



OECA Echo

Enforcement and Compliance Assurance for a Cleaner Environment

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From the Assistant Administrator
Steven A. Herman

Record Year for Enforcement and Compliance Assurance

When I began my service at EPA eight years ago, the goal Administrator Browner and I espoused for OECA was a strong and aggressive enforcement and compliance program targeted at achieving significant environmental results. By using an array of measures—old and new—the record shows that, once again, we have accomplished that goal.

With respect to the civil enforcement program, our accomplishments show that we have targeted serious environmental problems such as smog-producing nitrogen oxide, sulfur dioxide, and particulate matter emissions from major industrial sources, as well as toxic discharges into the nation's wetlands and water bodies.

The facts speak for themselves: We achieved a record \$3.6 billion towards requiring environmental cleanup, installation of pollution control equipment, improved monitoring, and carrying out

environmentally beneficial projects. The figure includes a record \$236.8 million in supplemental environmental projects, up from \$90 million in fiscal 1998, targeted at improving air quality, conducting public health assessments, and creating greenway corridors.

A record \$166.7 million in civil penalties was assessed, including the largest Clean Air Act settlement ever against the seven diesel engine manufacturers who used illegal devices to disable their emission control systems. The \$142.7 million in civil judicial penalties was the largest ever.

We issued a record 1,654 administrative penalty order complaints and handled a total of 3,945 civil judicial and administrative enforcement actions in fiscal 1999, the highest number of civil actions taken over the last three years.

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Revised Audit and Small Business Policies Issued

As measures to expand its compliance incentives program, EPA announced in April revisions to its two self-disclosure policies, the Audit Policy and the Small Business Compliance Policy. The policies were revised after a two-year evaluation of the current policies based on extensive public outreach and our experience in handling self-disclosure cases.

The policies are highly successful examples of the EPA's reinvention efforts, as called for in an EPA report, "Aiming for Excellence: Actions to Encourage Stewardship and Accelerate Environmental Progress." To date, more than 750 entities have disclosed violations at over 2750 facilities under the two self-disclosure policies.

Both policies protect human health and the environment by encouraging companies and other regulated entities to voluntarily disclose and correct violations. Businesses that meet policy conditions are eligible for penalty reductions including penalty waivers and other benefits.

The policies include important safeguards by excluding benefits for violations that may result in serious harm or risk, for violations that reflect repeated noncompliance or where corporate officials condone criminal behavior. In addition, the policies allow the

agency to recover economic benefits to ensure that businesses that comply with environmental laws are not put at a competitive disadvantage by those who do not comply.

The Audit Policy was first issued in December 1995 to encourage businesses to take a vigorous self-policing approach to compliance, including discovering and correcting violations that might otherwise go undetected. A 1998 survey of users revealed a high satisfaction rate with 88 percent of users stating that they would use the policy again and 84 percent stating that they would recommend it to their clients and counterparts. The key revisions to the Audit Policy:

Lengthens the amount of time from 10 to 21 days that entities have to disclose a violation after discovery;

Clarifies that a facility may qualify for Audit Policy credit even if another facility owned or operated by the same parent organization is already the subject of an inspection, investigation or information request; and

Clarifies that companies with newly acquired facilities will have at least 21 days to disclose violations discovered at those facilities and that the "no repeat violations" condition will not disqualify disclosures

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1999 Sees Enforcement and Compliance Records Set

(Continued from Page 1)

We scored numerous successes in our criminal program as well. Our strong criminal enforcement program reflects our goal of punishing those who callously disregard our nation's environmental laws and who put the public at serious risk when they do so.

Most significantly in fiscal 1999, a record 208 years of jail time was imposed on criminal defendants, including one sentence of 13 years for a man responsible for dumping 4 million gallons of contaminated wastewater into the Tampa, Florida sewer system and sending 170,000 pounds of hazardous sludge to the city's incinerator.

The increase in sentences is extremely important as a deterrent to others. The sentences show that judges and juries regard environmental crimes as extremely serious, warranting more than just a fine. A prison sentence is personal it's not just a cost of doing business that can be passed on to the consumer.

Here are highlights of some of the results we've achieved, both in terms of reducing threats to the environment and to public health, and in changing the way companies do business.

— The environment has been made cleaner. Our actions resulted in the reduction of 5.8 billion pounds of NOx, 573 million pounds of contaminated soil, 200 million pounds of iron, and 129 million pounds of PCB waste.

— The air has been made cleaner. In the case against the seven diesel engine manufacturers, we required the manufacturers to produce engines that will reduce nitrogen oxide pollution by 75 million tons over the next quarter century.

