in PA for failure to properly implement local Pretreatment Programs as mandated by the Act and their NPDES permits. Pretreatment Programs assure that industrial waste that is discharged to sewage treatment plants does not pass through the plants and degrade the receiving waters, does not interfere with the treatment plant's ability to treat, does not contaminate the sewage sludge, and does not endanger plant workers. EPA is asking for total penalties amounting to more than \$550,000. The permittees included in the initiative were: Chambersburg, PA; Doylestown, PA; Greater Hazelton, PA; New Kensington, PA; Milton, PA; Upper Merion, PA; Hamburg, PA; St. Marys, PA; Southwest Delaware County, PA.

The violations cited in the complaints included failure to enforce against significant industrial users in significant noncompliance, failure to permit industrial users, failure to enforce against pass-through, failure to inspect industrial users, and failure to submit an approvable pretreatment program.

E. Information Gathering Authority Initiative

During FY'92, Region III undertook several administrative and judicial enforcement actions to ensure the sanctity of its information gathering authorities. In Re: BP Oil Company the Regional Administrator signed a consent agreement/consent order resolving an administrative enforcement action based upon BP's failure to respond to a RCRA § 9005 information request letter after BP had provided the same. Similarly on December 16, 1991, Region III conducted an inspection pursuant to RCRA § 3007 at AT&T's Richmond, VA facility after EPA initiated an administrative enforcement action against the company. AT&T argued unsuccessfully before Administrative Law Judge Thomas Hoya that the Region was precluded from using its RCRA 3007 information gathering authority due to the pending enforcement action. Finally, on February 3, 1992, U.S. District Court Judge Cahn issued a favorable opinion in a civil action, U.S. v. Barkman, upholding EPA's information gathering authorities under Section 104(e) of CERCLA after a two day trial. Judge Cahn held the length of delay in fully responding (700 days) was per se unreasonable and assessed a \$38,500 civil penalty.

F. Illegal Operators Initiative

On February 4, 1992, Region III issued five administrative enforcement actions seeking a total of \$5 million in civil penalties and injunctive relief requiring compliance with applicable regulatory requirements as part of a major national initiative against companies who have evaded RCRA regulation. The following are brief summaries of the five administrative actions:

Atlantic Alliance, Baltimore, MD - the company was cited for operating a hazardous waste facility without a permit and a civil penalty in excess of \$1.2 million was assessed.

Potomac Electric Power Co. - failed to notify EPA and the District of Columbia of hazardous waste being stored at a facility in Washington, DC. The complaint assessed a civil penalty of \$453,000.

Go-Mart, Inc., St. Albans, WV - complaint cited company for illegal storage of hazardous waste and assessed a civil penalty of \$559,000.

Beaumont Co., Morgantown, WV - facility was cited for storage, disposal of hazardous waste without a permit and was assessed a civil penalty of \$1,278,400.

Alfab, Inc., Smithville, WV - the company was cited for disposal of hazardous waste without submitting a notification of applying for a permit and was assessed a civil penalty of \$2,096,500.

G. SDWA State Enforcement Initiative

A major initiative was started in FY'92 to strengthen state enforcement programs. To force more attention on state enforcement, two statewide projects were instituted: (1) 50 abbreviated NOV's were filed for failure to monitor for VOCs in WV, and (2) over 240 PA Public Water Systems who were on the SNC list were reviewed and 166 NOV's were issued.

Regional staff met with PADER compliance specialists and with representatives of the PA Water Utility Council to discuss enforcement issues and methods of improving the program. Enforcement protocols with the states were developed to improve communication on enforcement and policy. New emphasis on enforcement was added to grant guidance. Two State Director's meetings contained more emphasis on enforcement and resulted in the commitment for routine specialty meetings on enforcement and data management.

Federal Reporting Data System training for WV was held to strengthen the data management program, since data management is one prerequisite for accurate enforcement. Mid-year evaluations in PA, MD and WV included more emphasis on enforcement than in previous years. DE and WV were audited to ascertain their ability to enforce the Surface Water Treatment Rule and the Total Coliform Rule.