— Water is cleaner. In a case against Royal Caribbean Cruise Lines, the company pleaded guilty to illegally dumping oil and hazardous chemicals into the ocean. In some instances Royal Caribbean was discharging chemicals from on-board dry cleaning and photoprocessing facilities into coastal waters, including into Alaskan waters. Royal Caribbean will pay an \$18 million fine in addition to a \$9 million fine it paid in fiscal 1998. As part of the plea agreement, Royal Caribbean will operate for five years under a prescribed and closely-monitored environmental compliance plan.

— The land has been made cleaner. The Atlantic Richfield Company will spend \$260 million to clean up and restore natural resources caused by mine waste contamination. Part of the penalty will be put toward the creation or restoration of 400 acres of wetlands.

— Those most vulnerable in our society have been protected. We stopped the Microban company from making unproven health claims about protecting children from disease-causing bacteria through the use of its antimicrobial pesticide in toys. Three individuals received jail sentences for conspiring to use homeless men to illegally remove asbestos without protective equipment. Another individual is in jail for spraying methyl parathion, a toxic agricultural pesticide, inside people's homes. We also convicted the owner of Evergreen Resources for sending employees into a tank containing hydrogen cyanide without proper protective equipment. One employee is now severely brain damaged.

But our enforcement program is more than

imposing penalties and achieving environmental results. It is also about helping responsible companies do business better while meeting environmental requirements.

Programs like our Self-Disclosure Policy and our CAP programs offer incentives to companies that want to do the right thing by discovering and disclosing their violations. Under the EPA Self-Disclosure Policy, in fiscal 1999 a record 260 companies disclosed violations at nearly 1000 facilities. Some of these companies are large multi-state corporations like GTE and American Airlines. The violations disclosed by American Airlines alone will eliminate nearly 700 tons of air pollutants annually. The GTE settlement, which involved 600 violations at over 300 facilities, led to ten other telecommunications companies voluntarily disclosing and correcting 1,300 environmental violations at more than 400 facilities.

In addition to our strong enforcement results and our incentive programs, we've also helped companies do better by offering extensive compliance assistance. In fiscal 1999, our compliance assistance activities and tools — seminars, on-site assistance, mailings, and handouts — reached approximately 350,000 entities.

In addition, four new on-line National Compliance Assistance Centers opened, bringing the total number to nine centers in operation by the end of fiscal 1999. These Internet-based centers provide compliance information and pollution prevention techniques for certain industry sectors, such as paints and coatings, metal finishers, and automotive. Currently the centers are being visited over 700 times a day. In fact, preliminary results from a survey of users of OECA's GreenLink Compliance Assistance Center, a web-based center for auto shops, show that compliance improves when facilities are given assistance. The results show that over a two-year period, the number of facilities in substantial compliance went from 25 percent to 51 percent.

We also added three new sector notebooks covering major industries, bringing our total portfolio of sector notebooks to 30. To date over 450,000 notebooks have been distributed. They are one of OECA's most popular products.

We also made ground-breaking progress in measuring the outcomes of our performance. Measures we have implemented will give us a better picture of the impact of our enforcement and compliance activities, such as a better understanding of significant noncompliance by high priority facilities.

This year's results and our record from the last eight years show that we have built a strong and aggressive enforcement program that has achieved significant environmental results. And we have done so while providing compliance assistance to both large and small businesses and while offering real incentives to those who voluntarily disclose violations.

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From the Regions

NEIC Technical Support Crucial in Case That Has Resulted In Longest Sentence Ever Imposed For An Environmental Crime

OECA's National Enforcement Investigation Center played a major role in resolving a case that resulted in an Idaho man being sentenced in late April to 17 years in prison for knowingly endangering the safety and health of his employees in a series of actions that left a 20-year-old employee with permanent brain damage from cyanide poisoning. The sentence is the longest ever imposed for an environmental crime in the U.S. It includes a fine of approximately \$6 million to be paid as restitution to the employee and more than \$300,000 to cover EPA cleanup costs.

Businessman Allan Elias was convicted in May 1999 by a federal grand jury in Pocatello, ID, which found that he had ordered employees of Evergreen Resources, a fertilizer manufacturing company he owned, to enter and clean out a 25,000-gallon storage tank containing cyanide without taking required precautions to protect them. Elias was also convicted of making a false statement to Occupational Safety and Health Administration inspectors by fabricating and backdating a safety plan for entering a storage tank containing cyanide. The day after Dominguez was critically injured, Elias prepared a backdated safety permit which falsely stated that employees had been given safety gear before they entered the tank.

OSHA inspectors repeatedly had warned Elias about the dangers of cyanide and explained the precautions he must take, such as testing for hazardous materials and giving workers protection gear. Scott Dominguez, an Evergreen Resources employee, was overcome by hydrogen cyanide gas while cleaning the tank and sustained permanent brain damage as a result of cyanide poisoning.

In August 1996, Elias directed his employees to clean cyanide waste from a tank at a mining operation he owned. After the first day of working inside the tank, several employees met with Elias and told him the work was giving them sore throats, an early symptom of hydrogen cyanide gas exposure. They asked Elias to test the air in the tank for toxic gases and bring them protective gear, which is required by OSHA and which was available to Elias free of charge. Elias did not provide the protective gear and ordered the employees back into the tank, falsely assuring them they would get the equipment they sought. After Dominguez collapsed inside the tank, he could not be rescued for nearly an hour because Elias had not provided required rescue equipment.

Criminal Investigation Branch On Case For 22 Months

The case was brought following a 22-month investigation by EPA's Criminal Investigation Division

and the Criminal Investigation Division of the Internal Revenue Service, with assistance from OSHA, the Federal Bureau of Investigation, the Idaho Department of Health and Welfare's Division of Environmental Quality, and the Idaho State Policy Department.

Lab's Technical Expertise Helped Produce Conviction

NEIC's technical expertise was critical to the CID investigation and led to Elias' ultimate conviction. RCRA defines reactive hazardous waste as a cyanide-bearing waste which when exposed to pH conditions between 2 and 12.5 can generate toxic gases, vapors or fumes in a quantity sufficient to present a danger to human health or the environment. NEIC's involvement in the case began after an analysis of the waste which caused the brain damage showed it did not exceed the limit of 250 mg/kg when tested under a guidance method called "Releasable Cyanide and Sulfide". For several years, the analytical community has been critical of the guidance which, partly as a result of this case, has since been rescinded.

Dr. Joe Lowry, NEIC's chief scientist, was asked by the Department of Justice to clarify why a waste that the guidance method did not indicate as being hazardous could still cause serious brain damage to humans. Dr. Lowry performed a series of tests and, working closely with the Office of Solid Waste and with NEIC's laboratory branch, was able to set-up a bench scale experiment which proved that the cyanide waste in the Elias case generated enough toxic gas to be hazardous under the regulations and to present a danger to human health.

To evaluate the scientific validity of NEIC's bench scale experiment, the court held a separate hearing, known as a Daubert hearing, to determine the admissibility of Dr. Lowry's scientific findings. NEIC's laboratory support was again critical and the government prevailed at the Daubert hearing, overcoming the defense position that the bench scale experiment was unrepresentative of the actual waste and conditions in the tank at Evergreen Resources.

Throughout the three-week trial period, rapid response to defense issues by the Denver laboratory team and the availability of the laboratory's sophisticated scientific equipment were vital to the prosecution. Dr. Lowry gave both direct expert and expert rebuttal testimony and, along with NEIC senior environmental engineer Barrett Benson, provided technical consultation to the prosecutors. NEIC's enforcement library staff also provided various reference documents on an emergency basis as new issues emerged during the trial.

Koch Industries Gets Largest Civil Penalty Ever Imposed

Koch Industries Inc., will pay the largest civil fine ever imposed on a company under any federal environmental law to resolve claims related to more than 300 oil spills from its pipelines and oil facilities in six states, EPA and the Justice Department announced in January. The settlement requires Koch, the second-largest privately held company in the U.S., to pay a \$30 million civil penalty, improve its leak-prevention program and spend \$5 million on environmental projects.

The settlement resolves lawsuits in Houston and Tulsa, which charge that Koch illegally discharged crude oil and petroleum products in Texas, Oklahoma, Kansas, Missouri, Louisiana and Alabama. Texas joined the U.S. in suing Koch, and the landmark penalty will be divided equally between Texas and the federal government.

Koch Industries, headquartered in Wichita, owns and operates underground and above ground pipelines that transport crude oil and related products in the Midwest. Most of the spills at issue in the settlement occurred in Oklahoma, Texas and Kansas. In one case, almost 100,000 gallons of oil was spilled in Texas and caused a 12-mile oil slick on Nueces Bay and Corpus Christi Bay.

Complaints filed in 1995 and 1997 allege that Koch unlawfully allowed some 3 million gallons of crude oil and related products to leak from its pipelines into ponds, lakes, rivers and streams, or onto adjacent shorelines, from 1990 to 1997. Most of the spills were caused by corrosion of pipelines in rural areas. The governments allege that Koch could have prevented the corrosion by proper operation and maintenance.