H. SDWA Nitrate Initiative

A prototype enforcement case was developed for Regional use. A signed agreement between state agencies and Townsends, Inc. was the first major drinking water enforcement action in DE in which EPA has been involved. It provided a long-term resolution of nitrate violations and marked the first time in Region III that EPA successfully negotiated for a local Wellhead Protection Program as part of the agreement to attain compliance. NOVs were issued for all current nitrate violators in PA to encourage the State to develop a strategy of its own. A comprehensive technical paper on nitrate in drinking water was developed for EPA staff which summarized current technical knowledge and offered guidance for handling Regional enforcement cases.

I. Asbestos NESHAP Landfill Initiative

During FY'92, the Asbestos Lead Management Section originated a landfill initiative under the asbestos NESHAP program to identify sources of asbestos containing waste material that did not notify EPA or state agencies of asbestos renovation or demolition projects as required by the asbestos NESHAP regulations. This initiative prompted the inspection of landfills in MD, WV, and PA for compliance with the NESHAP regulations, and also identified potential asbestos containing waste material generators that sent material to these landfills without complying with the asbestos rules.

J. Industrial Organic Chemicals Initiative

As part of the national EPA initiative an administrative consent decree was filed on September 10, 1992, against PPG Industries, Springdale, PA for violating the TSCA, 15 U.S.C. 2601-2671, and the Pre-Manufacture Notification (PMN) regulations. PPG Industries is a publicly held corporation, which manufactures various compositions of glass, chemicals, paints, printing inks and medical electronics. The Springdale facility produces and distributes coatings and resins. On December 7, 1990, the company voluntarily disclosed that on three separate occasions they inadvertently manufactured a new chemical substance for a commercial purpose, without submitting a PMN to the EPA. The company was fined \$20,000 for this violation and the full amount was collected. This case was included in the National Initiative on Industrial Organic Chemicals.

K. Primary Metals Initiative

Four primary metals facilities were targeted as part of this national EPA initiative. The DOJ filed three civil judicial complaints against the four facilities for noncompliance with federal environmental laws. In one of the actions, against Wheeling-Pittsburgh Steel Corporation for NPDES violations by its Allenport (WV) facility, DOJ simultaneously lodged a proposed consent decree. The decree assessed a \$2,000,000 penalty and required the company to upgrade steel production and wastewater treatment facilities to reduce the amount of pollution being discharged from the plant. DOJ also filed a civil judicial complaint for penalties and injustice relief against Cressona Aluminum Company for PCB-related violations of the CWA (NPDES) and TSCA by the company's facility in Schuylkil County, PA. In a third civil judicial action for penalties, DOJ consolidated actions against two Bethlehem Steel Corporation facilities, those in Bethlehem, PA and Sparrow's Point, MD, for violations of the NESHAPS requirements of the CAA.

Appendix A:

Region III Case Screening Summary

FY'92 Region III Case Screening Results

Program	Screening Docket	Tier	II Recommendations	Date
1. CAA: Non-PA	6	5		10/30/91
2. TSCA: Non-PA	8	4		11/14/91
3. SPCC	9	4		11/25/91
4. NPDES: Non-PA	21	2		12/2/91
5. UST	11	3		12/9/91
6. RCRA: MD/WV	10	5		12/13/91
7. NPDES: PA	37	10		2/18/92
8. NPDES: VA	4	0		2/18/92
9. FIFRA	8	0		2/18/92
10. TSCA/EPCRA: PA	10	3		2/19/92
11. NPDES: DE	9	0		3/10/92
12. RCRA: HQ Inits.	15	2		3/13/92
13. SPCC	4	3		3/13/92
14. RCRA: VA-PA	9	5		4/10/92
15. CAA: PA	13	2		5/19/92
16. NPDES: Non PA	24	2		6/25/92
17. NPDES: PA	30	4		7/1/92
18. TSCA	13	6		7/1/92
19. FIFRA	18	0		7/2/92
20. Wetlands	8	1		9/11/92
21. NPDES: Non-PA	14	1		9/14/92
22. SPCC	9	1		9/14/92
23. UIC	1	1		9/16/92
24. RCRA: VA/PA/MD/DE	8	5		9/16/92