Under the settlement, Koch must assess the condition

of 2,500 miles of pipeline it currently operates and repair any defects. The settlement also requires Koch to implement an improved leak-prevention and detection program, a maintenance and inspection program, and a training program aimed at preventing leaks. The company also must hire an independent auditor to audit Koch annually for at least three years and report to the federal government and Texas on whether the company is meeting the requirements of the settlement and applicable laws.

In addition to changing its operations, Koch also must spend \$5 million on environmental projects in the states most affected by its illegal discharges. The company will pay \$1.5 million to buy and preserve wetlands or wildlife habitat in Kansas and Oklahoma. It will spend \$1 million to conduct a pipeline safety study in Texas, Kansas and Oklahoma aimed at educating the oil and gas industry about oil spill prevention. Texas will receive \$2.5 million from the settlement for environmental projects to be carried out under the direction of state officials. Koch must pay \$15 million of the \$30 million penalty into the federal government's Oil Spill Liability Trust Fund, created in 1990 following the Exxon Valdez incident in Alaska. The fund helps pay for damages, cleanup costs and some operation expenses related to oil spills.

Oil spills can pose a serious threat to human health and the environment. According to EPA, one pint of oil released into the water can spread and cover an acre of water surface area and seriously damage an aquatic habitat. It can take years for an ecosystem to recover from oil spill damage.

Compliance Literature Summaries Available

OECA's Office of Planning and Policy Analysis has issued its Compliance Information Project Literature Summaries report which presents the results of a literature search for creative, new papers addressing a wide range of environmental compliance issues of interest to regulators, businesspeople, environmental professionals, and the public. The report is available on-line at OPPA's web site at <http://www.epa.gov/oeca/oppa/>. In addition, hard copies may be ordered from the National Service Center for Environmental Publications (NSCEP) by calling 1-513-489-8190 (refer to document number # EPA-300-R-99-002). The 17 pieces of literature described in the report address such topics as why firms comply with environmental requirements; the impact of government sanctions, economics, and social factors on business decisions; relationships between plant and firm characteristics, inspections, enforcement, compliance rates, and environmental performance; how superior environmental performance promotes enhanced profitability; and more. Two appendices provide citations to over 200 hundred additional articles, papers, and reports.

10 Compliance Assistance Centers Available from EPA

Addition of the Federal Facilities Compliance Center in early 2000, brings to 10 the number of compliance assistance centers available at EPA.

The latest Internet-based center aims at helping federal government agencies comply with environmental laws and regulations. The center's web address is www.epa.gov/oeca/fedfac/cfa.

Four other on-line compliance assistance centers were opened in 1999, focussing on chemical, local government, transportation, paints and coatings industries. Before 1999, centers already on line served automotive service and repair shops, agricultural facilities, metal finishers, printed wiring board manufacturers, and the printing industry.

All centers are Internet-based and provide compliance information targeted at specific industry sectors. They help users understand which federal regulations apply to their operations, share pollution prevention tips and techniques, access relevant compliance tools, and learn about new regulatory developments.

According to surveys, the centers have a positive impact on improving compliance. Survey results from OECA's automotive and repair shop center (GreenLink) show that compliance improves when facilities receive help. Audits in 1997 revealed that less than 25 percent of the industry were in substantial compliance (that is, at 81-100 percent compliance) with all their regulatory

requirements. In 1999, after establishment of GreenLink, the number of facilities in substantial compliance jumped to 51 percent and the number of users increased from 1,000 shops in 1997 to 21,000 shops in 1999.

In all, OECA compliance assistance centers are visited over 700 times a day by businesses that need help, according to survey statistics. To access all centers, go to: www.epa.gov/oeca/mfcac.html.

Sector Notebooks

In 1999, EPA added three new sector notebooks, bringing to 30 the total number of industries profiled in this format. New notebooks cover the oil and gas extraction and aerospace industries, and local government operations. Sector notebooks provide information about broad spectrum environmental issues associated with major industries. Each notebook contains information that can help facilities recognize and resolve compliance problems; business profile and trend information, manufacturing process descriptions, applicable federal regulations, compliance history, profiles of chemical releases, pollution prevention opportunities, contacts for help and assistance materials. To date, more than 450,000 notebooks have been distributed. To view EPA Sector Notebooks, visit www.epa.gov/oeca/sector

Tampa Electric Company is First to Settle

Seven Electric Utilities Sued to Enforce Clean Air Act

Toyota Charged With Clean Air Act Violations

Toyota Motor Sales U.S.A., Inc., was sued in July by the Department of Justice on behalf of EPA for selling certain 1996-1998 Toyota and Lexus model vehicles equipped with allegedly illegal emission control monitoring systems in violation of the Clean Air Act. EPA contends that Toyota's computerized emissions control monitoring systems, if not fixed, could permit increased emissions of hydrocarbon vapors from the fuel systems without owners' knowledge.

Filed in the U.S. District Court for the District of Columbia, the case involves 2.2 million model-year 1996 to 1998 Toyota Camrys, Avalons, Corollas, Tercels, Paseos; Lexus cars, Sienna minivans; 4Runner and RAV4 sport utility vehicles; and Tacoma and T100 trucks.

The case is one of a series of recent and significant enforcement actions the government has initiated against auto manufacturers for CAA violations. Toyota is the first manufacturer that refused to settle. Past settlements involved seven manufacturers of heavy duty diesel engines, American Honda Motor Company, and Ford Motor Company.

EPA and the Justice Department announced on February 29 settlement of a major Clean Air Act enforcement action against the Tampa Electric Company that requires the company to significantly reduce harmful air pollution from its power plants. Under the settlement, Tampa Electric will pay a \$3.5 million civil penalty and spend between \$10 and \$11 million on environmentally beneficial projects in its service region designed to mitigate the impact of emissions from its plants.

Renovation of two of the company's aging power plants by switching one plant to natural gas and making major changes at a second is expected to cost the company an estimated \$1 billion. Hundreds of thousands of tons of air pollution have been eliminated as a result of the settlement.

The settlement is the first reached under EPA's national enforcement action against coal-fired power plants for Clean Air Act violations. Unprecedented in its scope, the settlement marks a major step in the government's ongoing initiative to stop pollution illegally released from coal-fired power plants.

In November 1999, the Justice Department, on behalf of EPA, filed lawsuits against seven electric companies in the Midwest and South charging that 17 of the companies' power plants illegally released massive amounts of air pollutants for years, contributing to some of the most severe environmental problems facing the United States. In March 2000, 12 additional plants were included in the lawsuits bringing to 29 the number of plants covered by the litigation.

EPA also issued an administrative order against

the Tennessee Valley Authority, charging the federal agency with similar violations at seven plants.

The seven separate suits allege that the electric utility companies—American Electric Power, Cinergy, FirstEnergy, Illinois Power, Southern Indiana Gas & Electric Company, Southern Company, Tampa Electric Company—or their subsidiaries, and the TVA, violated the Clean Air Act by making major modifications to many of their plants without installing the equipment required to control smog, acid rain and soot. Eight states—New York, New Jersey, Connecticut, Vermont, Massachusetts, New Hampshire, Maryland, and Rhode Island—have joined in the lawsuit against AEP.

The government will seek significant civil penalties from all the violators. The Clean Air Act authorizes civil penalties of up to \$25,000 for each day of violation at each plant prior to January 30, 1997, and \$27,500 for each day thereafter.

Power plants existing at the time the Clean Air Act was amended in the late 1970s were "grandfathered" from a requirement to retrofit existing plants with new air pollution control equipment, unless the utilities undertook major modifications of those plants. The government asserts that the utilities made major modifications to their plants to extend their lives and avoid the cost of building new plants. These projects included replacing large portions of the boilers that are the heart of the plants. Many of these actions cost tens of millions of dollars and took years to complete. Under the Clean Air Act, modifications of this kind require installation of the "best available control technology," but the utilities did not do so.

World's Largest Meatpacker Must Cut Hydrogen Sulfide Plant Emissions To Protect Public Health

The government entered into an agreement on May 24 with IBP, Inc., the world's largest meatpacker, that requires the company to take immediate steps to eliminate a public health threat posed by nearly a ton each day of hydrogen sulfide emissions at its Dakota City/South Sioux City, NE, facility.

The agreement stems from a lawsuit the Justice Department filed on behalf of EPA in January, charging that IBP violated the Clean Air Act and other environmental laws. The government asserts that IBP failed to install required air pollution control equipment as it expanded its complex from 1989 to 1995 and, as a result, illegally emitted an excessive amount of hydrogen sulfide into the air.

The agreement, a partial consent decree, is designed to quickly improve air quality in the community near IBP's facility as the federal lawsuit proceeds. The agreement does not resolve the government's allegations that IBP has violated federal environmental laws.

The agreement directs IBP to build covered wastewater treatment lagoons by November 30; decommission existing, uncovered wastewater lagoons that are responsible for much of the facility's hydrogen sulfide emissions; and undertake additional projects to limit the release of hydrogen sulfide into the air. Together,

the required actions are expected to reduce hydrogen sulfide emissions by as much as 95 percent, based on calculations provided by IBP.

Exposure to low concentrations of hydrogen sulfide—a colorless gas that has a foul, rotten egg-like smell—can cause respiratory problems, headache, nausea, fatigue, eye irritation, and possible neurological problems. In higher concentrations, hydrogen sulfide can cause paralysis of the respiratory system, which results in fainting or even death. The Agency for Toxic Substances and Disease Registry is studying the potential health effects of hydrogen sulfide exposure on Dakota City and South Sioux City residents.

IBP's main slaughterhouse in Dakota City kills and processes approximately 5,000 head of cattle a day, and it operates 24 hours per day, six days a week. The Nebraska Department of Environmental Quality has documented that the air around the IBP complex shows concentrations of total reduced sulfur—primarily hydrogen sulfide—that frequently exceed state health standards. State tests also show that the average measure of hydrogen sulfide exceeds the much lower federal standard for continuous inhalation more than half the time.

10 Telecom Companies Settle Under Audit Policy

Ten telecommunications companies last year voluntarily disclosed and promptly corrected 1,300 environmental violations that occurred at more than 400 of their facilities.

The companies' remedial actions for violations of the Emergency Planning and Community Right-to-Know Act (EPCRA) and/or the Clean Water Act's (CWA) Spill Prevention Control and Countermeasure (SPCC) requirements include properly notifying local emergency planning committees of the presence of hazardous chemicals and preparing spill prevention plans to reduce the risk of environmental accidents, as well as protect the safety of those who respond if an accident occurs.

The proposed settlements were reached under the EPA's "Audit Policy," which reduces and/or eliminates penalties for companies that voluntarily audit, promptly disclose and correct violations. Since the Audit Policy was implemented in 1996, environmental violations have been disclosed at more than 1,800 facilities.

The companies and their violations:

Consent Agreements approved by Environmental Appeals Board: Cincinnati Bell Telephone Company (EPCRA); Cincinnati Bell Long Distance (EPCRA); Convergys Customer Management Group (EPCRA); Dallas MTA, L.P. (EPCRA); Houston MTA, L.P. (EPCRA); PrimeCo Personal Communications (EPCRA); and San Antonio MTA, L.P. (EPCRA).

Proposed Consent Agreements: Celco Partnership and its affiliates doing business as Bell Atlantic Mobile or Cellular One (EPCRA and SPCC), Southwestern Bell Telephone Company (SPCC); and United States Cellular Corporation (EPCRA and SPCC).

The disclosures by the 10 companies resulted from an agency outreach effort to the nation's telecommunications companies following on the heels of a major settlement by EPA and the GTE Corporation in January 1998. The GTE settlement resolved 600 EPCRA and SPCC violations at 314 GTE facilities in 21 states and was the largest agency settlement reached through EPA's self-disclosure policy.

Under the proposed and final settlements, the 10

telecommunications companies will pay a total of \$128,772 for their violations, which is equal to the amount the companies saved for delayed compliance. Pursuant to the Audit Policy, the agency has waived or proposed to waive more than \$4.2 million in potential gravity-based penalties that otherwise would have been assessed.

EPCRA was enacted to help local communities protect public health, safety, and the environment from chemical hazards.

Revised Audit and Small Business Policies Issued

(Continued from Page 1)

The Small Business Policy — which is available for companies with 100 or fewer employees — was first issued in June 1996. It promotes environmental compliance among small businesses by providing incentives for voluntary discovery, prompt disclosure and prompt correction of violations. The agency will reduce or waive penalties for small businesses that disclose and make good faith efforts to correct violations provided they meet the criteria in the policy. The key revisions of the Small Business Compliance Policy are that it lengthens the amount of time from 10 to 21 days that entities have to disclose a violation after discovery; and it expands the number of ways violations can be discovered to include on-line compliance assistance centers, checklists, or other means.

The revised policies were published in the April 11, 2000 edition of the Federal Register and take effect May 11, 2000. Both revised policies will also be available at: <http://www.epa.gov/oeca>. Extensive background materials related to the evaluation and the revisions are available through EPA's Enforcement and Compliance Docket and Information Center by calling 202-564-2614 or accessing the Center's website at <http://www.epa.gov/oeca/polguid/enfdock.html>.

Report Shows Compliance Record At U.S. Federal Facilities

A report on the environmental compliance record of federal government facilities throughout the United States has been published by EPA and is available to the public. Entitled "The State of Federal Facilities: An Overview of Environmental Compliance at Federal Facilities FY 1997-98", the report provides a breakdown of compliance rates at facilities owned or operated by the federal government regulated by environmental law. It shows, for example, that rates have increased under the Resource Conservation and Recovery Act, remained steady under the Clean Air Act, the Safe Drinking Water Act, and the Toxic Substances Control Act, and declined under the National Pollutant Discharge Elimination System. The report also compares compliance at federal facilities to private sector facilities. The report, which includes a comprehensive analysis of federal facility environmental compliance, is on EPA's Federal Facilities Environmental Office web site at <http://es.epa.gov/oeca/fedfac/soff9798.pdf>. Copies of the report are also available through the National Service Center for Environmental Publications at 1-800-490-9198. Contact: Greg Snyder, 202/564-4271.

Tribes Get \$1.6 Million To Fight Open Dump Threats

Eleven Native American Indian tribes received approximately \$1.6 million in 1999 to help close or upgrade open dump sites considered high priority threats to human health and the environment. The funds were provided by a multi-agency workgroup under a special cleanup project intended to maximize federal assistance to tribes in addressing solid waste management needs.

"The Tribal Open Dump Cleanup Project" is part of the workgroup's effort to coordinate federal assistance for tribal solid waste management programs. The project's specific goals include assisting tribes with completing and implementing comprehensive integrated waste management plans, developing realistic solid waste management alternatives, closing or upgrading existing open dumps, and developing post-closure programs. Project funds are available to federally recognized tribes and Alaska native villages, and to multi-tribe organizations whose membership consists of federally

recognized tribes or villages. Using information gathered through the project, the workgroup will devise a strategy to support further assistance to tribes in their efforts to address solid waste management needs. If funding is available, the workgroup will solicit and fund additional projects in future years.

Eight agencies comprise the workgroup. In addition to EPA, they are the Bureau of Indian Affairs, Indian Health Services, the Federal Aviation Administration, the National Oceanic and Atmospheric Administration, the U.S. Geological Survey, the Department of Agriculture, and the Department of Defense. It was established in 1998 to design a federal plan for helping tribes bring their waste disposal sites into compliance with the municipal solid waste landfill criteria. Contacts: Melanie Barger Garvey, 202/564-2579 and Beverly Goldblatt, 703/308-7278.

11 States Receive Performance Measurement Grants

Eleven state environmental organizations from across the country have or will receive grants to develop and implement enhanced performance measures to assess the impact of their enforcement and compliance assurance programs. OECA Deputy Assistant Administrator Michael M. Stahl said the cooperative agreements are intended to promote the use of "outcome-based" performance measures, i.e., ones that can be used to indicate the effect of enforcement and compliance programs on human health and the environment.

The state organizations selected and a description of their proposals are:

- **California's Air Resources Board** will determine the statistically valid baseline noncompliance rate for the chrome plating rule and will then examine the effect of compliance assistance on the noncompliance rate.

- **Colorado Department of Public Health and Environment** will develop a unified, multi-media, facility-based, permanent system to collect and analyze output and outcome data from all enforcement, compliance assistance and pollution prevention activities undertaken by the agency.

- **Connecticut's Department of Environmental Protection's Small Business Assistance Program** will develop a statistically valid baseline noncompliance rate for compliance with general permits and then determine the effects of compliance assistance and enforcement initiatives on the noncompliance rate.

- **Indiana Department of Environmental Management** will develop a prototype for a sector-based multi-media model for compliance and enforcement for the auto-salvage industry. The project includes building a complete database for the industry state wide and provides compliance assistance and targeted inspections followed by measuring outcomes from each.

- **Maryland Department of the Environment** will develop a methodology for statistically valid noncompliance rates. This is part of a state-wide environmental measurement effort which includes eight outcomes of which four are indicators, including measures on exceedences of air quality standards, criteria pollutants, ozone standards and emissions.

- **Missouri's Department of Natural Resources** will adapt the case conclusion data sheet to provide environmental impact data from all state enforcement actions.

- **New Hampshire's Department of Environmental Services** will study the effectiveness of its "partial-inspection" strategy which increases the number of inspections by reducing the time spent at each facility, targets inspections based risk, and focuses on compliance with direct waste-handling requirements. The strategy compares noncompliance rates, environmental and human health improvements and SNC rates for facilities included in the strategy to facilities receiving either compliance assistance or regular compliance inspections. The department will also develop compliance assistance metrics software for tracking results of environmental compliance

assistance and pollution prevention. Software will be shared among states in the Northeast (EPA Region 1) and will be available for other states.

- **Oregon's Department of Environmental Quality** will, through surveys and interviews with the regulated community, quantitatively evaluate specific deterrence by comparing such data elements as penalty amounts to recidivism, and will qualitatively evaluate the general effects of deterrence.

- **The Texas Natural Resources Conservation Commission's Small Business and Environmental Assistance Division** will use OECA's *Guide for Measuring Compliance Assistance Outcomes* to measure behavioral changes, environmental and human health improvements, and awareness and understanding of environmental regulatory issues as a result of technical assistance for small businesses.

- **Washington's Department of Ecology** will use its Regulatory Compliance Indicator (RCI) to examine how formal and informal enforcement and technical assistance impact the RCI, a reflection of whether a facility is in compliance with "highest risk" hazardous waste regulatory requirements recorded in the RCRIS database.

- **Wisconsin's Department of Natural Resources Bureau of Air Management** will develop a universal interface system for the EPA database (A.I.R. Facility System) to accept state compliance and enforcement data from a variety of state systems. This will facilitate national measurement and analysis of state and federal compliance and enforcement activity.

With the exception of the Colorado grant, which was chosen in 1998, the pre-proposals were selected from 32 pre-proposals from nine states submitted in response to a 1999 solicitation. Preference was given to projects included in the EPA National Performance Measures Strategy or the accountability measures developed by EPA and the Environmental Council of States for the Performance Partnership Agreements.

New Yellow Book

The *Yellow Book: Guide to Environmental Enforcement and Compliance at Federal Facilities*, has been revised and reissued by OECA's Federal Facilities Enforcement Office. It is available to other federal agencies and the public in hard copy or via the internet.

Designed to assist federal facilities with achieving and maintaining compliance with federal environmental requirements and to provide compliance assistance to federal facilities, it is meant to help achieve EPA's goal that federal facility compliance should equal or surpass the rest of the regulated community and that federal facilities should lead the way in minimizing environmental contamination.

Although its primary audience is federal facility staff with enforcement and compliance responsibilities, the document is written to meet the needs of others within the environmental community. Internet address: <http://es.epa.gov/oeca/fedfac/yellowbk/index.html> Contact: Priscilla Harrington, (202) 564-2461

Action Plan to Assess Enforcement&Compliance Assurance Activities

OECA's plan on how it intends to build on and improve its enforcement and compliance assurance program was issued in September.

Published in a report entitled "Innovative Approaches to Enforcement and Compliance Assurance - Action Plan for Innovation," the plan is the result of numerous stakeholder discussions and a five-year review by EPA's Office of Enforcement and Compliance Assurance to evaluate progress of existing programs and to identify new directions for the enforcement and compliance assurance program.

Among highlights of the report is agreement among EPA and stakeholders that in its compliance assistance role the agency should be more of a "wholesaler" than a "retailer" of compliance assistance. The shift in focus means that EPA's responsibility will be to provide tools and other assistance to frontline compliance assistance providers in states, localities, and the private sector. To carry this out, EPA will focus on priority environmental and compliance problems that need federally supported compliance assistance and will commit to providing materials on certain new regulations on a more timely basis.

The report emphasizes EPA's strong endorsement of self-auditing by the regulated community and of environmental management systems as key compliance and performance tools. To meet this target, the agency's audit and small business policies will be amended to further encourage companies to complete self-audits and to disclose and correct any violations discovered. The enforcement and compliance assurance program will support

EPA's commitment to use environmental management systems to assist in accomplishing strategic goals. The plan also calls for an enhanced role for interested stakeholders in identifying compliance and enforcement priorities.

The action plan highlights EPA's commitment to implement an enhanced set of performance measures for assessing environmental and health improvements resulting from the full range of EPA's enforcement and compliance assurance activities. The plan pledges that a new set of outcome measures will be fully implemented by the agency in the next few years.

Features of the plan include the fostering of a network of compliance assistance providers that will include non-traditional providers, such as product suppliers, and the development of a clearinghouse of compliance assistance materials. The clearing house will provide access to information from the public sector and from private providers, such as trade associations.

The plan stresses that EPA remains committed to a strong enforcement program to address serious noncompliance problems.

The action plan was prepared after a comprehensive year-long effort to seek stakeholder input through major conferences in Washington, D.C. and San Francisco. Four major areas examined at the conferences were compliance assistance, compliance incentives, information and accountability, and innovative approaches to enforcement.

The full innovative action plan report can be found in pdf format on EPA's web page under the OECA banner.

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